





Washington State  
Department of Transportation

AGENCY

Local Agency Agreement Supplement

Agency Whatcom County		Supplement Number 1
Federal Aid Project Number FBP-A373(001)	Agreement Number LA 8896	CFDA No. <b>20.205</b> (Catalog of Federal Domestic Assistance)

The Local Agency requests to supplement the agreement entered into and executed on 5-23-16  
All provisions in the basic agreement remain in effect except as modified by this supplement.  
The Local Agency certifies that it is not excluded from receiving Federal funds by a Federal suspension or debarment (2 CFR Part 180). Additional changes to the agreement are as follows:

**Project Description**

Name Lummi Island Breakwater Replacement Length 0.00

Termini N/A

Description of Work  No Change

Whatcom County proposes to replace the timber southerly breakwater at the Lummi Island ferry terminal with a new modern steel pile supported structure

**Reason for Supplement**

Additional preliminary engineering work needed to get the project through the environmental permitting stage and prepare the final PSE bid ready package.

Are you claiming indirect cost rate?  Yes  No Project Agreement End Date 12-31-2022

Does this change require additional Right of Way or Easements?  Yes  No Advertisement Date:

Type of Work		Estimate of Funding				
		(1) Previous Agreement/Suppl.	(2) Supplement	(3) Estimated Total Project Funds	(4) Estimated Agency Funds	(5) Estimated Federal Funds
PE 80 %	a. Agency	50,000.00	100,000.00	150,000.00	30,000.00	120,000.00
	b. Other			0.00	0.00	
Federal Aid Participation Ratio for PE	c. Other			0.00		
	d. State			0.00		
	e. Total PE Cost Estimate (a+b+c+d)	50,000.00	100,000.00	150,000.00	30,000.00	120,000.00
Right of Way %	f. Agency			0.00		
	g. Other			0.00		
Federal Aid Participation Ratio for RW	h. Other			0.00		
	i. State			0.00		
	j. Total R/W Cost Estimate (f+g+h+i)	0.00	0.00	0.00	0.00	0.00
Construction %	k. Contract			0.00		
	l. Other			0.00		
	m. Other			0.00		
Federal Aid Participation Ratio for CN	n. Other			0.00		
	o. Agency			0.00		
	p. State			0.00		
	q. Total CN Cost Estimate (k+l+m+n+o+p)	0.00	0.00	0.00	0.00	0.00
	r. Total Project Cost Estimate (e+j+q)	50,000.00	100,000.00	150,000.00	30,000.00	120,000.00

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the Federal funds obligated, it accepts and will comply with the applicable provisions.

Agency Official

By *Jack Louws*  
Title Jack Louws, County Executive

Washington State Department of Transportation

By *[Signature]*  
Director, Local Program  
Date Executed

Approved as to form:  
*[Signature]* 7/25/19  
Christopher Quinn Date  
Senior Civil Deputy Prosecuting Attorney

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## VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin. Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

## VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation.

## IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 90 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

## VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

## XVII. Assurances

Local Agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Jon Hutchings  
Director



Joseph P. Rutan, P. E.  
County Engineer/Assistant Director  
322 N. Commercial Street, Ste 301  
Bellingham, WA 98225-4042  
Phone: (360) 778-6200  
Fax: (360) 778-6201

# Memorandum

RECEIVED

JUL 29 2019

JACK LOUWS  
COUNTY EXECUTIVE

**To:** The Honorable Jack Louws, Whatcom County Executive and  
Honorable Members of the Whatcom County Council

**Through:** Jon Hutchings, Director *JH*

**From:** Joseph P. Rutan, P.E., County Engineer/Assistant Director *APR*  
James E. Lee, P.E., Engineering Manager *JEL*

**Date:** July 15, 2019

**Re:** Lummi Island Breakwater Replacement  
CRP No. 914015; Federal Aid FBP – A373 (001)  
**Local Agency Agreement Supplement and Updated Project Prospectus**

Attached for your review and signature are two (2) originals each of a Federal Aid Project Prospectus and Local Agency Agreement Supplement between the Washington State Department of Transportation (WSDOT) and Whatcom County for the above-referenced project.

### Requested Action

Public Works respectfully requests that the County Council authorize the County Executive to enter into a Local Agency Agreement Supplement and updated Project Prospectus to receive additional federal Ferry Boat Program (FBP) funds for the Lummi Island Breakwater Replacement.

Please keep **one** original of the Project Prospectus for your files and return the other original to my office. Please return **both** originals of the Local Agency Agreement Supplement to my office for further processing. We will return a fully executed original to you once they are signed by WSDOT.

### Background and Purpose

The southerly timber breakwater at the Lummi Island Terminal was constructed in the 1980's. It is showing signs of significant deterioration and is need of replacement. The replacement breakwater will be a modern steel pile supported design to accommodate safe docking of the Whatcom Chief.

Whatcom County was awarded a total of \$1,250,759 in federal FBP funds that must be obligated by September 15, 2019. These funds were slated for construction of this project; however, construction has been postponed due to delays in the federal permitting of marine projects. Whatcom County, in coordination with WSDOT, will obligate additional PE funds to the Breakwater project and will shift some of the funds to the Lummi Island Terminal Preservation Project to minimize the loss of these funds due to obligation deadlines. Future awards of FBP funds will be earmarked for the construction phase of the Lummi Breakwater Replacement.

### Funding Amount and Source

The attached Local Agency Agreement Supplement will obligate an additional \$80,000 of federal FBP funds for design and permitting work for a total federal obligation of \$120,000. The required 20% local match of \$30,000 will come from the road fund for a new agreement amount of \$150,000. This project is listed at Item No. 34 on the approved 2019 Annual Construction Program.

Please contact James Lee at extension 6264 if you have any questions or concerns regarding this request.