

County Road Administration Board –September 12, 2013
RATA FUND INCREASE /
WAHAKIYAKUM FERRY, RAP PROJECT 3511-01
WAHAKIYAKUM COUNTY

I. Nature of Request:

Wahkiakum County, per their letter dated August 29, 2013, has requested an additional \$250,000 in RATA funding for Wahkiakum Ferry in accordance with WAC 136-165-010. This is 25% of the originally allocated funding, \$1,000,000, and is the maximum increased amount allowed for the project. RAP project cost increase requests must be presented to the CRABoard in order to be considered for approval.

II. Background:

Initial funding by FHWA:

Wahkiakum County notified CRAB on October 3, 2011 that it had received a Ferry Boat Discretionary Grant (FBDG) in the amount \$2,800,000 from the Federal Highway Administration for the construction of a new ferry boat. A US DOT press release dated August 17, 2011 cited federal approval of funding for the Puget Island Ferry Boat, and on September 28, 2011, the county received official notice from the WSDOT, which stated that FHWA fund authorization was effective September 23, 2011. This funding provided the major portion of the estimated \$3,900,000 needed to provide a new replacement vessel. The county still needed \$1,100,000 to fully fund the project. FBDG funds were granted to the county based on its assurances the funds would be used by 2014.

October 2011 funding by CRAB:

At the October 27, 2011 CRABoard meeting, the county was granted \$1,000,000 in emergent RATA funds to provide the majority of the required \$1,100,000 matching funds. While the need for a new ferry had been recognized for some time prior, the likelihood of successfully competing for the nationwide grant program funding was not assured. The county also explained that as a very small county it is not in a financial position to proceed without the help of additional grant funds. The likelihood of success in the FBDG competition could not have been predicted when the last CRAB Ferry Capital program was open to application in 2009, and waiting for the next CRAB Ferry Capital program in 2013 would have pushed the completion of the ferry to 2017, far beyond the expectations for timely construction with the awarded FBDG.

Project development since October 2011:

In early 2012, a review of the ferry buoyancy characteristics by the Puget Island ferry ramp designers – David Evans Associates, found that the original design (see “Original Design” sheet, below) would not serve the intended variety of vehicles to match the ramp design. This prompted a rapid redesign of the hull of the replacement ferry (see attached “New Design” drawing). The delivery of final drawings and specifications on July 12, 2012 by transmittal to WSDOT was the end point of the consultant’s main design effort on the Replacement Ferry.

The final plans and technical specifications for the contract were transmitted to the Washington State Department of Transportation via an electronic mail on July 12, 2012. This was for the purpose of WSDOT review. However, more work and consideration at the local level remained to be done before this project was ready for advertisement. An unofficial estimate at this time was \$4,220,000.

An update to the cost estimate for the re-designed vessel was provided on July 23, 2012. This estimate placed the cost of the Replacement Ferry at \$4,403,000.00 including construction supervision and regulatory liaison. The consultant remarked that steel prices had increased from \$0.60/lbs.' to \$0.70/lbs.', and labor had gone up from \$72/hr. to \$75/hr. The new hull design also required more material. With the updated estimate in hand, the consultant made a presentation to the County Commissioners that summer, after which there was considerable public debate about the rising cost of the project, and whether it should proceed. In the fall of 2012, the County Commissioners decided the project should move forward.

To assist in preparation for bid of the project, the WSDOT provided the county a copy of bid documents for the WSDOT Keller Ferry project, which included General Conditions and multiple other bid documents that had not been prepared or modified by the consultant as part of their scope of work on this project. Using the state's Keller Ferry documents as a starting point, the county was able to produce the bid documents for its project. Even though a key staff member left for employment elsewhere during this time, the modifications were nonetheless completed by early 2013.

Advertisement was recommended by the county engineer in spring of 2013. An updated cost estimate was provided by the consultant on March 13, 2013. This estimate was \$4,584,000.00, including construction supervision and regulatory liaison.

The Commissioners first called for bids on the Replacement Ferry Contract on March 19, 2013. Bids were opened on April 16, 2013 and only one bid was received - from US FAB LLC in the amount \$8,500,000.00. The Commissioners rejected this bid due to both the lack of competition and the huge gap between the sole bid and the engineer's estimate.

Subsequently the county determined the bond amount in the bid documents was not customary for the ship building industry, and it should have conformed to the provisions of WAC 468-320-030 which deals with 'calculation of state's exposure to loss', and alternate forms of security and determination of bonding amount', - as required for Washington State ferry vessel construction. It was felt that a reduced bond amount would attract more bidders with a better outcome if the project were re-advertised.

The consultant, Elliott Bay Design Group, was authorized by the County Commissioners to proceed with a Contract Security Risk Assessment consistent with WAC 468-320-030. Of interest, the consultant did not update the estimate for ferry construction in the Contract Security Risk Assessment, but stood by the estimate of March 13, 2013. The Risk Assessment was completed June 17, 2013. Subsequent modifications were made to the contract bid documents by the County Engineer to reflect the changes in the bond language.

The County Commissioners called for bids again on July 1, 2013, and opened the bids on August 6, 2013. Two bids were received, one from Diversified Marine Inc., in the amount \$7,153,645.74 and the other from Nichols Brothers Boat Builders in the amount \$5,675,584.00. On August 13, 2013, the

County Commissioners rejected the bid from Diversified Marine Inc., and sent a letter to Nichols Bros. explaining the local funding problem.

The County has since reached out to multiple state and federal funding agencies for support in achieving the goal of awarding the ferry contract and completing this vessel construction. The project remains funded at \$4,909,226 with a low bid of \$5,675,584. Modification of the Puget Island ferry landing to accommodate the larger vessel is not included in this contract.

History of Cost Estimates:

2009, FBDG,	\$3,900,000	
October, 2011, CRAB Emergent Request,	Unchanged	
Mid July, 2012	\$4,220,000 (unofficial)	
July 23, 2012	\$4,403,000 (redesigned hull)	
March 13, 2013 Ad.	\$4,584,000	Single bid - \$8,500,000
July 1, 2013 Ad.	Unchanged	Low Bid - \$5,675,584

III. Summary of request:

At a bid of \$5,675,584, the county finds itself \$766,358 short of needed funding to accomplish the replacement of the Puget Island Ferry boat. The county is considering pursuit of a no-interest loan that was offered by WSDOT on August 29, 2013. The county has not yet agreed to accept this loan, but has asked the WSDOT to prepare the loan documents. The county may have the opportunity in 2016, via its 6-year TIP and 14 Year Ferry Improvement Program to request County Ferry Capital Improvement Program funding to pay back the WSDOT loan. That application could be submitted in 2017, if the CRABoard issues a call for projects earlier that year (see attached CFCIP cycle). The county is at this time requesting \$250,000 of the shortfall be funded from the RAP.

Current identified funding:

Federal Ferry Boat Discretionary (FBD)	\$2,800,000
Supplemental FBD	\$ 123,649
Ferry Boat Program (new, MAP-21, federal)	\$ 85,577
Regional STP (federal) funds	\$ 900,000
RATA – Emergent	<u>\$1,000,000</u>
Total Grant funds for construction	\$4,909,226
Bid amount -	<u>- \$5,675,584</u>
Funding gap	- \$ 766,358

IV. Staff Findings:

Summary of important WAC requirements for increase requests:

- Constraints of increase requests:

Increases can be sought only one time, prior to commencing construction and must be $\leq 25\%$ of current RATA funding. The county's request is limited to \$250,000 or 25% of the current RATA authorized amount and the contract has not been awarded, thus the work has not commenced as defined in WAC. The contract has yet to be awarded, pending the county's pursuit of needed additional funding

- Must be based on unforeseeable and extraordinary circumstances

The Ferry boat replacement project is of such unique character and scope, especially for a county the size of Wahkiakum, that staff finds the bid results were unforeseen. The design consultant had developed construction estimates twice, once in July 2012 at \$4,403,000 and again in March of 2013 at \$4,584,000. After the project was advertised and bids were received in March of 2013, the sole bidder offered to do the work for \$8,500,000.00, 85% over the engineer's estimate, meaning the county would have to find another ~\$3,600,000 in funding. The county rejected the bid due to lack of competition. The county reduced the bonding required to allow more open bidding, and re-advertised the project on July 1, 2013, opening bids on August 6, 2013. The granting of Federal Ferry Boat Discretionary funds placed the project on a very aggressive timeline for construction and Wahkiakum County found itself in a situation very different from any it has encountered. Staff finds the uniqueness of the project and the size of the county to be extraordinary compared to any the county has encountered. The county expressed that it does not have the same financial capability to quickly subsidize a project with these costs compared to larger counties that operate ferries or the State.

- Submit Engineer's estimate to CRAB prior to Advertisement

WAC requires submittal of the engineer's estimate to CRAB prior to advertisement. CRAB staff received the required estimate of cost for the project after the project was advertised as part of the increase request documents submitted by the county on August 29, 2013. Given that the estimate was done (twice) prior to the original March 19, 2013 advertisement date, that the county found itself suddenly understaffed, and given the complex nature of the project, staff has verified the county had a valid, well developed estimate in hand prior to advertisement, which is the intent of this rule.

- The availability at the needed time of matching funds and other supplementary funds.

The county, based on the consultant's estimate, had all needed funding in place at the time of advertisement.

- Other items as required per WAC:

The county submitted the standard RATA fund Increase Request Form (attached), which addresses the remaining items as required by WAC. Of specific reference are additional funds that the county sought to fill the 'bid to estimate' funding gap. WSDOT H&LP had suggested these are usually available through underspending of statewide federal obligation and can be used if the county positions some local dollars in the STIP and demonstrates the project is ready to advertise and award. However, the WSDOT informed the county (as late as at the time of bids opening) there are now no extra federal highway dollars to distribute to projects in need of funds.

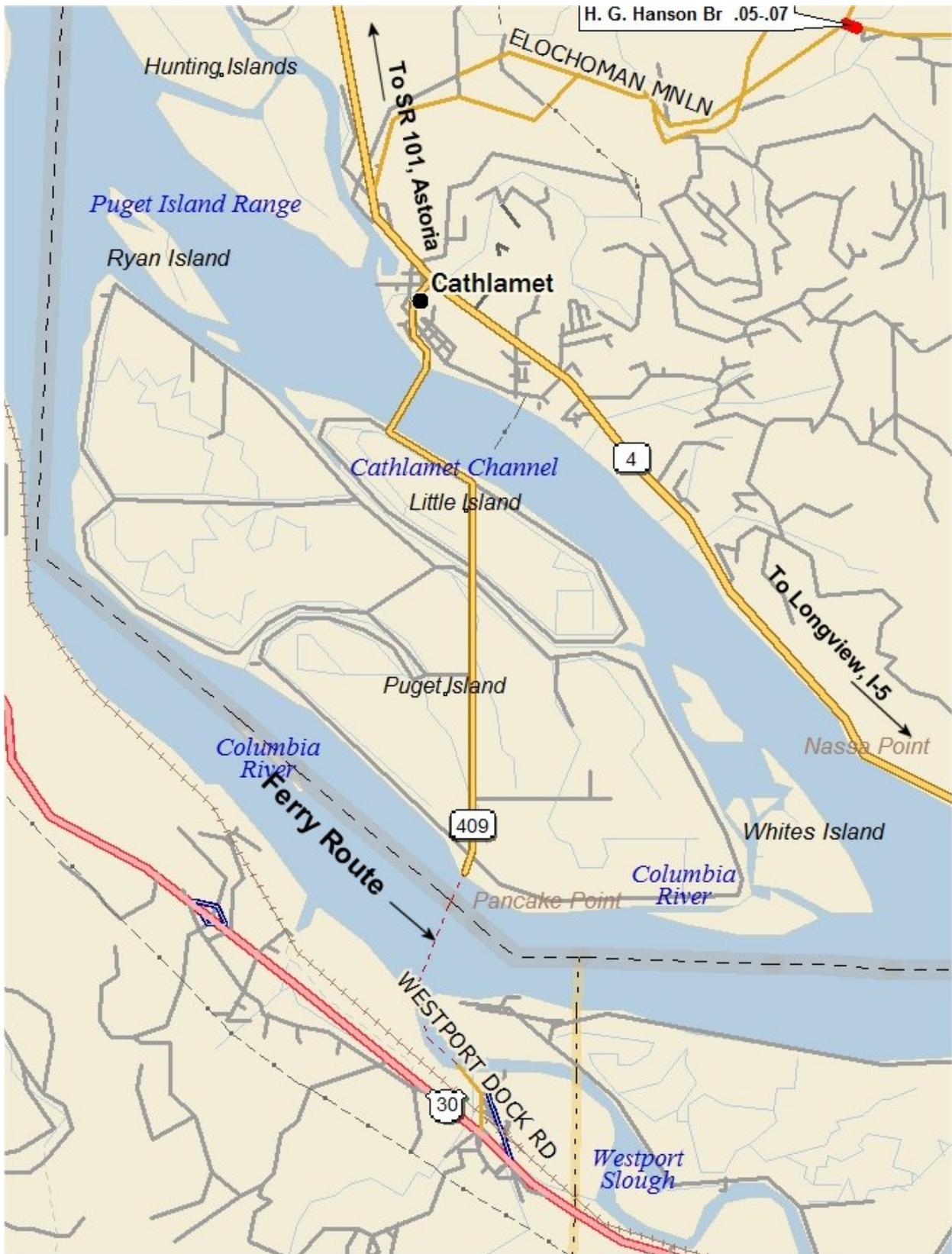
- Subsequent reduction in future biennium funding limit.

The county acknowledges that if the increase is approved, its funding limit in the next array of projects will be reduced by the increased amount.

V. Staff Recommendation:

Staff has visited the project site, and finds that the county has submitted its increase request in a timely manner, advertised the project based on the best available information it had at the time. Staff finds the project is underfunded due to unforeseeable and extraordinary circumstances, yet remains a critical improvement for the county and the statewide transportation system. Staff finds the county has met the conditions of the WAC governing RATA project increase requests.

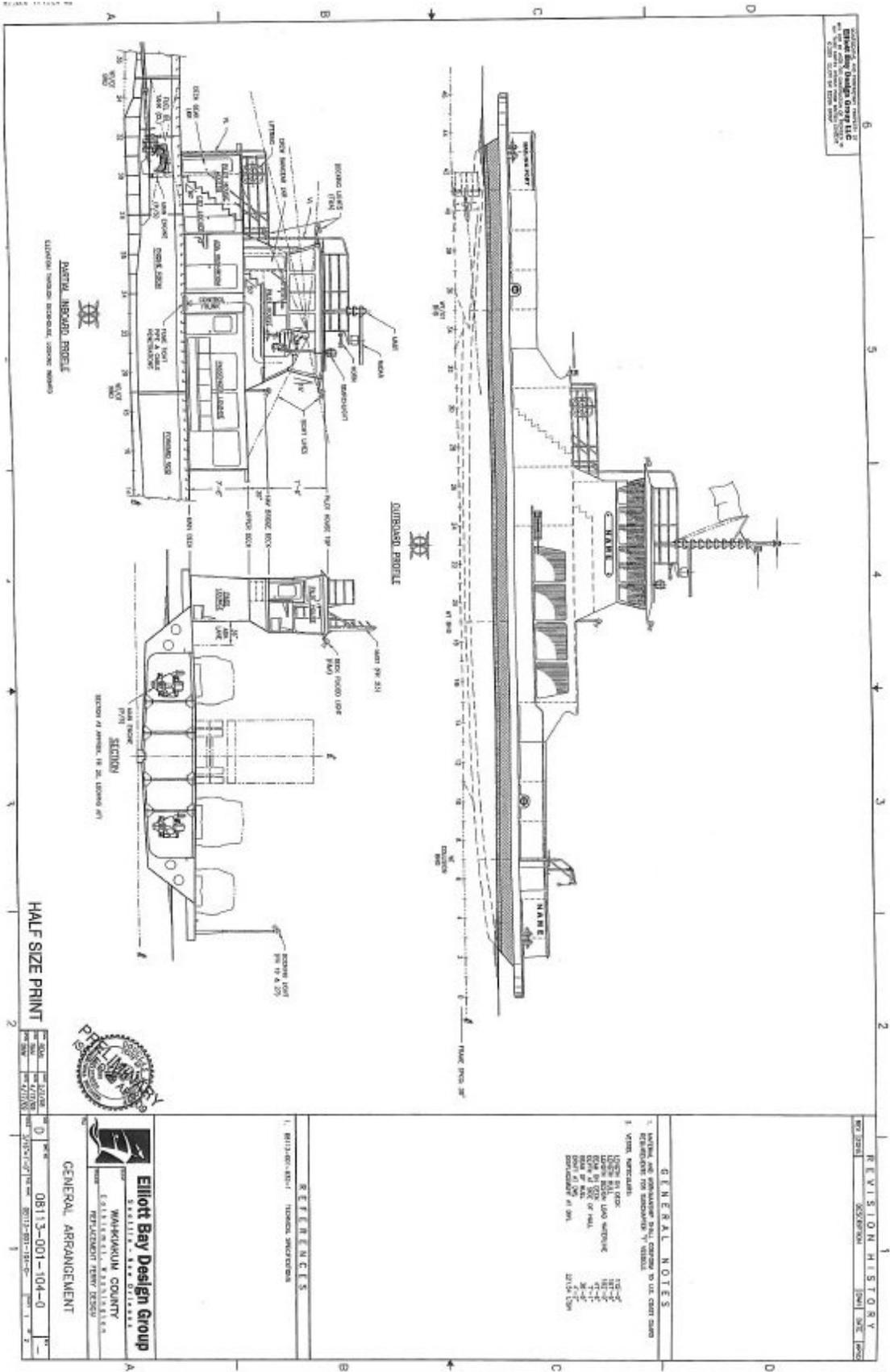
Staff recommends approval of \$250,000 in increased RATA funding to Wahkiakum County's Ferry Boat Replacement project, with a commensurate reduction in its future biennium funding limit.



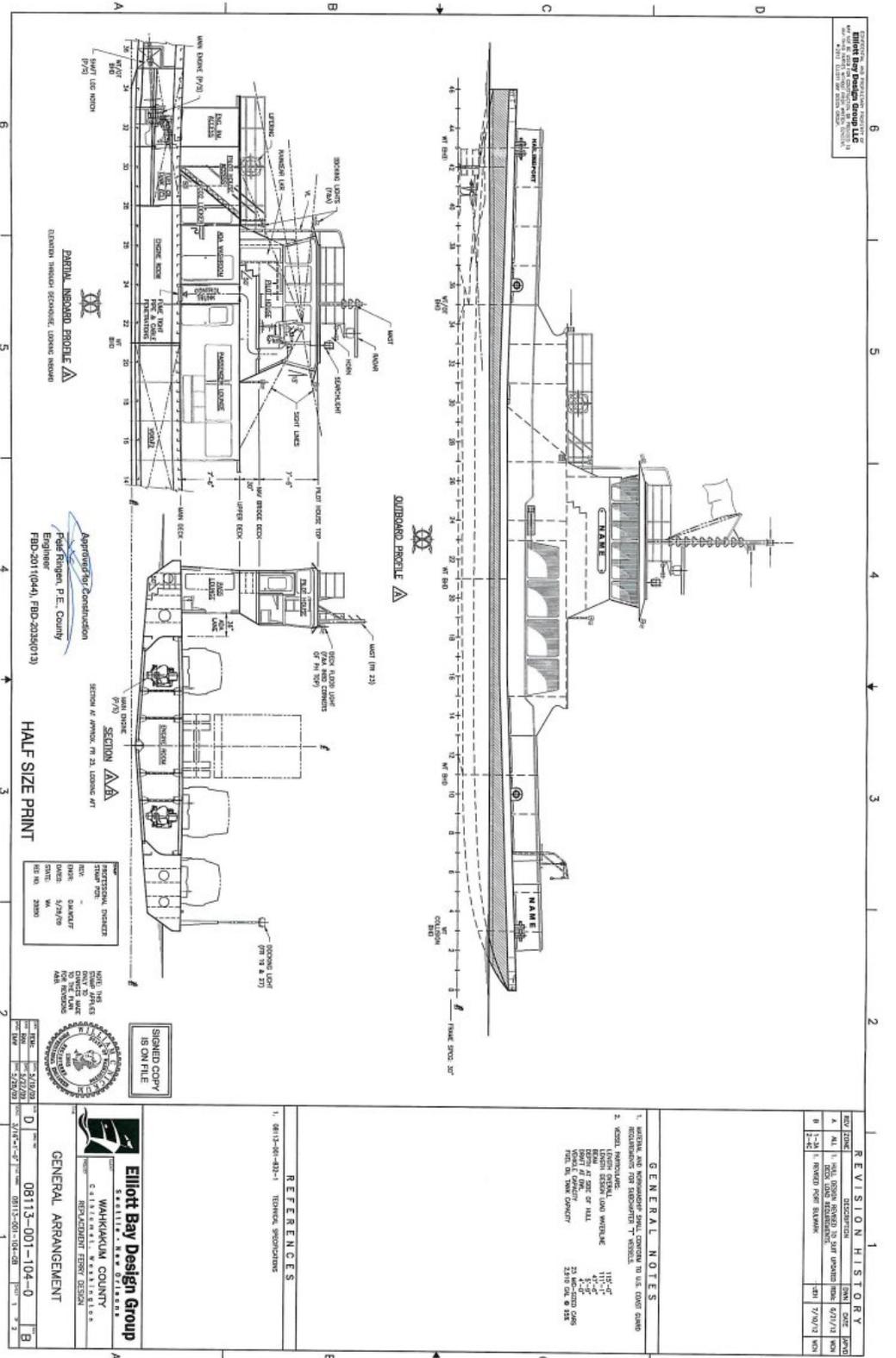


35WahkiakumFerryIncrease





Original Design



Elliott Bay Design Group LLC
 1000 1st Avenue, Suite 200
 Everett, WA 98201
 Phone: (425) 335-1100
 Fax: (425) 335-1101
 Email: info@elliottbaydesign.com

REV	DATE	DESCRIPTION	BY	CHKD
A	11/11/11	INITIAL DESIGN REVIEW TO SAN JUAN COUNTY 6/27/11	JK	JK
B	11/21/11	REVISION PER STATE	JK	JK
C	12/14/11		JK	JK

GENERAL NOTES

- MATERIAL AND WORKMANSHIP SHALL CONFORM TO U.S. COAST GUARD REGULATIONS FOR STEEL-PLATE T-V VESSELS.
- GENERAL REQUIREMENTS:
 - DESIGN SPEED: 115-07
 - LENGTH: 111'-11"
 - BEAM: 11'-0"
 - DEPTH AT DECK OR HULL: 4'-0"
 - WATERLINE: 25' MAXIMUM OVER
 - WIND AREA: 2015 SQ. FT. MAX

REFERENCES

- 581-11-901-401+ TECHNICAL SPECIFICATIONS

Elliott Bay Design Group
 STELLIE KERRY O'LEARY
 WAHKIAKUM COUNTY
 CLINICAL ENGINEER
 INDEPENDENT FERRY DESIGN

GENERAL ARRANGEMENT

08113-001-104-0

DATE: 11/21/11
 DRAWN: JK
 CHECKED: JK
 SCALE: AS SHOWN

PROFESSIONAL ENGINEER

NAME: STELLIE KERRY O'LEARY
 NO. 20980
 STATE: WA

APPROVED FOR CONSTRUCTION

PAUL RYAN, P.E., COUNTY ENGINEER
 FBO-2011(044), FBO-2013(013)

SIGNED COPY IS ON FILE

HALF SIZE PRINT

PARTIAL STARBOARD PROFILE

SECTION A-A
 SECTION B-B

New Design

WAC 136-165-020

Requirements for consideration of RATA fund increases.

(1) When a county submits its final prospectus as described in WAC [136-161-050](#), the county road administration board presumes that the amount of RATA funds requested, plus any non-RATA funds that may be designated for the project, are sufficient to fully, and in a timely manner, complete the project as described.

(2) All cost increases during the course of construction shall be the responsibility of the county. In extraordinary circumstances, a county may request an increase in the amount of RATA funds allocated to a project. A county may request an increase in a project's RATA allocation once during the course of a project's development, and such request may occur only after completion of preliminary engineering, but prior to commencing construction. A project shall be considered to have commenced construction if:

(a) **The construction contract for the work has been awarded;** or

(b) If done by county forces, the work has commenced, except for construction engineering.

Requests for increases in **excess of twenty-five percent of the original RATA allocation will not be considered or granted; the county must secure other funds, withdraw or request the termination of the project, or request a change in scope and/or project limits.** If current funding sources are not sufficient to cover the costs beyond a twenty-five percent increase, the county may resubmit the same project for funding in the next funding period. Upon funding of the new project by the county road administration board, the previous contract shall become void. All RATA funds expended on the previous contract shall be repaid to the county road administration board unless waived by the county road administration board in keeping with provisions of WAC [136-167-030](#).

(3) A request by a county for an increase in RATA funds allocated to a project shall demonstrate that:

(a) The county at the time of preparing its final project prospectus considered the factors listed in subsection (4) of this section;

(b) The request for an increased allocation is based on extraordinary and unforeseeable circumstances of the type listed in subsection (5) of this section;

(c) It is not feasible to reduce the scope and/or project limits so the project can be substantially constructed within the initial RATA allocation;

(d) The request is not to pay for an expansion of the originally approved project;

(e) If the work is to be done by contract, the county has supplied to the CRABoard, an updated engineer's cost estimate prior to, and within three months of, advertisement of the project for construction bids; and

(f) If the work is to be done by county forces, the county has supplied to the CRABoard, an updated engineer's cost estimate prior to, and within three months of, commencement of the work.

(4) At the time of preparation and submittal of the final project prospectus, a county is expected to consider all information which may affect the cost of the project. In cases where the information is incomplete or poorly defined, the county is to exercise good professional judgment and/or seek outside professional assistance and advice in order to prepare a reasonable RATA fund request. The information which a county is expected to consider includes, but is not limited to, the following:

(a) The availability at the needed time of matching funds and other supplementary funds;

(b) All technical data reasonably available such as topographic maps, reconnaissance reports, surface and subsurface geotechnical data, hydraulic and hydrological data, sources of materials, applicable design standards, and any earlier preliminary engineering;

- (c) Required permits, including pre-project scoping consultations with the permitting agencies and an estimate of the costs of complying with permit requirements;
- (d) Required right of way or other easements, and the time and cost of acquisition;
- (e) Availability of qualified contractors to perform the work;
- (f) Ownership, type, amount, and time requirements of any required utility relocation;
- (g) Historical and projected labor, equipment and material costs; and
- (h) The project development timetable leading to completed construction and the interrelation of this project to all other work activities under the control of the county engineer.

(5) The county road administration board will increase RATA funds allocated to a project only if it finds that the request for an increased allocation is based on extraordinary and unforeseeable circumstances, including but not limited to the following:

- (a) The county relied on existing technical data which were later found to be in error, and which will necessitate a significant design change prior to proceeding with construction;
- (b) Project permit requirements were substantially changed, or new permits were required;
- (c) Supplementary funds, such as impact fees, developer contributions, grants, etc., which were forecasted to be available for the project, were withdrawn or otherwise became unavailable;
- (d) Design or other standards applicable to the project were changed; and/or
- (e) The start of construction will be significantly delayed or additional construction requirements will be added as a direct result of legal action; provided however, that the failure of a county to exercise its statutory powers, such as condemnation, will not be grounds for increasing RATA funds.

WAC 136-165-030

County road administration board evaluation, consideration and action.

(1) In deciding whether to grant a request for a RATA allocation increase submitted under the provisions of WAC [136-165-020](#), the county road administration board will consider the following factors:

- (a) Whether the county, at the time of preparing its final project prospectus, considered the factors listed in WAC [136-165-020](#)(4);
- (b) Whether the county's request for an increased allocation is based on extraordinary and unforeseeable circumstances of the type listed in WAC [136-165-020](#)(5);
- (c) Whether it is feasible to reduce the scope and/or project limits so the project can be substantially constructed within the initial RATA allocation;
- (d) Whether the request is to pay for an expansion of the project; and
- (e) Whether the increased allocation will have an adverse effect on other approved or requested RATA funded projects.

(2) If the county road administration board finds that an increase in RATA funds for a previously approved project is justified, some or all of the requested increase may be allocated.

WAC 136-165-040 Effect of receiving RATA increase.

A county's increased RATA funds for a project program period shall correspondingly reduce the limit of RATA funds that may be allocated to the county in the next project program period; provided that the county road administration board may grant a county's request to decrease such a reduction by the total amount of increased but unexpended RATA funds.

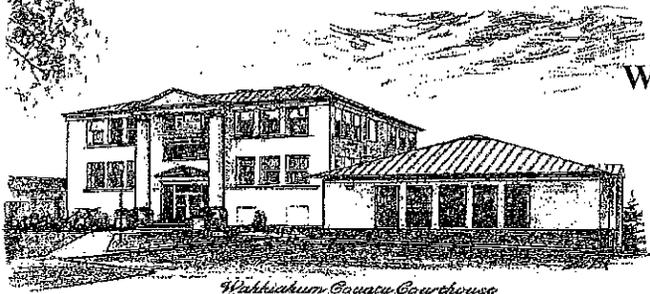
All reductions and reduction adjustments as described shall be effective in the project program period following the period in which the increase in the RATA funds is approved.

CFCIP funding timeline for next cycle:

- Counties must have proposed projects on their 2017 6-year transportation program and 14-year ferry program, submitted December 31, 2016.
- Requesting counties attend the spring, 2017 CRABoard meeting, at which time a call for CFCIP projects may be issued.
- If a call is issued, formal applications must be received from eligible counties by December 31, 2017.
- Technical Review Committee completes review and submits findings report at the spring 2018 CRABoard meeting.
- If approved by the CRABoard, a CFCIP project funding request is included in the CRAB agency biennial budget request submitted late summer – 2018.
- In 2019, state legislature reviews CRAB CFCIP request, and if approved, allows for expenditures beginning July 1st or the date of CRAB/County contract, whichever comes first.

COPY

Wahkiakum County Public Works Department



Wahkiakum County Courthouse
Cathlamet, Washington

Peter A. (Pete) Ringen, P.E.
Public Works Director/ County Engineer



August 29, 2013

Jay Weber, Executive Director
County Road Administration Board
2404 Chandler Court SW, Suite 240
Olympia, WA 98504-0913

RE: Wahkiakum Ferry Emergent Project, Requested Emergency RATA increase

Dear Mr. Weber:

The assistance of the County Road Administration Board (CRAB) by supporting the Emergent Ferry Project in Wahkiakum County has been greatly appreciated. The County Commissioners opened bids for the new ferry on August 6, 2013, but have not awarded the project due to funding concerns. Therefore, I am requesting emergency consideration of a RATA increase for the Emergent Project due to extraordinary circumstances.

The lowest bid for construction of the new ferry was \$5,675,584.00, while the cost estimate provided to us by our consultant, Elliott Bay Design Group, was \$4,584,000.00. The project is currently in a state of suspense, and the shipyard needs to proceed with construction. The ferry provides a key link in County transportation infrastructure, and has been a critical lifeline on numerous occasions.

Funding identified to date for this project includes the following:

Federal Ferry Boat Discretionary Grant (FBD):	\$2,800,000.00
Supplemental FBD	\$ 123,649.00
Ferry Boat Program	\$ 85,577.00
Regional STP funds	\$ 900,000.00
RATA-Emergent	<u>\$1,000,000.00</u>
Total grant funds for construction	<u>\$4,909,226.00</u>

Clearly there is a gap of \$766,358.00
for ferry construction, which does not include the cost of construction administration or inspection.

As a very small County, struggling to make ends meet, and challenged by lawsuits from environmental groups that hinder DNR management of our timber trust lands, this assistance to help make ferry service continue into the future will be critical to our long term success. We respectfully request consideration of the maximum available

Mr. Jay Weber, page 2
August 29, 2013

RATA increase of 25% or \$250,000.00 for ferry boat construction, I believe the Commissioners will feel confident in awarding the project if the CRAB Board can support this request. This request is considered an emergency, because we will not be able to keep the shipyard in suspense without awarding the contract much longer.

An emergency un-scheduled meeting of the CRAB Board is requested to address this request. The shipyard, ICE Floe, DBA Nichols Bros. Boat Builders, must have a notice to proceed in the next few weeks. If at all possible, a decision on this issue should be made by September 13, 2013, as 42 days will have elapsed by the date of the County Commissioner meeting on September 17, 2013.

WSDOT Director of Highways and Local Programs (H&LP), Kathleen Davis met with the Board today, and offered a loan to help bridge the remaining gap in this project's financing needs. While the Commissioners have not yet agreed to accept this loan, they formally moved to request that H&LP prepare the loan documents for their consideration at a future meeting of the Board. This loan assistance from WSDOT in combination with the requested RATA increase will provide the assurance the ferry construction project can move forward without placing Wahkiakum County in financial jeopardy.

This request is considered extraordinary and unforeseeable because the lowest bid was 24% in excess of the engineer's estimate from this spring. It is not feasible to reduce the scope of the construction of the ferry and reduce the cost of the project. This request does not expand the scope of the approved RATA – emergent project.

CRAB staff have been provided the engineer's estimate of our consultant, Elliott Bay Design Group. Had the project bids been close the engineer's estimate, a RATA fund increase would not be necessary.

This project is closely related to a project for reconstruction of the ferry ramp at Westport, Oregon by Clatsop County, Oregon which is under design and scheduled to be advertised for construction in early 2014. Failure to construct the ferry project on time will leave the Westport ferry ramp construction project in disarray.

If there are questions, please do not hesitate to contact me at 360-795-3301.

Sincerely,



Pete Ringen, P.E.
Director/County Engineer

Cc: Board of County Commissioners
Kathleen Davis, Director, WSDOT, Highways and Local Programs
Project file-Wahkiakum Ferry

RATA FUND INCREASE REQUEST
COUNTY ROAD ADMINISTRATION BOARD
WAC 136-165

COUNTY WAHAKIACUM

PROJECT NAME Wahkiakum Ferry

PROJ NO. 3511-01

BEGIN M.P. _____

END M.P. _____

CURRENT RATA FUNDING 1,000,000

INCREASE AMT 250,000

% OVER CURRENT FUNDING 25.00%

Analysis of Increase (attach additional sheets if necessary)

WAC 136-165-030(1)

(A) At the time of preparing your Project Proposal, did you consider the following factors? If you answer no, please explain

- Yes No **WAC 136-165-020(4)**
- (a) Availability of matching funds.
 - (b) Technical data such as topographic maps, reconnaissance reports, surface and subsurface geotechnical data, hydraulic and hydrological data, sources of materials, applicable design standards, and preliminary engineering.
 - (c) Required permits.
 - (d) Right-of-Way easements
 - (e) Availability of contractors.
 - (f) Utility relocation.
 - (g) Projected labor, equipment & materials costs.
 - (h) Development timetable relating to other work activities.

(B) Is your request based on the following extraordinary unforeseeable circumstances? If you answer Yes, please explain.

- Yes No **WAC 136-165-020(5)**
- (a) Relied on existing technical data which were later found to be in error.
 - (b) Permit requirements substantially changed.
 - (c) Anticipated supplementary funds became unavailable
 - (d) Design standards changed.
 - (e) Start of construction significantly delayed or legal action added to construction requirements.

(C) Is it feasible to reduce scope and/or project limits so the project can be substantially constructed within the initial RATA allocation? Yes _____ No x If your answer is no, please explain.

(D) Is this request to pay for an expansion of the project? Yes _____ No x If your answer is Yes, please explain.

(E) Are minimum design standards being exceeded? (Design Speed, Width, Slopes, Curves, Grades & etc) Yes _____ No x If your answer is Yes, please explain.

(F) Will this increased allocation have an adverse effect on other approved or requested RATA funded projects? Yes _____ No x If your answer is Yes, please explain.

List the Major Contract or Engineering Items Causing the Increase

<u>Item:</u>	<u>Original Cost:</u>	<u>Updated Cost:</u>
1 Replacement Ferry	4,584,000	5,675,584
2		
3		
4		
5		
6		

This request is in accordance with WAC 136-165



 County Engineer

9/3/2013

 Date

NOTE:

Increases must gain CRABoard approval.
Cost increases during the course of construction are the county's responsibility.
Increases in excess of 25% of original RATA will not be granted. WAC 136-165-020(2)