

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE COMMITTEE

September 2, 2011

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Budget and Finance Committee, having met on August 16, 2011, makes reference to County Communication No. 11-150, from the Budget Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3749 BILL NO. 37 (2010) RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI" ("Bond Authorization bill").

The purpose of the proposed Bond Authorization bill is to increase the Fiscal Year ("FY") 2011 general obligation bond authorization by \$20,000,000 for the Kihei Police Station project in the Kihei-Makena Community Plan area.

By correspondence dated August 9, 2011, the Council Chair transmitted correspondence dated July 28, 2011, from the Chief of Police, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS FOR A \$17,000,000 USDA RURAL DEVELOPMENT LOAN FOR THE CONSTRUCTION OF A SOUTH MAUI POLICE STATION".

The purpose of the proposed bill is to authorize the Mayor to enter into a loan agreement with the United States Department of Agriculture ("USDA") for a \$17,000,000 Rural Development Loan for the construction of the Kihei Police Station.

Your Committee notes that the total appropriation for the Kihei Police Station project is \$37,000,000 from two funding sources. The first funding source is a \$20,000,000 general obligation bond Capital Improvement Project ("CIP") appropriation from the FY 2011 Budget; the second funding source is a \$17,000,000 USDA loan appropriation from the FY 2012 Budget. Your Committee further notes that the FY 2011 general obligation bond CIP appropriation lapses on December 31, 2011, half-way through FY 2012.

The Department of Police informed your Committee that all required approvals for the project have been obtained and once a contractor is named, the building permit

COUNCIL OF THE COUNTY OF MAUI

BUDGET AND FINANCE COMMITTEE

September 2, 2011

Page 2

Committee

Report No. _____

will be issued. The Department stated that the period for interested parties to submit bids to construct the project is from July 31 through September 8, 2011. The Department explained that the six-month bid opening period was established to avoid the lapsing of the \$20,000,000 general obligation bond CIP appropriation on December 31, 2011. Furthermore, the Department assured your Committee that the six-month period from July to December provides enough time for the Department to obtain quality proposals.

Your Committee questioned the reporting and audit requirements associated with expending funds from the USDA loan. The Department stated that quarterly reports will be submitted to the USDA in accordance with the terms of the loan agreement. The Budget Director added that loan expenditures will be audited in accordance with the County's audit and reporting requirements as specified by the United States Office of Management and Budget Circular A-133, commonly referred to as the "Single Audit".

A representative from the Department of Finance explained that the contract for the construction of the project is being awarded through the competitive sealed bidding process. Under the competitive sealed bidding process, the successful bidder proposes the lowest price for the project, which according to the Department's representative, generally results in a less subjective bidding process.

Your Committee recommended that the proposed bills be revised to replace all references to "South Maui Police Station" with "Kihei Police Station" as well as other nonsubstantive revisions.

Your Committee voted 8-0 to recommend passage of the proposed bills on first reading and filing of the communication. Committee Chair Pontanilla, and members Baisa, Carroll, Cochran, Couch, Mateo, Victorino, and White voted "aye". Vice-Chair Hokama was excused.

Your Committee is in receipt of revised proposed bills, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommendations. Furthermore, the revised proposed Bond Authorization bill incorporates a nonsubstantive revision to correct the description for "Road Improvements" in the Hana Community Plan area, to match the annual budget ordinance.

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE COMMITTEE

September 2, 2011
Page 3

Committee
Report No. _____

Your Budget and Finance Committee RECOMMENDS the following:

1. That Bill No. _____ (2011), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3749, BILL NO. 37 (2010), RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI", be PASSED ON FIRST READING and be ORDERED TO PRINT;

2. That Bill No. _____ (2011), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS FOR A \$17,000,000 USDA RURAL DEVELOPMENT LOAN FOR THE CONSTRUCTION OF THE KIHEI POLICE STATION", be PASSED ON FIRST READING and be ORDERED TO PRINT; and

3. That County Communication No. 11-150 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



JOSEPH PONTAMILLA, Chair

ORDINANCE NO. _____

BILL NO. _____ (2011)

A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3749,
BILL NO. 37 (2010), RELATING TO THE ISSUANCE OF
GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Ordinance No. 3749, Bill No. 37 (2010), is amended
by amending Section 1 to read as follows:

"SECTION 1. Authorization of General Obligation Bonds. Pursuant to Chapter 47, Hawaii Revised Statutes, as amended, and particularly Part I thereof, there are hereby authorized to be issued and sold from time to time general obligation bonds of the County of Maui, State of Hawaii (the "County") in an aggregate principal amount not to exceed [~~\$31,900,000~~] \$51,900,000 (the "Bonds"), the proceeds derived from the sale of which shall be used to pay all or part of the cost of appropriations for the public improvements of the County described in Section 2 hereof."

SECTION 2. Ordinance No. 3749, Bill No. 37 (2010), is amended
by amending Section 2 to read as follows:

"SECTION 2. Disposition of Bond Proceeds. All or any portion of the proceeds derived from the sale of the Bonds or any notes issued in anticipation of the Bonds shall be used to pay all or part of the cost of any of the public improvements listed below in accordance with appropriations contained in the Fiscal Year 2011 Budget, including amendments and supplements thereto, duly approved by the Council of the County (the "Council") for the fiscal year ending June 30, 2011 (the "Fiscal Year 2011 Budget"); provided, however, that pursuant to Section 47-5, Hawaii Revised Statutes, the part of such proceeds which are in excess of the amounts required for the purposes for which the Bonds are initially issued from time to time, or which may not be applied to such purposes, or which the Council deems should not be applied to such purposes, may be applied to finance such other public improvements of the County as the Council shall, by ordinance approved by an affirmative vote of two-thirds of all of its members, determine; and provided further that the actual use and application of the proceeds of

Bonds issued pursuant to this ordinance shall not in any way affect the validity or legality of such Bonds. No proceeds of the Bonds shall be applied to any public improvement listed in this section unless and until there shall be a valid appropriation of general obligation bond proceeds in effect for such public improvement. The public improvements provided for or to be provided for in the Fiscal Year 2011 Budget, to be financed with proceeds from the sale of the Bonds, are as follows:

Public Improvements:

Estimated Project Cost

- | | | | |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|-----------|
| 1. | Hana Community Plan Area | | |
| | a. Parks and Recreation | | |
| | (1) Nahiku Community Center | \$ | 250,000 |
| | b. Road Improvements (and related improvements, beautification, sidewalks, bike paths, drainage, bridge repairs and maintenance, safety and utilities, <u>accessibility for persons with disabilities</u>) <u>including:</u> | | |
| | (1) Kaholopoo Bridge Replacement | | 700,000 |
| | (2) Papahawahawa Bridge Replacement | | 1,100,000 |
| 2. | Paia-Haiku Community Plan Area | | |
| | a. Water Supply | | |
| | (1) Paia-Haiku Source Improvements | \$ | 1,100,000 |
| 3. | Makawao-Pukalani-Kula Community Plan Area | | |
| | a. Drainage | | |
| | (1) Polipoli Road Drainage Improvements | \$ | 2,000,000 |
| | b. Water Supply | | |
| | (1) Upcountry Water Storage | \$ | 1,000,000 |
| 4. | Wailuku-Kahului Community Plan Area | | |
| | a. Parks and Recreation | | |
| | (1) War Memorial Football Stadium Improvements | \$ | 2,200,000 |
| | (2) War Memorial Little League Restroom Cesspool Conversion | \$ | 100,000 |
| | (3) War Memorial Park Office Building and Gym | \$ | 1,500,000 |
| | b. Water Supply | | |
| | (1) Wailuku-Kahului Distribution System Improvements | \$ | 3,200,000 |
| | (2) Wailuku-Kahului Source Improvements | \$ | 3,000,000 |

c.	Sanitation	
	(1) Central Maui Landfill Nonpotable Water Tank System	\$ 300,000
	(2) Central Maui Landfill Potable Water Line	\$ 150,000
d.	Sewer	
	(1) EPA Consent Decree Sewer Rehabilitation	\$ 1,000,000
	(2) Wailuku Wastewater Pump Station Building Renovation	\$ 1,000,000
5.	Kihei-Makena Community Plan Area	
	a. <u>Government Facilities</u>	
	(1) <u>Kihei Police Station</u>	<u>\$20,000,000</u>
	[a.]b. Water Supply	
	(1) Kihei-Makena Distribution System Improvements	\$ 2,000,000
6.	West Maui Community Plan Area	
	a. Drainage	
	(1) Lahaina Watershed Flood Control	\$ 2,500,000
7.	Lanai Community Plan Area	
	a. Parks and Recreation	
	(1) Old Lanai Gym Renovations	\$ 250,000
8.	Molokai Community Plan Area	
	a. Government Facilities	
	(1) Molokai Baseyard	\$ 3,700,000
9.	Countywide	
	a. Government Facilities	
	(1) Countywide Facility Building Improvements	\$ 150,000
	(2) Countywide Fire Facilities	\$ 150,000
	(3) County Morgue	\$ 200,000
	(4) Countywide Public Works ADA Improvements	\$ 500,000
	b. Parks and Recreation	
	(1) Community Center Renovations	\$ 200,000
	(2) Countywide Parks ADA Improvements	\$ 500,000
	c. Sanitation	
	(1) Landfill Gas Monitoring Wells	\$ 350,000
	(2) Renewable Power	\$ 250,000
	(3) Waste to Energy	\$ 150,000
	d. Sewer	
	(1) Countywide EPA Consent Decree Wastewater Reclamation	\$ 400,000

(2) Countywide Injection Well
Rehabilitation


\$ 2,000,000

The cost of issuance of the Bonds or any series thereof, including without limitation, the initial fee of paying agents and registrars, the fees of financial consultants and bond counsel, the cost of preparation of any Official Statement relating to the Bonds, any notices of sale and forms of bid and the definitive Bonds, and the costs of publication of any notices of sale, may be paid from the proceeds of the Bonds or any series thereof and such costs shall be allocated pro rata to each of the foregoing projects financed from such proceeds."

SECTION 3. Material to be repealed is bracketed. New material is underscored.

SECTION 4. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:


ADRIANNE N. HEELY
Deputy Corporation Counsel
County of Maui

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ORDINANCE NO. _____

BILL NO. _____ (2011)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS FOR A \$17,000,000 USDA RURAL DEVELOPMENT LOAN FOR THE CONSTRUCTION OF THE KIHEI POLICE STATION

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Request for Loan. The County of Maui has submitted an application for a United States Department of Agriculture Rural Development loan ("USDA-RD loan") from the United States Department of Agriculture, Rural Development, Hawaii State Office - Western Pacific Region, to finance the construction of the Kihei Police Station (the "Project"). A copy of the proposed USDA-RD loan agreement documents are attached hereto as Exhibit "1".

The proposed USDA-RD loan agreement documents include: the Letter of Conditions dated August 6, 2010; Letter of Conditions, Addendum No. 1 dated July 25, 2011; USDA Form RD 440-22 "Promissory Note"; USDA-FHA Form FHA 443-16 "Assignment of Income From Real Estate Security (California & Hawaii)"; USDA's Security Agreement and Assignment of Income and Assets and Attachment 1; UCC Financing Statement; and USDA Form RD 1927-15 "Loan Closing Instructions and Loan Closing Statement."

Pursuant to the County of Maui Fiscal Year 2012 Budget Ordinance No. 3840, Bill No. 34 (2011), Draft 1, an appropriation in the amount of \$17,000,000 from the USDA for the Project was adopted.