

# BUDGET AND FINANCE COMMITTEE

Council of the County of Maui

## MINUTES

August 16, 2011

Council Chamber, 8<sup>th</sup> Floor

**CONVENE:** 1:34 p.m.

**PRESENT:** Councilmember Joseph Pontanilla, Chair  
Councilmember G. Riki Hokama, Vice-Chair (In 1:36 p.m.; Out 3:12 p.m.)  
Councilmember Gladys C. Baisa, Member  
Councilmember Robert Carroll, Member  
Councilmember Elle Cochran, Member  
Councilmember Donald G. Couch, Jr., Member  
Councilmember Danny A. Mateo, Member  
Councilmember Michael P. Victorino, Member  
Councilmember Mike White, Member (In 1:44 p.m.)

**STAFF:** Scott Kaneshina, Legislative Analyst  
Camille Sakamoto, Committee Secretary

**ADMIN.:** Sananda K. Baz, Budget Director, Office of the Mayor  
Gary A. Yabuta, Chief, Department of Police  
Lawrence Hudson, Police Inspector, Technical Services, Department of Police (Item No. 35)  
Gregory L. King, Central Purchasing Agent, Department of Finance (Item No. 35)  
Adrianne N. Heely, Deputy Corporation Counsel, Department of the Corporation Counsel

*Seated in the gallery:*

Jeremiah L. Savage, Deputy Director, Department of Finance (Item No. 35)  
George "Jay" Buzianis, Capital Improvements Project (CIP) Coordinator,  
Department of Management (Item No. 35)

**OTHERS:** Michael W. Wright, President, Michael Wright & Associates, Inc. (Consultant to the Department of Police) (Item No. 35)  
Chad McDonald, Mitsunaga and Associates (Consultant to the Department of Police) (Item No. 35)  
Sharon Wright, Michael Wright & Associates, Inc. (Consultant to the Department of Police) (Item No. 35)  
Geraldine Carroll (Item No. 35)

**PRESS:** Akaku: Maui Community Television, Inc.  
Chris Hamilton, The Maui News

---

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

CHAIR PONTANILLA: ...*(gavel)*... The Budget and Finance Committee meeting for August 16, 2011 is now in session. The time is 1:35. At this time, the Chair would like to recognize the Members that are present this afternoon. We do have Member Carroll, Member Baisa, Member Cochran --

COUNCILMEMBER COCHRAN: Aloha.

CHAIR PONTANILLA: --Member Couch --

COUNCILMEMBER COUCH: Aloha.

CHAIR PONTANILLA: --Member Victorino.

COUNCILMEMBER VICTORINO: Aloha, Chair.

CHAIR PONTANILLA: Aloha. Member...Chairman Mateo.

COUNCILMEMBER MATEO: Good afternoon, Chair.

CHAIR PONTANILLA: Good afternoon. Excused at this time are Members Hokama and White. From the, or supporting the Committee this afternoon is, we have Scott Kaneshina, who is our...

MR. KANESHINA: ... Legislative Analyst.

CHAIR PONTANILLA: I know ...*(laughter)*...

ALL: ...*(laughter)*...

CHAIR PONTANILLA: ... Administrative [*sic*] Analyst. I look at him, every time I look, Kaneshina, I thought he's a school teacher, yeah.

ALL: ...*(laughter)*...

CHAIR PONTANILLA: And we do have our Secretary this afternoon, Camille Sakamoto. Members, we do have present with us members of the Administration. We do have our Corporation Counsel, Adrienne Heely --

MS. HEELY: Good afternoon.

CHAIR PONTANILLA: Good afternoon. Our Budget Director, Mr. Sandy Baz--

MR. BAZ: Aloha.

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

CHAIR PONTANILLA: And from the Police Department, we do have Chief Yabuta. We do have Captain Hudson--

UNIDENTIFIED SPEAKER: Assistant Chief.

CHAIR PONTANILLA: Oh I'm sorry, Assistant Chief of Police.

COUNCILMEMBER COUCH: Assistant Chief.

CHAIR PONTANILLA: Sorry.

MR. HUDSON: You're all used to . . .*(inaudible)*. . .

COUNCILMEMBER BAISA: Promotion, promotion.

ALL: . . .*(laughter)*. . .

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

CHAIR PONTANILLA: Larry Hudson, and then also...and maybe, Chief, you can introduce the person next to you?

MR. YABUTA: Sure. This is our consultant, Mr. White [*sic*], and I believe in his audience is his partner, is Mrs. White [*sic*].

COUNCILMEMBER BAISA: . . .*(laughter)*. . .

COUNCIL MEMBERS: . . .*(laughter)*. . .

CHAIR PONTANILLA: Okay. Thank you.

ALL: . . .*(laughter)*. . .

CHAIR PONTANILLA: And we have a Mike White that is still excused, though. And Chair would like to welcome Mr. Hokama. . .for his presence at this Budget and Finance Committee meeting. Camille, do we have anybody signed up for public testimony?

MS. SAKAMOTO: No, Mr. Chair.

CHAIR PONTANILLA: Thank you. Members, we don't have anybody signed up for public testimony this afternoon, so without any objections, the Chair would like to close public testimony.

COUNCIL MEMBERS: No objections.

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

CHAIR PONTANILLA: Thank you. We have two items on the agenda and both items are relating to the Maui Police Department.

**ITEM NO. 37: AMENDING FY 2012 BUDGET: DEPARTMENT OF HOUSING AND HUMAN CONCERNS (HOSPITAL DISCHARGE PLANNING MODEL GRANT), DEPARTMENT OF POLICE (DISTRACTED DRIVING ENFORCEMENT GRANT), DEPARTMENT OF PUBLIC WORKS (PRIVATE CONTRIBUTION) (C.C. No. 11-182)**

CHAIR PONTANILLA: The first item, Members, is BF-37, Amending Fiscal Year 2012 Budget: Department of Housing and Human Concerns, Hospital Discharge Planning Model Grant; Department of Police, Distracted Driving Enforcement Grant; Department of Public Works, Private Donation. Remember at the last Committee meeting, the Chair requested that the proposed bill be revised and that three separate proposals be transmitted to this Committee for its consideration. The Chair's intent today is to hear the revised proposed bill to amend Appendix A to include \$30,799 for the Distracted Driving Enforcement Grant for the police...for the Department of Police. At this time, the Chair would like to recognize Budget Director, if you have any comments to make?

MR. BAZ: Mr. Chair, thank you for the opportunity and thank you for bringing this up again. As per the discussion at the prior Budget and Finance Committee meeting, we have transmitted a proposed bill for an amendment to the Budget to be able to allow the Department to expend this funds. As you know, there is a time limit as far as when they can expend these funds by, so we appreciate you hearing this again so quickly.

CHAIR PONTANILLA: Thank you. And, Members, just for your information, some of the details for this particular item is Distracted Driving Enforcement Grant, the funds will be used for premium pay. Grant award in February 2011 for \$30,799. Grant period is January 1<sup>st</sup>, 2011 through September 30<sup>th</sup>, 2011. Grant is from State of Hawaii Department of Transportation. Members, any one of you have any questions for the Department at this time? Seeing none, the Chair's recommendation is to defer this item due to the Department's ability to be reimbursed for enforcement activities related to this grant...to this grant expires on September the 30<sup>th</sup>, 2011. The Chair has submitted a discharge letter for this item at the August 23<sup>rd</sup> Council meeting. And I wanna thank Chair Mateo for having us discharge this item. Thank you. Members, any more discussion? If not, this item is deferred to the August 23<sup>rd</sup> Council meeting.

**COUNCIL MEMBERS VOICED NO OBJECTIONS.** (excused: MW)

**ACTION: DEFER pending further discussion.**

CHAIR PONTANILLA: The next item, and the last item on our agenda, is the long-awaited South...Kihei Police Station.

**ITEM NO. 35: KIHEI POLICE STATION PROJECT (C.C. No. 11-150)**

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

**CHAIR PONTANILLA:** This afternoon is the BF-35, which is Kihei Police Station Project. This item has two parts: Number one, a proposed bill to increase the Fiscal Year 2011 bond authorization by \$20 million for the Kihei Police Station, and two, a proposed bill to authorize the Mayor to enter into a loan agreement with the United States Department of Agriculture for a \$17 million Rural Development Loan for the construction of the station. At this time, the Chair would like to call on the Budget Director for comments, if you have any.

**MR. BAZ:** Thank you, Mr. Chair. Again, we appreciate the Committee reviewing these two items. They are spanning two different fiscal years and that is a difficult thing that we've, the Department has complied with many different factors in being able to come forward today. We're very happy to be able to come forward today with the status of the project, and for your request, a request for you to authorize these. As you know, Mr. Chair, the Fiscal Year 2011 Budget included a \$20 million appropriation for the Kihei Police Station that was proposed to be funded through a bond. The bond authorization was not included in the Fiscal Year 2011 Budget. So, therefore, to be able to allow us to expend the money, encumber the money before the end of the, its application period, which would be December 31<sup>st</sup>, 2011, we're requesting that you do authorize us to go out to bond for that \$20 million. And, in conjunction with that, as per the deliberations during the Budget session, in preparation for Fiscal Year '12, it was approved for us...appropriated, excuse me, for us to in turn to, well, to get \$17 million from the US Department of Agriculture through a loan for the completion of this project. The total combined funding requested is \$37 million and the second part of this Budget amendment today is to, in the Fiscal Year '12, authorize us into an intergovernmental agreement, which is a loan, with the US Department of Agriculture as per, there's been many, much discussion about and we'll be happy to discuss some more today. We do have the Department, as you have introduced them as well-- from the Department of Management, we have Jay Buzianis, who has been assigned to assist in oversight of the project; as well as the Deputy Director of Finance; and our consultants. Thank you, Mr. Chair.

**CHAIR PONTANILLA:** Thank you. And for the Department, Police Chief Yabuta or Assistant Chief Hudson, if you have any comments to make at this time.

**MR. YABUTA:** No. I just wanted to thank everybody for their cooperation and for their, for their effort and for asking hard questions. This is an important project, not only for the Maui Police Department, for the County of Maui. It's been in the works for, for many years and to see it finally come together like this, it's, it's a dream and it's gonna be a reality one day. And it's gonna be used in the most efficient way and it's going to be a very strong impact on the crime-prevention and crime-fighting efforts of our Department.

**CHAIR PONTANILLA:** Thank you. Assistant Chief Hudson?

**MR. HUDSON:** Thank you for letting us come before you and ask for the, these bill ordinances. It has been a long process just to get to here. So I'd like to give you a quick update. The building permit, we have all the signatures. The only thing we're waiting for on the building permit is a

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

contractor so we can issue it. So there's no more left to do, really, on the building permit. The project has gone out to bid. The project went out to bid on July 31<sup>st</sup>. The bid opening date is September 8<sup>th</sup>. We built into the bid opening date a timetable that would allow for the bid to be contested, and still for us to allow to make contract before December 31<sup>st</sup>. Ideally speaking, we should be able to, even with the, with the contestation, break ground in November of some time, sometime in November. It's taken an awful lot to get here, but I think right now we just stand ready to answer any questions that the Council may have.

CHAIR PONTANILLA: Thank you. And, Members, Chair is gonna allow you to ask questions of the Department and any representative in regards to this particular project. And soon after the questions about this project from the Department and the representatives for this project, we do have the ability to contact USDA, if you want, through telephone conference for questioning, if any one of you desires so. So at this time, the Chair would like to start off from my right. Mr. Mateo, if you have any questions?

COUNCILMEMBER MATEO: Mr. Chairman, thank you very much. And the question has to do with the USDA loan, but I am really not interested in directly communicating with them. I am sure that the Department have had discussions with USDA in regards to the 17 million, and perhaps if you can share with us part of your communication with USDA in terms of, I know there's no such things as guarantees, but it's \$17 million that your, your project is dependent upon. So can you share additional information with us?

MR. HUDSON: Councilmember Mateo, in direct answer to your question, yes. We have been in communication with the USDA. But your, your question has many facets to it. So first I'll let Mr. Baz answer some of that, and then I'll probably turn it over to Mr. Wright.

MR. BAZ: Thank you.

CHAIR PONTANILLA: Director?

MR. BAZ: Mr. Chair and Chair Mateo, thank you very much. The Corporation Counsel, Adrienne Heely, and I have been in discussion with them on a regular basis throughout this process as we took over the, the review of this. And the money is available, and they have certified that the money is available for us once we enter into this agreement. And Corporation Counsel has attached a copy of the draft agreement with that. And maybe she could answer your question in a little bit more detail if you have any more detailed questions.

CHAIR PONTANILLA: Ms. Heely?

MS. HEELY: Mahalo, Mr. Chair, and good afternoon, Committee Members. Yes, we've been in contact to, with USDA representatives, not only the Hilo representatives but also their Idaho and their Washington representatives. So this has been a long, arduous, comprehensive, great collaborative effort on everyone's part to try to get everything done for the County of Maui and the intergovernmental agreement that you may authorize us to enter into. We did attach to the

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

August 16, 2011

---

proposed bill the various loan documents that USDA does require any person or entity entering into an agreement with them to fill out and complete. The first attachment I did wanna highlight is the letters of condition, which was written back in August 6<sup>th</sup> of 2010 to, by USDA to Chief Gary Yabuta, MPD. So this is a 13-page Letter of Conditions that USDA placed upon the County of Maui and the Department to complete prior to even considering entering into the financial obligation with the, with the County of Maui and USDA. So I'm pleased to say that every single one of these conditions have been met or revised and discussed with the USDA representatives to their satisfaction. And that's why we felt it imperative that we attach this to the proposed bill. To update you just on how complex this process was, you can see one of the things is to obtain permits and get USDA-approved for the contract documents. This involved a huge collaborative effort on the review and drafting of the specs, the bid documents and getting, getting the USDA's approval for that. And that's just only one of the requirements that USDA requires, so I hope that this is able to answer some of Council Chair's questions in regards to whether we've been in contact with USDA. But we have, with not only their Hilo representatives, but with their mainland counsel as well in Washington and Idaho. And they're sufficient that we're, County of Maui is meeting all the requirements that they're asking us.

COUNCILMEMBER MATEO: Okay. Thank you. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER MATEO: My only need to have asked the question was because we all want...I want the project to move forward. I cannot speak for nobody else. We all feel, probably, the same, according to Mr. White.

COUNCIL MEMBERS: ...*(laughter)*...

COUNCILMEMBER MATEO: So for me the biggest problem was, you know, the assurance that, that the total amount of monies that they *need* is in fact not gonna be in *jeopardy* once the project starts. Because we've heard from the very beginning the need for the total amount of monies for this particular project, so at least I'm a little more comfortable knowing that we are moving in the right direction. All of the requirements requested from USDA had in fact been responded to, and I guess at this point, it'll just be waiting our approval out of the Committee so project can at least start to be initiated. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. Before I call on Mr. White, and thank you for attending this meeting, we do have three Whites over here, last name. So I'll refer you to Mr. Mike White.

MR. HUDSON: The, our...this is Mr. *Wright*.

CHAIR PONTANILLA: Oh, *Wright*. I'm sorry.

UNIDENTIFIED SPEAKER: *Wright*.

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

August 16, 2011

---

CHAIR PONTANILLA: I'm sorry.

ALL: . . .(laughter). . .

CHAIR PONTANILLA: I'm sorry.

COUNCILMEMBER WHITE: Sometimes I wish *I was* Mr. Right--

ALL: . . .(laughter). . .

COUNCILMEMBER WHITE: --without the, without the W.

CHAIR PONTANILLA: Yeah.

COUNCILMEMBER VICTORINO: That's wrong.

CHAIR PONTANILLA: So the right has been wronged.

ALL: . . .(laughter). . .

CHAIR PONTANILLA: Before I move on to Mr. White, I have a couple questions over here. And I asked the Department and Ms. Heely in regards to these questions previously. Just for the record, will the USDA funds be encumbered by September the 30<sup>th</sup>, 2015? That's the expiration per USDA agreement.

MR. HUDSON: . . . The, the short answer to that is yes. The long, the long answer to that is that part of the USDA requirements means that we use up our 20 million first, and then we enter into the 17 million. So we don't expect to tax into that 17 million until probably a year and a half from now, when the project expends over 20 million, maybe, maybe a little less than that. The timeline, as mentioned though, was we still intend to break ground in, in November; and then you tack on 16 months to the end of November and that's when we should be done.

. . . That's it.

CHAIR PONTANILLA: Okay. Thank you. The second question that I had is, will all \$17 million of the loan be in encumbered at once or will it be taken, you know, a bit at a time?

MR. HUDSON: No. The, the \$17 million actually works almost like a, almost like a line of credit. We're not, we're not, if we don't need it, we're not using it and we only take out what we need at that particular time.

CHAIR PONTANILLA: Thank you. And the last question, it's for Corporation Counsel. This is in regards to the authorization. With the USDA loan, intergovernmental agreement, was \$37 million, or are we approving 17 million? That's the first question on that one. If the fiscal

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

year appropriation was only 17 million, why hasn't the Letter of Condition or addendum been revised? Does it need to be revised?

MS. HEELY: To answer your first question, it's only for 17 million. USDA's been informed that the appropriated amount has only been 17 million, and they're aware of that. The letter, the attachment to the proposed bill is the August 6, 2010 letter which was the original request of 37 million, but I don't see a need to revise it because the documents that are attached--that have the promissory notes and all the other assignment of income from real estate, security--that's gonna have the correct amount of \$17 million.

CHAIR PONTANILLA: Thank you. Thank you. Mr. White?

COUNCILMEMBER WHITE: Thank you, Mr. Chair. It's...congratulations on meeting all the conditions that are required from the USDA loan. Are there any conditions going forward? If we're using USDA loan monies, are there any conditions on the way you operate, or the way you use the facility that in any way are gonna be challenging? You know, operating as a police department that's gonna operate it, are there any, any hidden challenges that...

CHAIR PONTANILLA: . . . Department?

MR. HUDSON: There were, there were several concerns and conditions we had to meet regarding construction, bid documents, the materials, and stuff like that. I'm thinking that your question is two-fold, first the construction phase, and then after construction.

COUNCILMEMBER WHITE: Operation phase, too. Right.

MR. HUDSON: Okay. The easiest one to answer, we'll take the second one first. No, there's no restrictions as far as to how we're gonna operate as a Police Department.

COUNCILMEMBER WHITE: Or use it, or anything of that sort?

MR. HUDSON: Right.

COUNCILMEMBER WHITE: Okay.

MR. HUDSON: It's, the USDA knows that it's for a police department. They're completely aware of that, and they didn't stick any. . .restrictions on how we perform our function as a police department. So we'll take your, your first question now, your construction question. There are a lot of considerations that we have to, we have to be aware of as we go through. One thing about the USDA is that every time we have a change order, whenever we, whenever we do something, they are also informed. So that's, so that's one of the considerations that we, we have to make sure that we're aware of and comply with.

COUNCILMEMBER WHITE: Okay. Thank you. Thank you, Chair.

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

CHAIR PONTANILLA: Thank you. Mr. Victorino?

COUNCILMEMBER VICTORINO: Yeah, thank you, Chair. And really not, you know, no questions at this point. I just wanna say, like Chief Yabuta and yourself and all the people of South Maui, the reality of having this police station is forthcoming. And I think we can't wait to see it there and, and helping serve the community. So I know, Mr. Hudson, you have worked very hard for a long time on this and thank you for your efforts in this area.

MR. HUDSON: Thank you, but this really is a collaborative effort, with--

COUNCILMEMBER VICTORINO: I understand, but you've been one of the, the lead men, because I've seen you come many, many times, so I know you've been on it. So thank you very much. And thank all of you for your efforts.

MR. HUDSON: Thank you.

COUNCILMEMBER VICTORINO: Thank you, Chair.

CHAIR PONTANILLA: Thank you. Mr. Hokama?

VICE-CHAIR HOKAMA: Chairman, thank you. My apologies for this eyewear this afternoon. I have, I had to get some eye examination taken care of, Chairman, so my apologies. Let me ask, you know, in my understanding, my experience with construction and this type of projects, it's interesting that you folks are just going about with a five-week window for a review in bid submittal period of a project of this scope. You know, historically if you look back, we give, usually, 12 to 14 weeks for this type of project so that you can get good estimates, we can verify manufacturers' quotations, and that the bids will come in has been thoughtful and deliberate, and gives us an accurate proposal on what it will take to get it constructed. So can you tell me why such a small window, because for me I'm concerned about a fallout of this short window to review and put in a bid number to the County.

CHAIR PONTANILLA: Thank you. Department?

MR. HUDSON: Thank you, Member Hokama. That's a very good question. The \$20 million will, will lapse on December 31<sup>st</sup>. We assume that the bid will be contested. We also need time to actually review the bid documents ourselves when they do come back. The date wasn't an arbitrary date. The date was a date that we looked at and we decided that if we go out to bid on July 31<sup>st</sup>, with an opening of around September 8<sup>th</sup>, September 15<sup>th</sup>, we'll be able to comply with everything and still break ground this year. Part of our goal is to make sure that the, the 20 million is encumbered before, before the end of the year because, truth be told, we don't wanna come back in front of the County Council yet again. But, another thing about it is that when we put it out to bid we also knew that if needs be, if absolute needs be, we could extend it

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

because of addendums and stuff like that. The whole thing was wrapped around December 31<sup>st</sup>. I hope that answers that in a nutshell.

VICE-CHAIR HOKAMA: And you know, Assistant Chief Hudson, you know, I appreciate your deadline of December 31<sup>st</sup>, and your need to move as soon as you can. For me, that's not my concern. My concern is the cost and how to pay for this project. And history has shown that when we've done things in this manner, and I can look at your current Kahului Station and the problem with that construction and overruns, short windows will give us one of two things. Either we'll get a very low-ball number from a project bid submitter counting on, for me, unacceptable amounts of change orders, or we're gonna get high bids. And history has shown us that potentially it'll be about 30 percent in cost overruns. So either way, I'm looking at something, that for me potentially, would cost me and this County a hell of a lot more money than what we've been budgeting because of the way we doing this initial phases. And that's my concern, Assistant Chief. I share this from experience. I don't wanna look for another \$12 million in case there's a 30 percent overrun down the road. And so my concern is how are we gonna, with this now adjusted bid submittal date, how can you guys ensure this body that we will stay within the budgeted allotted amounts, and not have to deal with countless change orders or a potential 30 percent additional costs?

CHAIR PONTANILLA: Department?

MR. HUDSON: Member Hokama, we cannot, as a Department, guarantee you that there won't be change orders. As a matter of fact, we can probably tell you there will be change orders. So we cannot guarantee anybody that there won't be those type of problems. Probably the first time we turn over a rock we might have a problem. But, but what we've done to try and mitigate many of these problems is we've reviewed the, the, the plans, we've, we've got all the, all the comments back from all the different disciplines. So there's not gonna be any change orders as the building, for the building permit. We have, we have a construction company that...construction management company that's gonna oversee directly what is going on on a day to day basis. We have Mr. Buzianis joining us for the County's interest to make sure that this too is addressed. We've taken, we're a police department, we don't build buildings, we just know that we need one. We, we understand that and, and we're letting the true professionals do this in such a way as to try and minimize any kind of change orders. In the construction projects that I've worked on myself, change order, to me, is. . .I hate change orders, and so I do everything I possibly can to, to make sure that we don't have change orders. Will we have change orders in this? Probably. Have we done everything I think as a Department to try and mitigate this? I think we have.

VICE-CHAIR HOKAMA: . . . And I appreciate your candid comments, Chief Hudson. I'm still not convinced. And when you told me that the professionals have taken over and now I'm hearing that this is where this potential six-week review came from, it makes me more unsettled because now I'm more concerned that this came from professionals. Do, do we have the design architect firm or engineers here, Chairman, with this project?

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

MR. HUDSON: Yes, we do.

CHAIR PONTANILLA: Mr. Hudson? Captain [*sic*] Hudson--

MR. HUDSON: Yes, we do.

CHAIR PONTANILLA: --call the person up.

MR. HUDSON: . . . I'd like to introduce Chad McDonald from Mitsunaga and Associates.

CHAIR PONTANILLA: . . . Please identify yourself.

MR. MCDONALD: Chad McDonald, Mitsunaga and Associates, consultant for the Maui Police Department.

VICE-CHAIR HOKAMA: So, Mr. McDonald, you've heard my questions and, and potential concerns about this short window for the bid review and submittal. You're one of the professionals. You helped, your firm helped design this project. Is there a concern for this Committee with a very short window to review this type of project's scope and scale in, in five weeks, and give, to be able to give a good bid, knowing more than likely, yeah, when you go out for bids or quotations from manufacturers and whatnot, it's about two to three weeks to get the requests out and to get a response back? Okay. So that's over half the allotted time to put, finalize your, your additional calculations and assurances that you can put in a reasonable bid to this County. Am I misunderstanding how this thing works?

MR. MCDONALD: It's a good point you bring up. But, you know, we, we took a look at the situation, and the current bid climate, and, you know, the industry as a whole. Yeah, I can understand the, the four-week window for the, for the contractors to provide a bid is tight. However, based on the current bid climate, we feel that the four weeks is, is adequate. Granted, a lot of times, for this size of a project, you know, a lot of the big, big contractors don't really dig into the plans and specs 'til like maybe two weeks before the bid is due. So like I said, with the industry as it is today, you know, we feel that the contractors will, will get a chance to dig into the plans and specs early enough to get their vendors, get their subs all coordinating and, and put together a, a good competitive price. So to, to answer your question, yeah, I, I do understand, you know, your concern about the four-week. But looking at the current climate, I think the four weeks would be adequate for the contractors to provide a competitive bid.

VICE-CHAIR HOKAMA: Are you professionals willing to pay anything more than 37 million? You guys willing to pay the difference if it goes over that amount?

COUNCIL MEMBERS: . . .(*laughter*) . . .

VICE-CHAIR HOKAMA: And again --

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

MR. MCDONALD: You're, you're, you're...

VICE-CHAIR HOKAMA: --Mr. McDonald, I have been, you know, I have made my calls to big firms, small firms, those that have done government work or private sector work, and so I'm getting responses that, for me, has reconfirmed my original concerns about small windows. You know, and this County has done a lot of projects, and we've paid a lot of overruns on things like a \$9 million park project that came over \$13 million. Okay. This potential 37, \$40 million could...if things go wrong, could cost us an additional \$12 million. . .okay, that the people of this County gotta ante up and find a way to pay for. So the environment I, I know you take into account and it's important, but I hope, Chairman, we not pushing this project because of this December 31<sup>st</sup> deadline. It has to work both financially and by the schedule that the Department needs to have certain things done. My concern this afternoon is I'm not sure that we're not gonna end up paying a lot more to trying to rush this for a December 31<sup>st</sup> deadline, Chairman. I thank you very much.

CHAIR PONTANILLA: Thank you. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. I, I would just like to get in a little bit of the details. I know we talked to Mr. McDonald before, and I'd like to ask this of him again. With the announcement we just had today or this morning, I believe, about all these County facilities getting solar panels, what is...have you reconsidered putting solar panels on this? I mean, you've got a huge amount of area that you could put up solar panels and help with our power costs. One of the things that we've seen in the Budget in this Committee over and over, and over again is extremely high power costs, so this seems to be an opportune time to integrate that whole thing into the whole project.

MR. MCDONALD: As, as far as sustainable design, I think that's what you're kinda referring to, you know, the project has incorporated sustainable design features. You know, for one, from the site aspect, you know, we are designing and will be constructing detention basins to, to address storm water quality, storm water runoff, any, any potential impacts downstream from the project site. Number two, we are, we are incorporating energy-efficient fixtures, light fixtures, as well as a chiller plant. But as far as your specific question regarding solar panels, the project is not utilizing that type of system. Basically, due to the fact that it is a 24-hour system, excuse me, facility, that will be operating 24/7, for this reason, if we do go ahead and use a, you know, a solar, a solar panel type system, we'll need to design and construct a redundant, a redundancy in the system, basically two separate systems. One for solar, and one for the recovery when the, you know, the solar or the water heater or the power is not available. So it's basically a design in redundancy for two systems.

COUNCILMEMBER COUCH: What was the cost of something like that --

MR. MCDONALD: For the...

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

COUNCILMEMBER COUCH: --to do, to do a solar panel integration? The only reason I ask is 'cause I know homes that don't...that have solar panels--and I know this isn't a home--but they don't have this redundancy. They've, they run 24/7 and they just are hooked up to the grid and if there's no power coming from the solar panels, then the power comes from the grid. So is that different for a big plant like this?

MR. MCDONALD: Yeah. It's, it's, it's a deal. You know, it's something I could take back and consult our electrical engineer about. But my understanding, an agreement based on this type of facility would need to be reached with the power companies as far as the feedback into the grid.

COUNCILMEMBER COUCH: I'm just looking at, Chair, I'm looking at long-term costs for electricity. As we well know from all of our budget line items is that electricity is just through the roof on this stuff. And this is an opportunity in one of the best areas to have solar energy, so I'm, I'm strongly suggesting we, we take a look into that.

CHAIR PONTANILLA: Thank you. Mr. Baz?

MR. BAZ: Mr. Chair, just to, to express Administration's policy on solar panels, what you saw. We have been and are, you know, doing solar panels that are Power Purchase Agreements, not actually putting up the cost of the panels up front. So as we move forward, and if we see that these are successful in the community centers and areas that we're gonna be utilizing them in first, then, you know, we can always broach the subject with this police facility in the future. Yeah, what the engineer is talking about is a redundant power system needs based on disaster. You know, they need to operate 24/7 no matter what, and so the redundancy in power systems and all that. They can't depend on, you know, if there's a hurricane and it's cloudy days, that they don't have power. So that's where they're, they're coming from as far as the engineering side of it. But we'll definitely be open in the future, if this is a successful model with the Power Purchase Agreements, to do many facilities with that. And also it reduces the cost to the County in capital. You know, if we go and put solar panels on this facility, it might cost us \$3 million to put the solar panels on the facility, but if, if we have a Power Purchase Agreement, then we don't actually have to come up with that cost.

CHAIR PONTANILLA: Mr. Couch?

COUNCILMEMBER COUCH: Okay. That answers a little bit of my questions. I'm still not...convinced, but that's, that's okay. That's between the engineers. The other question, I guess, for either the Assistant Chief or the architect is that do we have any capabilities to do an incentive program where if they get done early under budget, they get an incentive as opposed, or if they go late and over budget they get a penalty? They do that on other public projects. Is there any thought of doing something like that on this?

CHAIR PONTANILLA: Department?

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

MR. HUDSON: I believe, Member Couch, I believe most, most contracts--and, Ms. Heely, you can correct me if I'm wrong--most contracts come with liquidated damages built into them. As far as a finishing early incentive, the sooner he finishes and the building is quality, the more profit he actually makes. It behooves him greatly to finish on time.

COUNCILMEMBER COUCH: Okay. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair Pontanilla. And thank you, Departments, for being here. I can see this has been a long process and, you know, I'm completely in favor of anything that has to do to enhance our protection of life and property in our community. You know, but I remember during budget, and I did ask, kind of riding off what Mr. Couch has been talking about, Mr. McDonald about solar, about renewable and brand new, start here. We don't need to retrofit. This is ground up, you know, building, so let's do it now where it makes most sense. And your figure to me was \$9 million, and that it wasn't feasible. You know, this is a \$40 million project. I think in the long run, and this is a long term looking into the future, you know, that we wanna address now when we have this opportunity and chance in the planning/design phase. I know it's kinda past that it seems and we're already heading to, you know, groundbreaking in a few months. But I'm looking at the existing Central Police Station, and look at what we're trying to work with there. You know, I was hoping at this point in time we could learn from the past and move forward in a much, you know, smarter, sustainable, intelligent way. I had a talk with Tom Shircliff of Cisco over in Portland, Oregon, and there's an intelligent building, you know, design. And I thought that would be awesome to incorporate into this project, but I'm told by Administration it's a little too late, maybe future projects. That'll be great. But, you know, I really think that we still have a chance. I don't wanna keep paying these top bills that we have been for utilities. I am a diehard off the grid person. This is how I live. And in relation to making sure that there's a constant source of power for emergency type situations, our sirens have solar panels on those, sirens that are warning us. So I just feel that, for me, that's not an excuse. My question is on the Letter of Conditions in 20... Condition 5. Is that just an example, or is that the actual numbers, what the loan payments will be? Forty year period, the 4 percent interest, blah, blah, blah, monthly payment 154,660. Is that?

MR. BAZ: Mr. Chair?

CHAIR PONTANILLA: Mr. Baz?

MR. BAZ: Thank you. That will definitely be adjusted. That was based on the \$37 million amount. So it'll be adjusted prior to execution of the agreements.

COUNCILMEMBER COCHRAN: Okay. Thank you. And then another follow-up, Chair? On 21, the ARRA funding. And are we utilizing ARRA funding, and what is this...on the following page, Item C, fund availability, compliance and all of that needs to be expended by September 30, 2015. That's all doable dates and figures there?

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

August 16, 2011

---

MR. BAZ: Mr. Chair, yes.

CHAIR PONTANILLA: Yeah. I think I asked the question earlier.

COUNCILMEMBER COCHRAN: Okay. Was that...sorry. I thought that was...all right. Thank you.

CHAIR PONTANILLA: Okay.

COUNCILMEMBER COCHRAN: Thank you, Chair. That's all.

CHAIR PONTANILLA: Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. My questions were along the line of what Member Couch has already discussed, and, you know, I too am concerned. I wish we could have, you know, included this in it, but if we're not, then I think we should be really pursuing a PPA because we cannot afford to continue to pay electricity bills the way we have. You know, having had that experience at Cameron Center, I know how much money it's been able to save us every month. So this needs to be dealt with as quickly as possible. You know, it'll pay for itself, especially if we get a PPA. So thank you very much.

CHAIR PONTANILLA: Thank you. Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. My fellow Council members were kind enough to ask the questions that I was ...*(inaudible)*...

COUNCIL MEMBERS: ...*(Laughter)*...

COUNCILMEMBER CARROLL: And I would like to thank them. And I support this project and I hope that we can get through this today. Thank you.

CHAIR PONTANILLA: Thank you. Just a comment, photovoltaic. You know, myself and Member Baisa, we belong to the Cameron Center. I'm on the board in regards to facilities and maintenance. And one of the things that we talk about is basically what Mr. Baz had said--that utilizing part of the roof of Cameron Center to, to sell power to the power company and, you know, in that manner, you know, the County will still realize some kind of savings through that process. So that's a process that, you know, we at Cameron Center had taken in regards to reducing our electrical costs for the facility. So, Mr. Mateo, any more questions?

COUNCILMEMBER MATEO: No.

CHAIR PONTANILLA: Mr. White?

COUNCILMEMBER WHITE: No.

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

CHAIR PONTANILLA: Mr. Victorino?

COUNCILMEMBER VICTORINO: No, none at this time.

CHAIR PONTANILLA: Mr. Hokama?

VICE-CHAIR HOKAMA: Thank you, Chairman. So, Chief Hudson, what is the, what is the Department's intention if all the bids come in over the budget allocation amounts? What is your backup plan, are you gonna redesign? Are you going to rebid? Can you inform the Committee this afternoon of how the Department will proceed if, that we misread the environment and all those bids come in higher than anticipated?

MR. HUDSON: Part of the project, before it even went out to bid, Procurement Law required us to identify certain parts of the project that would be removed up to a certain extent. So if it came in all over bid, I believe, and I could be wrong, but I think furniture would be the first to go. We'd try and rebudget for furniture later. The, the building, the equipment building would be the next to go. And then if it's still over budget, then we don't award the project.

VICE-CHAIR HOKAMA: How soon would you, would you be able to notify Council of the situation if it reaches that point, Chief?

MR. HUDSON: Absolutely.

VICE-CHAIR HOKAMA: How, how soon do you think that your Department would be aware of the status of the project if, if things don't fall into place as we anticipate?

MR. HUDSON: The bid opening is on September 8<sup>th</sup>, by September 15<sup>th</sup> we'll know or at least have a good idea.

VICE-CHAIR HOKAMA: Okay. Is there a concern of the Department, and again, Chair, we talked about this during, during session. But you know I have concerns of low bid entities that continue to still not be able to complete their full performance required by this County on other projects. So, I'm not sure if you folks deduct points through the procurement rating process for those that, for me, I would consider not performing at satisfactory levels. Is that something you folks take into account? Of contractors who keep those punch lists open for years, doesn't fulfill some of our projects, we cannot close projects. How would the Department view those things?

MR. BAZ: Mr. Chair?

CHAIR PONTANILLA: Maybe Mr. Baz, yeah.

MR. BAZ: Thank you. The Finance...or the Director...or the Purchasing Officer, Mr. King does identify contractors who do not continually meet the requirements of the County and does

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

blacklist them. I forget the exact term to use, but make them ineligible to receive County bids. You know, Mr. Wright might be able to assist in this, but I'm...from the size of this project, the bid bond requirement would be enormous and it's gonna have to be an organization that is, has the capacity to complete this. I mean, the insurers who are gonna be, you know, insuring it are gonna make sure that they can do this. But maybe Mr. Wright can answer as well.

CHAIR PONTANILLA: Mr. Wright?

VICE-CHAIR HOKAMA: You know, I'm more concerned about the County's policy, Chairman, not the consultant's point of view, please. So, as Mr. Agsalog is our Chief Procurement Officer for the Administration, he has already a list of unsuitable applicants? Is that, is that what we heard this afternoon, Mr. Baz?

CHAIR PONTANILLA: Mr. Baz?

MR. BAZ: Yeah, from my understanding, they do. Purchasing Division has a list of applicants--and they may not meet your, your description of always finishing jobs late or having open bids and things like that. I'm not sure exactly what the criteria is to, to get on that list. But the State does allow, in HRS, the ability for us to do that.

VICE-CHAIR HOKAMA: Is this one step short of debarment proceedings?

MR. BAZ: You're, excuse me, you're talking about the actual contractor licensing?

VICE-CHAIR HOKAMA: Where we...or the contractor will not be allowed to bid on any Government project in the State of Hawaii for, I think, three years minimum.

MR. BAZ: That's correct, from my understanding.

VICE-CHAIR HOKAMA: I think we should put those things in those bid specs--that we watching and we don't tolerate non-performance. Thank you, Chairman.

CHAIR PONTANILLA: Thank you. Just a fast question for Mr. Baz. You know, this is one of the biggest projects that we've had, maybe the biggest project that this County have, you know, for a long, long time. And, and the question that I have is that, if, if we see that we gonna be having, and I look at the Water Department, having big numbers in regards to capital improvements projects, the possibility of value engineering and selecting just a handful of contractors that have the ability to do the kind of work that we want them to do in the near future, is that something that the Administration is considering? And, you know, it will save the County a lot of money in the, in the long run.

MR. BAZ: Thank you, Mr. Chair. The State of Hawaii Procurement Law allows the County and the State to go into different types of procurement operations. What we did now was a, you know, bid on something that's previously designed. Sometimes the State has seen a significant

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

decrease in the cost of projects by doing a design-build type project. And the Administration is looking at that in some different areas. Mostly the State uses it for roadways, for State highways. But they also have used it for construction projects similar to these. And part of, you know, the, the Police Department's making sure that they're trying to do the best value engineering was by hiring the Project Manager--Mr. Wright and his firm--to make sure that, first of all, do the value engineering ahead of time. So they spent a lot of time going through the spec book, reviewing every single specification in there, reviewing the plans that were created by the architect and engineers to make sure that it is something that is, you know, of the best value to the County and will live up to the standards that we need as a government facility, as a police operations. And that was all done prior to it going out to bid. So we're hoping that, with that effort, we're gonna be doing a good bid and, and coming under. But as you heard, you know, we don't know about the environment at this point.

CHAIR PONTANILLA: Thank you. And the other question that I had, during the . . .not "awarding", but providing, you know, those entities that want to do this project, in your meeting, was it...did you have any comments in regards to the climate, the construction climate and, and, you know, the costs? Should the costs be more than what is, you know, what, what, what we look at, who's gonna be, you know, actually, the construction industry would be the losers. Anything like that was discussed?

MR. BAZ: Mr. Chair, I was not at the pre-bid conference --

CHAIR PONTANILLA: Okay.

MR. BAZ: --which was held last week. Mister...or, or Assistant Chief Hudson was and maybe he could describe that for you, too. But I did, I was made aware that the, our Procurement Officer did express to the contractors that, you know, if there's too much squabbling, then nobody's gonna get this project. So, to be aware of that. It was definitely a packed house and maybe Chief Hudson can explain. I think there was over 25 contractors there, all, you know, hungry for this. Definitely five or six, you know, qualified ones--in our minds--that would bid on it.

CHAIR PONTANILLA: Thank you. Chief Hudson?

MR. HUDSON: Mr. Wright actually ran the pre-con, I mean the pre-bid meeting, so I'm gonna turn this over to him.

CHAIR PONTANILLA: Okay. Fine.

MR. HUDSON: But I'd like to address one of the questions that you had a little earlier about the impact. According to the State, it would have, it'd have an almost immediate impact of 300-plus jobs, \$21 million in personal income and an impact of \$48 million.

MR. M. WRIGHT: We had the pre-bid meeting on the 11<sup>th</sup>, which was last week. And there was about 50 different contractors that showed up, both generals and sub-contractors, so we started off with

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

a pre-bid meeting where everybody was sitting down with Greg King there from Purchasing. And we talked in detail about the scope of the project. Mitsunaga, the architect, was there, as well as ourselves. We also had some sub-consultants there to explain some of the work that they're, they designed and what's included in the scope. But it's an excellent bid climate right now as everybody knows. We should be getting the best pricing possible that we've all seen in a very long time here in Maui for this project. So, in addition to all of the large general contractors that you would, we would expect--including Hawaiian Dredging, Nordic, Dick Pacific, and a few others--you're gonna get a lot of medium-sized generals. But as Mr. Couch said, they've all gotta be bondable up to the amount of the bid. We currently have two value...or two deductive alternates included in the bid documents right now. And the way that works, if they don't hit the County's budget for this project, Greg King was very clear at this pre-bid meeting in describing how the method of award would go. And basically, as Assistant Chief Hudson mentioned, the first thing to be deducted is the furniture, which is a relatively small number. It's estimated to be around 400,000 to 500,000. The next item to be eliminated through, for the scope of the project would be a stand-alone 6,000-square-foot pre-engineered metal building which is adjacent to the main structure, and that's valued at approximately \$2 million. So we feel confident, at least I feel confident, that when the bids come in, if we're over the \$37 million budget, which does include a 5 percent contingency, so let me clarify there. We've actually identified a budget of 35½ million dollars. If we don't come in at 35½ million, then we'll go to deductive alternate one, and then deductive alternate two, to get, to get within the County's budget. The other thing I'd like to say is that we've been working on this project since January, or December actually of last year with Mitsunaga directly, almost on a daily basis to review the plans and review the specs, and make sure they're ready to bid. So just because your architect, your civil engineer, or whatever kind of project you're bidding says yeah, we're ready to go out to bid, I like to go in and look at all the documents, turn every page and say, what about this, what about that. So that's exactly what we did here. We went in and we created a, you know, basically a list of things to be corrected in the documents, and so we've done that. And not to say that we've caught everything, but we feel like we've done a pretty thorough job in catching say 90, 97 percent of it. However, there's still coordination things that we're still working on. We have, and we will be issuing probably two addendums within this bid period, one this week and one next week, to pick up some of those changes. We're also addressing RFIs, or Requests for Information, from all of the contractors, which are coming in in writing, going directly to the architect. The architect is responding to those questions, you know, and these are questions that the bidders actually see, conflicts in the documents or whatever it may be. Those responses are being issued to all the bidders via an addendum, pretty typical process. As far as the bid period, you know, we're, we're not four weeks, we're, we're almost six weeks. Eleven, I think Mr. Hokama had mentioned, you know, maybe an 11- or 12-week bid period might be more appropriate. That's a pretty long bid period. It would not hurt to have another week or two, but what's key when you go out to bid is that the prospective bidders, the key guys that you really want to do this project, that they don't have several other projects bidding that same week. So if we were to get some feedback and, and, you know, we're working with Greg King at Purchasing directly on this process, and in his opinion, five to six weeks was more than adequate. And we, we kind of questioned it, we like to give 'em more time rather than less time. But with too long of a bid period, Chad, Chad McDonald was absolutely right, the generals don't look at the

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

documents. They sit in their desk for a month, and then they decide to open 'em. So in order to accelerate the process of opening up the documents and starting to look at the documents, we said, we're gonna, we're gonna have a pre-bid meeting relatively early in the process and make sure that people have come and picked up the documents. And then we're gonna know from that meeting how, if they even looked at 'em based on the questions that come up during the pre-bid meeting. We actually have received quite a few questions to date. So most of those questions are being responded to in the addendum that's gonna be issued this week. But the key is to make sure that what you're sending out is ready to bid. The worst thing is to have incomplete documents, 'cause being, being a public bid, we don't have time to revise the documents. We don't want multiple change proposals during construction. You know, we're gonna have a few, but we're gonna be picking up changes all, you know, right up to the point we sign the contract. There is an LD, liquidated damage penalty provision, in the contract, and I don't recall what it is. Sharon, do you know what it is?

MS. S. WRIGHT, FROM THE AUDIENCE: . . .*(inaudible)*. . .

MR. M. WRIGHT: Okay. So it's a 16-month construction duration, which is a pretty tight duration. If you told them 18 months, you'd get it in 18 months. If you told 'em...16 is, is reasonable for this type of project, so the liquidated damage prevent...provision is \$2,000 per calendar day for the first 30 days. And then it's \$4,000 per calendar day after the, after 30 days, so from 31 days on. So that's enough incentive to perform. And it's again, we're confident that the documents were ready to go out to bid. Again, Mr. Hokama, if we did get feedback from some of the contractors during this, you know, and over the next week or two, especially after the addendums are issued, if they say hey, we don't have enough time to bid this, I'm all supportive of extending the bid date. And it still gives us time, you know, a couple more weeks, we would still have time to go through the contestation process if necessary. Regarding the PV system, I tend to agree that it would be something, it'd be great to include, if we can afford it. We, you know, we probably don't--just talking with Chad McDonald briefly here, it wouldn't take much to rough in the necessary conduits to the roof for a future PV system, if we, if we had the money to add that in. And there is, you know, a State and Federal tax incentive as well, which we could work with Sandy on, Sandy on to determine if it's worthwhile or not. But I would like to, you know, price out the, the add to rough in the conduit which is currently not in the project, but it would probably be worth adding in, in case we do, you know, in case the bids do come in favorably and we can afford it. We could actually do some research right now, too, to determine what the cost is of a system based on estimated usage for that facility, which would probably be similar to, to the facility in Kahului in terms of on a square-foot basis. But it would be for an estimate, it would give us enough money to determine if it's a million dollar system or a million five or whatever.

CHAIR PONTANILLA: Thank you. Mr. Couch?

COUNCILMEMBER COUCH: Thank you. I share Member Hokama's concern. I, having worked on the ninth floor for four years, I've dealt with some contractors that come in really low on their bids and then change order to death and come way over. And then also the quality of work isn't

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

there. And they're still out there bidding on County stuff and getting County stuff, so I'm really concerned about that kind of situation happening here.

MR. BAZ: Mr. Chair?

CHAIR PONTANILLA: Go ahead.

MR. BAZ: Unfortunately, the County of Maui is required to follow State Procurement Law. And State Procurement Law does override, and for construction projects over \$500,000, the only option we have is low bid. And there's not, it's not a, a Request for Proposal or an invitation for proposals, it's an invitation for bids. And when they come in with a low bid, they come in with a low bid unless they've been debarred. And, you know, this is where review by, you know, our Purchasing Department as well as anybody related to the construction of the bids is so critical in seeing that we're comparing apples to apples. That's the only option we have to be able to, to determine whether or not that person is gonna do a good job. Unfortunately, the historical references that you mentioned don't play a big part into the options of choice for us.

COUNCILMEMBER COUCH: But we had talked about that before, and you said that the Procurement Department is aware of those and can...so they have to ban them from bidding in order for them not to get the project? Is that right?

CHAIR PONTANILLA: Corporation Counsel?

MS. HEELY: Mahalo, Mr. Chair. Absent any company being debarred pursuant to State law, they are allowed to bid. However, given the concerns that you mentioned, I believe the project team did take into consideration when they drafted the bid documents and the scoring criteria what each score is able to take into consideration in scoring each potential bidder. You know, their ability to complete the job, their capital, et cetera. So I don't have that scoring sheet in front of me but I know they did address that. I see...sorry, but--

COUNCILMEMBER COUCH: Mr. Chair, if I may?

MS. HEELY: --I think adequate safeguards were put in place, not only in the bid documents but in the, yeah, the bid documents that went out to all the potential bidders of various clauses to be aware of the procurement laws, the debarment laws, the non-appropriation of fund laws, the cancellation provisions, the liquidated damages--those are all adequately, adequately mentioned in the bid documents as well as the contract documents. I know we did discuss it in Budget session to incorporate those to put all the bidders on notice fairly early on in the bidding process. So we revised those with the Purchasing Department as well as the project team to incorporate those specific things in the bid documents so the potential bidders are aware of those kind of situations.

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

August 16, 2011

---

COUNCILMEMBER COUCH: I guess that brings up the other question. You said there's a scoring and a ranking, but if everybody can bid, it doesn't matter what their score is. If the low scorer came in at the low bid, then we'd be worried, would we not? Or am I...I'm not sure how that...

VICE-CHAIR HOKAMA: ...*(inaudible)*...

COUNCILMEMBER COUCH: Yeah, yeah. I would think performance, previous performance would be a huge factor.

CHAIR PONTANILLA: Corporation Counsel, or Mr. Baz?

MS. HEELY: I have a representative from Mike Wright and Associates who may wanna provide some comment, 'cause she was really involved in the drafting of the bid documents and the scoring criteria, along with the Purchasing Division.

VICE-CHAIR HOKAMA: Chairman?

CHAIR PONTANILLA: Yes?

VICE-CHAIR HOKAMA: As an adjunct to Mr. Couch, I would ask if you would consider my request to Mr. King for a response to the questions that Mr. Couch and I have posed, including this, this so called list that was announced earlier in a response to my earlier question.

CHAIR PONTANILLA: Okay. I'll try and get Mr. King here. Staff?

VICE-CHAIR HOKAMA: And if it can be in writing, I would prefer it in writing, Chair. Thank you.

CHAIR PONTANILLA: Yes. Chair intent is to get over with this particular project. It's been long awaiting and if we still have any questions, Chair is willing to write that letter to the Department for those information. As what Mr. Hudson had indicated, you know, if this thing is overrun, then it's a no go.

MR. BAZ: Mr. Chair?

CHAIR PONTANILLA: Okay. Mr. Baz?

MR. BAZ: In looking up HRS 103D, which is the Procurement Law, Section 702 is the authority to debar or suspend. It mentions the cause for debarment, including a lot of convictions of things, and Item 4 says the violation of contract provisions as set forth below of a character that is regarded by the Chief Procurement Officer to be so serious as to justify Department action. It lists A, a deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or B, a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

August 16, 2011

---

contractor shall not be considered to be a basis for debarment. So, Mr. Chair, I actually would welcome Mr. King to review his interpretation of this and how he has put forth debarment.

CHAIR PONTANILLA: Thank you. We're trying to get ahold of him right now. Mr. Couch?

COUNCILMEMBER COUCH: Okay. Thank you. And, don't get me wrong, I really want this to go. I just want it to go right.

CHAIR PONTANILLA: No, we understand

COUNCILMEMBER COUCH: That's the biggest...

CHAIR PONTANILLA: Yeah, we understand.

COUNCILMEMBER COUCH: Thanks.

CHAIR PONTANILLA: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Oh, no. I, I...hearing the discussion, also have concerns. So I'm looking forward to hearing from Mr. King.

CHAIR PONTANILLA: Okay. Fine.

COUNCILMEMBER COCHRAN: Thank you, Chair.

CHAIR PONTANILLA: Ms. Baisa?

COUNCILMEMBER BAISA: I, too, am familiar with some of these cases, and it concerns me because I've, I've heard of this happening over and over. And it's pretty much the same firm, and if we can avoid that, that'll be wonderful. Otherwise, this beautiful project that everybody's worked so hard for and it's gonna be so expensive, could cause us a lot of grief. Thank you.

CHAIR PONTANILLA: Thank you. Mr. Carroll? Thank you.

MR. HUDSON: Mr. Chair?

CHAIR PONTANILLA: Captain...Assistant Chief Hudson?

ALL: ...*(laughter)*...

CHAIR PONTANILLA: Oh, this was just last year, man. Geez.

ALL: ...*(laughter)*...

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

August 16, 2011

---

MR. HUDSON: Just, just, just a reminder that we're not only dealing with State requirements for the construction company, we're also dealing with the Federal requirements, and Federal requirements are a little bit more stringent than, than our State or County requirements. And for this loan and everything to take, to, to actually work, the Federal requirements do have precedence for, for as far as...because I, I actually agree with the Council members. After investing the amount of time and effort that everybody has into this project, the *last thing* that we want is a subpar contractor. That is the very last thing that we want, and we'll take every measure we can to make sure that that doesn't happen.

CHAIR PONTANILLA: Thank you. Mr. Hokama?

VICE-CHAIR HOKAMA: Chairman, maybe if the Chief would maybe share some comment since this does potentially, would utilize Federal funds. What additional requirements from the Federal government--besides the Single Audit that we kind of familiar with through other grants programs--would be required, Chief? Could, you know, we know you're gonna do a Single Audit, no matter what, for this project. Federal Single Audit. Is there any additional things that would be required of the Department or the County to perform with, with its use of the Federal dollars, please?

MR. HUDSON: It's, it's rather lengthy, and it's pretty much, everything is all summed up in the attachments. Are there other requirements? Yes, there are. But to go over all of them now would be...rather...*(inaudible)*...

VICE-CHAIR HOKAMA: I, I read the attachment, so. And I. and I just wanted to see...*(inaudible)*... Is it already decided who's gonna perform to fulfill all of this additional requirements? Is it Mr. Agsalog as the Finance Director; is it Mr. Baz; is Mr. Wong, Corp. Counsel? Who, do you know who has been tasked to fulfill all of these requirements that the Federal government requires the County to, to perform and submit? Because we never, you know, we usually don't do things with Federal dollars. So this is kind of new for the, some departments, maybe new for you, maybe very, very new for Finance. But has this task been assigned and everybody's clear on who has to do what to make sure this, from A to Z, and complete the project?

CHAIR PONTANILLA: Corporation Counsel?

MS. HEELY: Mr. Chair, I believe it has. I believe the contract document spells out who's tasked with what and certain things, the Chief Procurement Officer via the Director of Finance is tasked with that. As you can see it goes down to using the USDA forms for the change proposals, and the checklist, and the AI documents. So, depending on what stage the request came in, or what is needed and tasked of whoever is tasked with--like at the beginning stage, a lot of work was...involved Corp. Counsel and the consultant and the Department in collaboration in getting response back to USDA to make sure that we incorporate that in the bid documents. But after the contract gets executed, there are certain things that require the contractor to fill out the certain RD or USDA form for a change order. And that's a little bit different how the contract,

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

County contracts run. We have our own change orders and we have our own bond forms. But with USDA requirements, they require their, their bond forms, their change proposals.

VICE-CHAIR HOKAMA: Is it only based upon when and if we start using the first Federal dollar? Because if we're only using County money, is it still required to use all their forms, when we normally have all our forms that we have used for all our other projects?

CHAIR PONTANILLA: Department?

VICE-CHAIR HOKAMA: You know, are we gonna do two processes for one project?

MR. HUDSON: I'm gonna have Ms. Sharon Wright, she worked directly with the USDA and Ms. Heely on that, and she can shed some light on that.

VICE-CHAIR HOKAMA: Thank you, Chief.

CHAIR PONTANILLA: Thank you. Ms. Wright?

MS. S. WRIGHT: Hi. My name's Sharon Wright. I'm with Michael Wright and Associates. And this question came up early on when the Council proposed using two sources of funding. How do we craft the construction contract, all the requirements for the County and the Federal, and be in compliance? The Federal government takes precedence over the County and State. However, if there's any State legislative or HRS requirements, they take those into account. And there's lots of items within the bid documents, and there's lots of programs that contractors can participate in, apprenticeship programs, using Hawaii products. All of those had to be taken into consideration and reviewed by the Federal government to make sure that they weren't discriminatory to a contractor if one participates and another does not. So their national level reviewed all those and this question came up--which contract to use and how it is administered, what forms are used throughout the construction process. The USDA has a Hawaii State representative for Maui, Rocky Chenelle. He has worked with us from day one, and he will be a participant in...throughout construction. He'll review monthly \_\_\_\_\_, et cetera. Regardless if we use one dollar of USDA, if we use any USDA funds --

VICE-CHAIR HOKAMA: Or none.

MS. S. WRIGHT: --or none, but we have to use...when, when the loan is, I believe, when the loan is activated, we have to use at least one dollar to activate the line. That is, that is a requirement that I know. So, that one dollar is the precedence for the requirement that they now become involved in everything. So they will have onsite, you know, they will visit the site, all correspondence they'll be copied on. They are actually named as one of the parties in the construction contract as the agent. So the construction contract has a County representative, a construction manager, a contractor, an architect, and an agent...agency, pardon me, and they are the agency defined--

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

August 16, 2011

---

VICE-CHAIR HOKAMA: Okay. So, so, Ms. Wright, the question for the Committee this afternoon is prior to activation of Federal dollars, is the County still required to process through USDA change order forms and everything else?

MS. S. WRIGHT: Yes. Because, because we are using, anticipating to use money from the USDA. This money has been earmarked for this job, and the answer came back from USDA, yes. And Alton Kimura, the head of USDA or Rocky are available to confirm that. And we had a coordination meeting with all of 'em--Corporation Counsel, Mr. Baz, the engineers, everybody--several months ago to discuss the formulation of the bid documents, the contract, et cetera, and answer that exact question. The answer was yes.

VICE-CHAIR HOKAMA: Do we submit the Single Audit on completion of this project back to the USDA, the funding source? Does it go back to them?

MS. S. WRIGHT: I can't speak to the audit.

CHAIR PONTANILLA: Corporation Counsel maybe?

MS. S. WRIGHT: Corporation Counsel.

CHAIR PONTANILLA: Or Mr. Baz?

VICE-CHAIR HOKAMA: And, Chairman, I ask that question 'cause it's going be interesting. We gonna, so call, borrow money from the USDA, they gonna actively participate in the project. Once we do the audit, we gonna resubmit that same report back to the funding agency that participated in the project to review and approve? That's kind of interesting.

CHAIR PONTANILLA: I agree with you. You know, for me, it's the first utilizing County bonds and utilizing Federal monies, so we learning something today. Mr. Baz?

MR. BAZ: Mr. Chair, thank you. Discussion regarding the County's compliance with OMB Circular 133, A-133, which is the Single Audit requirement--the County receives significant amount of Federal dollars currently to require the Single Audit, and we will be transmitting to them a copy of our Single Audit on a regular basis. The idea that this project will be one of the *chosen* projects for the Single Audit will come about once we expend the funds. The criteria that the auditors use to review projects, there's two different categories. There's a minor and a major, and this will definitely be considered a major project. And so, it most likely will be chosen as part of the management audit for the Single Audit. And that will be done after the fact of...and in different requirements than as what is required by USDA directly. What the auditors will do in addition to their normal financial audit of the operations of this, they will do some testing to make sure that we followed the Federal requirements that are a part of this, and that's all spelled out in A-133.

CHAIR PONTANILLA: Thank you.

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

August 16, 2011

---

VICE-CHAIR HOKAMA: So, Chairman, do we resubmit back to the same source that funds and conducts the project?

CHAIR PONTANILLA: Good question. Chair is gonna take a five-minute recess to fulfill our needs, so we'll reconvene at three o'clock. And when we reconvene, we'll have Mr. Greg King up here. This meeting is in recess. ...*(gavel)*...

**RECESS: 2:54 p.m.**

**RECONVENE: 3:04 p.m.**

CHAIR PONTANILLA: ...*(gavel)*... The Budget and Finance Committee meeting is now reconvened. Members, with us today, joining us, is Mr. Greg King, our Procurement Officer. So, Mr. Mateo, you have any questions for Mr. King at this time?

COUNCILMEMBER MATEO: Mr. Chairman, I'm sure Mr. King had heard the gambit [*sic*] of questions while sitting in, in the gallery. Maybe if he can start to respond to those that you recall.

MR. KING: Actually, I just got here.

COUNCILMEMBER MATEO: Oh. Thank you.

MR. KING: So ...*(inaudible)*...

COUNCILMEMBER MATEO: Then I, I will...Chairman, the individuals that, that took the lead in the questioning is Mr. Hokama and Mr. Couch, and I will gladly yield so they can get their answers to their pressing questions.

CHAIR PONTANILLA: Okay. I'll call on Mr. Couch first.

COUNCILMEMBER COUCH: ...*(laughter)*... Sorry.

COUNCILMEMBER BAISA: ...*(inaudible)*...

CHAIR PONTANILLA: Mr. Couch?

COUNCILMEMBER COUCH: Thank you. Mr. King, our, our...several of the Members' concern is the, the quality of the, the work, the contractor that, that could bid the low bid. And having dealt with some contractors, before, bidding low and then really bringing in a lot of change orders which, you know, adds to the cost of the project and lowers the quality of the project. . .having seen that happen and see those contractors still working on County projects causes us some

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

August 16, 2011

---

concern, 'cause this is, as, as the Chair says, probably the biggest project we've done. And we'd like to see it done well and done right.

MR. KING: Yeah. In response to that, Councilmember Couch, one of the, one of the key issues on this contract is gonna be the bonding capacity of the general contractor, and I think, I can't, I can't state this as a fact 'cause I don't know for sure, but I'm, I've been told that probably maybe only, there may only be one general contractor on the island of Maui that can bond this contract, and maybe, maybe none. And so maybe some of your concerns might be alleviated due to that, just due to that, that bonding capacity issue. In terms of how we, how we not utilize a contractor that is, that is processing or able to get a lot of change orders out of us? A lot of that...there is, there is one process within the State Procurement Law called debarment process. And it's a formal legal process. It requires, when it's successful, that contractor is forbidden to bid on, not only County contracts, but all State and county agencies throughout the entire State. So it's a serious process. It's something that is, is in terms of information given to me, it's never, it's never been elevated to the level where we've felt, as a Finance Department, that we should be debarring any contractor. But that's something we can certainly look into based on whatever information you have.

COUNCILMEMBER COUCH: Okay. Thank you. I...Mr. Hokama's not here. That's his favorite word and you said it five times...*(laughter)*... The question I have is, you know--oh, he is over there, okay.

COUNCILMEMBER BAISA: ...*(inaudible)*...

COUNCILMEMBER COUCH: ...*(inaudible)*... You, they talked about a scoring system, and also in conjunction with the lowest bid. How do those two work together to...

MR. KING: They actually don't. That's actually two separate procurement processes. There's the competitive sealed bidding process, in which you put out a series of specifications detailing exactly what you wanna do, and the low bid takes it. The low bid is the, is the successful contractor unless there's, barring any irregularities or problems with their, with their bid. And then, and then there's another process called the competitive sealed proposal process, or also called the Request for Proposal process, in which you evaluate not only price, but you also have a committee that scores subjective factors, such as experience, and things like that. Experience, references, things like that. So this, this process that we're utilizing on the Kihei Police Station is, is a competitive sealed bid or the low bid method, which is much less, much less subject to potential protest because it is, because it is, at the end of the day, it's very objective and not subjective.

COUNCILMEMBER COUCH: Okay. Thank you.

CHAIR PONTANILLA: Thank you. Member Baisa?

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

COUNCILMEMBER BAISA: I don't know that much about contractors and, you know, how they're handled. But I would assume, and I'd like to ask, is there a body that oversees contractors that get into trouble or are found to be, you know, really unethical or whatever it is, that we could track, and does this, does this come into the evaluation of a bid? Is it allowed to come into the evaluation of a bid?

MR. KING: The answer, the answer is no. There, I mean, well, the answer to--your first question is, is there a body? The closest thing is there's a contractor's licensing board that licenses contractors, and they have requirements, you know, insurance requirements and Workers' Comp requirements, and things like that. I don't know how deep they get into evaluating contractors. My guess is that they don't and so there really isn't, there really isn't any method other than the legal method of debarment which I referred to.

COUNCILMEMBER BAISA: Right. Okay. Thank you very much. I was wondering, you know, if that might be helpful because a debarment might be the very end of the spectrum. But, you know, if you're hauled before a group of people constantly and asked why'd you do this or not do that or whatever, that would be helpful information. Thank you.

CHAIR PONTANILLA: Thank you. Mr. Hokama, you got questions? No? Okay. Members, any more questions for Mr. King? Seeing none, thank you.

MR. KING: Thanks.

CHAIR PONTANILLA: Any more questions for the Department?

COUNCILMEMBER \_\_\_\_\_: No.

CHAIR PONTANILLA: None? Chair would like to make his recommendation.

COUNCIL MEMBERS: Recommendation?

CHAIR PONTANILLA: Chair's recommendation is to...well, first of all, Members, September 2<sup>nd</sup> is the first reading. I understand that September 8<sup>th</sup> is the bid opening. Second reading is September 16<sup>th</sup>. So we should know the numbers prior to second reading. Okay? The Chair's recommendation is to pass on first reading 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; and second, a Bill for an Ordinance Authorizing the Mayor of the County of Maui to Enter Into Intergovernmental Agreements for \$17 million USDA Rural Development Loan for the Construction of a South Maui Police Station; and three, filing of the County Communication No. 11-150; and four, Chair is asking the Committee to allow Staff to make non-substantive changes. If any Member requests specifics, I can, you know, refer to Mr. Scott Kaneshina. One of the things that we noticed is that South Maui, the title "South Maui Police Station" and the "Kihei Police Station". In the Budget, it refers to "Kihei Police Station", so we'll make those changes. Okay?.

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

August 16, 2011

---

COUNCILMEMBER VICTORINO: Go ahead.

COUNCILMEMBER COUCH: So moved.

COUNCILMEMBER VICTORINO: Second.

CHAIR PONTANILLA: Moved by Member Couch, seconded by Member Victorino. Members, any more discussion? If not, Chair would just like to thank the Police Department for being here. I know this was a very long process, but again, you know, the County's expending \$37 million of capital improvement, you know, for the island of Maui to support the Police Department. And hopefully, if everything goes through as planned that, you know, we, you know, kinda help kick start the economy, the construction side, you know, of this, by, by constructing this police station. So thank you, gentlemen. All in favor of the motion, please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR PONTANILLA: Any opposed? Seeing none, motion is carried, eight "ayes"; one excused, Member Hokama. The motion is carried.

**VOTE:       AYES:     Chair Pontanilla, and Councilmembers Baisa, Carroll, Cochran, Couch, Mateo, Victorino, and White.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:     None.**

**EXC.:       Vice-Chair Hokama.**

**MOTION CARRIED.**

**ACTION:     Recommending FIRST READING of bond authorization bill, FIRST READING of revised intergovernmental agreement bill, and FILING of communication.**

CHAIR PONTANILLA: Mr. Couch, you wanted to say anything?

COUNCILMEMBER COUCH: Just wanted to thank you for getting this through and let's...hopefully we get the good bids in and things get going. So, good. Thank you.

CHAIR PONTANILLA: Okay. Thank you. The Budget and Finance Committee meeting...before I close, I'd just like to thank Corporation Counsel, Budget Director for being here, Police

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

Department and the support team, as well as Staff. So the Budget and Finance Committee meeting for August the 16<sup>th</sup> is now adjourned. ...*(gavel)*...

**ADJOURN:** 3:14 p.m.

APPROVED:

  
JOSEPH PONTANILLA, Chair  
Budget and Finance Committee

bf:min:110816

Transcribed by: Amanda Kaili

**BUDGET AND FINANCE COMMITTEE MINUTES**  
Council of the County of Maui

**August 16, 2011**

---

CERTIFICATE

I, Amanda Kaili, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED this 7<sup>th</sup> day of September 2011, in Kahului, Hawaii.

  
\_\_\_\_\_

Amanda Kaili