

HAYWARD CITY COUNCIL

RESOLUTION NO. 24-_____

Introduced by Council Member _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD DECLARING INTENTION TO REIMBURSE EXPENDITURES FROM THE PROCEEDS OF OBLIGATIONS TO BE ISSUED BY THE CITY TO FINANCE THE WATER RESOURCE RECOVERY FACILITY (WRRF) IMPROVEMENTS PHASE II PROJECT, THE WRRF NEW ADMINISTRATION AND LAB PROJECT AND THE PRIMARY EFFLUENT EQUALIZATION FACILITY PROJECT, AND PROVIDING OTHER MATTERS RELATED THERETO

WHEREAS, the City of Hayward (the "City") owns and operates a wastewater collection, treatment and disposal system, including a Water Resource Recovery Center (the "WRRF"); and

WHEREAS, the WRRF core infrastructure was originally constructed in 1952 to treat wastewater flows from the City's residents and businesses prior to discharge into the San Francisco Bay; and

WHEREAS, over the years, the WRRF has undergone several major upgrades to meet more stringent discharge requirements, and to increase capacity as the City's population and industry has grown, and the WRRF now treats an average flow of approximately eleven million gallons per day; and

WHEREAS, increasing nutrient loadings in the San Francisco Bay is a growing concern for the Bay Area water quality community, and the State Water Resources Control Board (the "Water Board") issued the first Nutrients Watershed Permit in 2014, that required dischargers to evaluate the San Francisco Bay's response to current and future nutrient loads and to evaluate opportunities to remove nitrogen through treatment plant improvements or optimization; and

WHEREAS, on May 8, 2019, the Water Board adopted the 2nd Nutrients Watershed Permit for managing nutrient discharges to the San Francisco Bay wherein the City is listed as an early adopter pledging to reduce nitrogen in its effluent ahead of the Water Board issuing the 3rd Nutrients Watershed Permit in 2024; and

WHEREAS, in June 2020, the City completed a comprehensive Master Plan update, the Water Pollution Control Facility (WPCF) Phase II Facilities Plan, to identify improvements required for the WRRF to upgrade its treatment process to incorporate nutrient reduction in the treated effluent to meet the upcoming regulatory requirements (the "Phase II Project"); and

WHEREAS, the main goal of the Phase II Project is to construct improvements necessary for nutrient removal in compliance with the Water Board's 2nd Nutrient Watershed Permit early actor provisions; and

WHEREAS, in accordance with the Master Plan update, the City will also construct (i) a 21,800 square foot building housing a centralized administration building, main control room for WRRF operations, expanded laboratory facilities, SCADA and staff facilities (the "WRRF Administration and Lab Project") and (ii) a 3 MG primary effluent equalization facility and pump station ("Primary Effluent Equalization Facility Project") at a new location in the WRRF, to improve the WRRF's hydraulic capacity and operability, and to clear space for the Phase II Project; and

WHEREAS, the City intends to finance the Phase II Project, the WRRF Administration and Lab Project and the Primary Effluent Equalization Facility Project (collectively, the "Projects"), and may participate in the U.S. Environmental Protection Agency Water Infrastructure Finance and Innovation Act ("WIFIA") loan program and the Water Board's Clean Water Resolving Fund ("SRF") program, and may issue revenue bonds, among other available financing vehicles; and

WHEREAS, United States Income Tax Regulations section 1.150-2 provides generally that proceeds of tax-exempt debt are not deemed to be expended when such proceeds are used for reimbursement of expenditures made prior to the date of issuance of such debt unless certain procedures are followed, one of which is a requirement that (with certain exceptions), prior to the payment of any such expenditure, the issuer declares an intention to reimburse such expenditure; and

WHEREAS, it is in the public interest and for the public benefit that the City declares its official intent to reimburse the expenditures referenced herein.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward as follows:

Section 1. Recitals. The City Council hereby determines that the preceding recitals are true and correct.

Section 2. Declaration of Intent. The City intends to issue obligations (the "Obligations") for the purpose of paying the costs of the Projects.

The City hereby declares that it reasonably expects (i) to pay certain costs of the Projects prior to the date of issuance of the Obligations and (ii) to use a portion of the proceeds of the Obligations for reimbursement of expenditures for the Projects that are paid before the date of issuance of the Obligations.

Section 3. Maximum Principal Amount of the Obligations. The maximum principal amount of the Obligations is \$489,000,000.

Section 4. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2024

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward