



**DATE:** February 25, 2025

**TO:** Mayor and City Council.

**FROM:** Director of Public Works and Interim Director of Finance

**SUBJECT:** 2025 Wastewater Revenue Bonds: Adopt Resolutions of the City Council Authorizing the Issuance and Sale of Wastewater Revenue Bonds in the Maximum Principal Amount of \$135,000,000 to Finance Capital Improvements to the Wastewater System, Including the Water Resources Recovery Facility Improvements, and Approving Related Agreements and Actions

**RECOMMENDATION**

That Council adopts a resolution (Attachment II) authorizing the issuance and sale of Wastewater Revenue Bonds in the maximum principal amount of [\$133,000,000] to finance capital improvements to the Wastewater System, including the Water Resources Recovery Facility (WRRF) improvements, and approving related agreements and actions.

**SUMMARY**

The City of Hayward’s Department of Public Works & Utilities is pursuing a major capital improvement project to construct a WRRF Administration and Laboratory Building (WRRF Administration and Laboratory Building Project) and to improve the Water Resources Recovery Facility (WRRF Phase II Project, and combined with the Administration and Laboratory Building Project, the “Project”) to meet the nutrient reduction mandate for treated effluent identified in the 3<sup>rd</sup> Nutrients Watershed Permit adopted by the California Regional Water Quality Control Board in July 2024. The total cost of the Project is estimated at \$498 million, including all capital costs, contingencies, and financing costs.

As part of the funding strategy, the City intends to finance the project by the U.S. Environmental Protection Agency’s Water Infrastructure Finance and Innovation Act of 2014 (WIFIA) loan program, a newly received grant from the Water Resources Development Act (WRDA), and publicly-sold revenue bonds. The WIFIA loan is expected to be approximately \$244 million and is expected to provide funding for construction costs between September 2026 and September 2028.

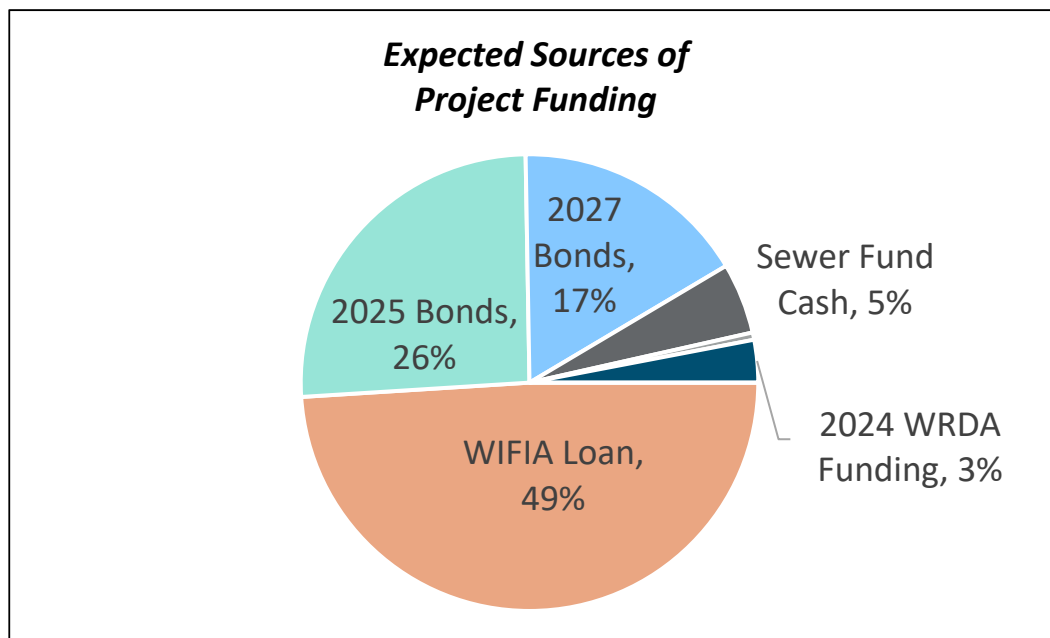
In order to provide funding for construction costs until September 2026, the City is planning to issue 2025 Wastewater Revenue Bonds (2025 Bonds). In addition, pursuant to Resolution No. 24-061, adopted by Council on April 2, 2024<sup>1</sup>, in which Council declared its intention to reimburse costs related to the Project from future tax-exempt obligations, the 2025 Bonds will reimburse the City up to \$12 million in Project costs incurred and paid to date.

The WIFIA Loan and the 2025 Bonds will draw from net revenues (total revenues minus operation and maintenance costs) received by the City from its wastewater collection, pumping, transport, treatment, storage, and disposal system (Wastewater System).

## BACKGROUND

City staff have worked with the City’s municipal advisor (NHA Advisors, or NHA) to develop a financing plan (Financing Plan) for the \$498 million project. The Financing Plan was presented to the Council Budget & Finance Committee at the May 15, 2024<sup>2</sup> meeting. In addition, this item is related to the authorization for the City Manager to apply for the WIFIA Loan in an amount up to \$260 million, approved by Council on April 16, 2024<sup>3</sup>.

As summarized in the graphic below, the financing plan utilizes a combination of Sewer Fund reserves, the WIFIA loan, a \$15 million WRDA grant, and two series of wastewater revenue bonds – 2025 Bonds and a future series (expected to be issued in or after 2027). The WIFIA loan is expected to be approximately \$244 million, which is sized to 49% of the eligible project costs (which is the maximum financing amount available from the WIFIA program pursuant to the WIFIA statute).



<sup>1</sup> [April 2, 2024 City Council \(https://hayward.legistar.com\)](https://hayward.legistar.com)

<sup>2</sup> [May 15, 2024 Council Budget & Finance Committee \(https://hayward.legistar.com\)](https://hayward.legistar.com)

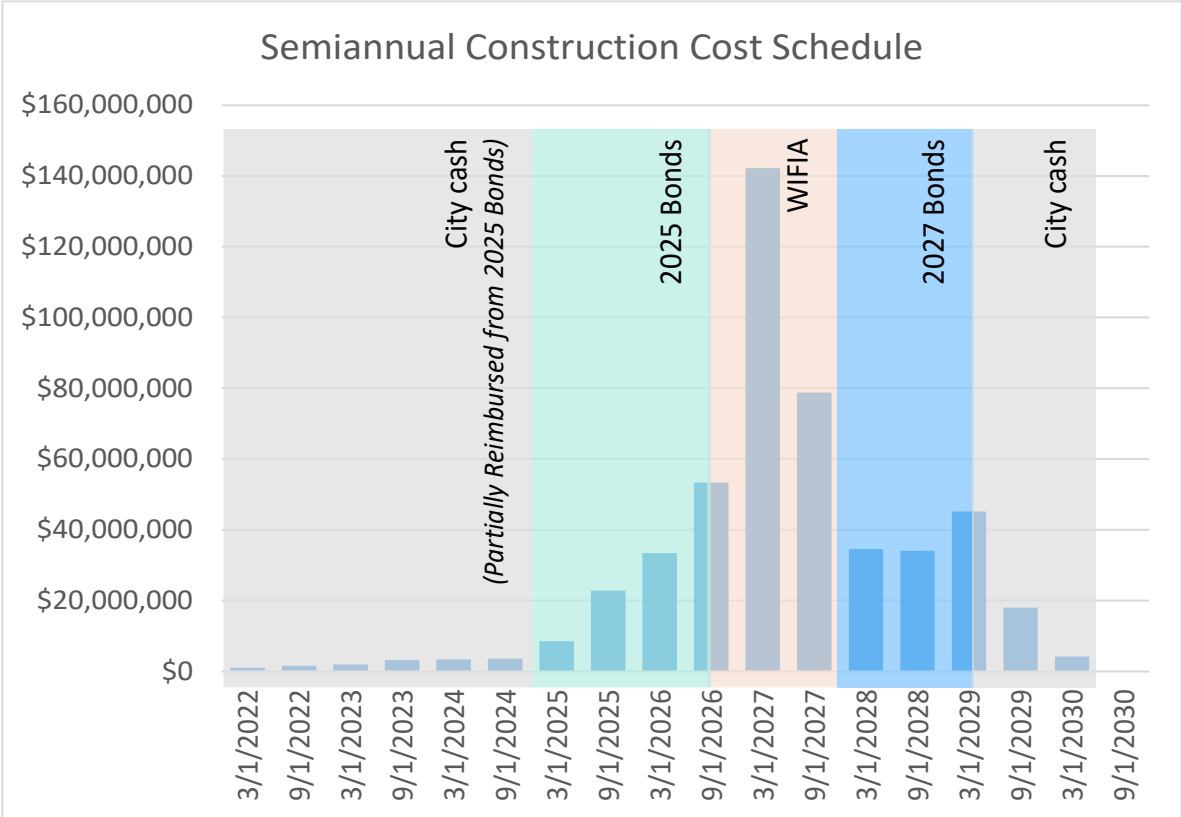
<sup>3</sup> [April 16, 2024 City Council \(https://hayward.legistar.com\)](https://hayward.legistar.com)

Notably, WIFIA loans are “draw schedule loans”, which means that the City will only accrue interest on its WIFIA loan based on actual amounts drawn (not the full \$244 million funding limit). Additionally, WIFIA loans come with a one-time interest rate reset option that allows a borrower to lower its interest rate, provided it has not drawn any funds from the WIFIA loan. To maximize the benefit of this interest rate reset option, NHA has advised the City to close on its WIFIA Loan in spring 2025 but delay drawing any money from that loan until September 2026. Closing the WIFIA loan in spring 2025 puts a maximum value on the City’s WIFIA Loan interest rate (i.e., it cannot go higher than the rate set at closing). Since WIFIA loan rates are currently in the high 4% range at the time of this staff report, the objective of delaying WIFIA draws is to allow time for WIFIA loan rates to come down.

In February 2025, Staff was informed that the City’s application for the 2024 WRDA federal award has been approved in the amount of \$15 million from U.S. Army Corps of Engineers (USACE). Staff is currently investigating whether there are any conditions or restrictions that would make the use of the award inadvisable.

The Financing Plan calls for the issuance of 2025 Bonds at this time order to fund construction between now and September 2026, as well as to reimburse the Sewer Fund for approximately \$12 million in Project planning and design expenses incurred and paid between summer 2022 and now. Based on the current construction cost schedule for the Project, the 2025 Bonds need to raise approximately \$127 million for future project costs and for reimbursement of prior Project planning and design costs.

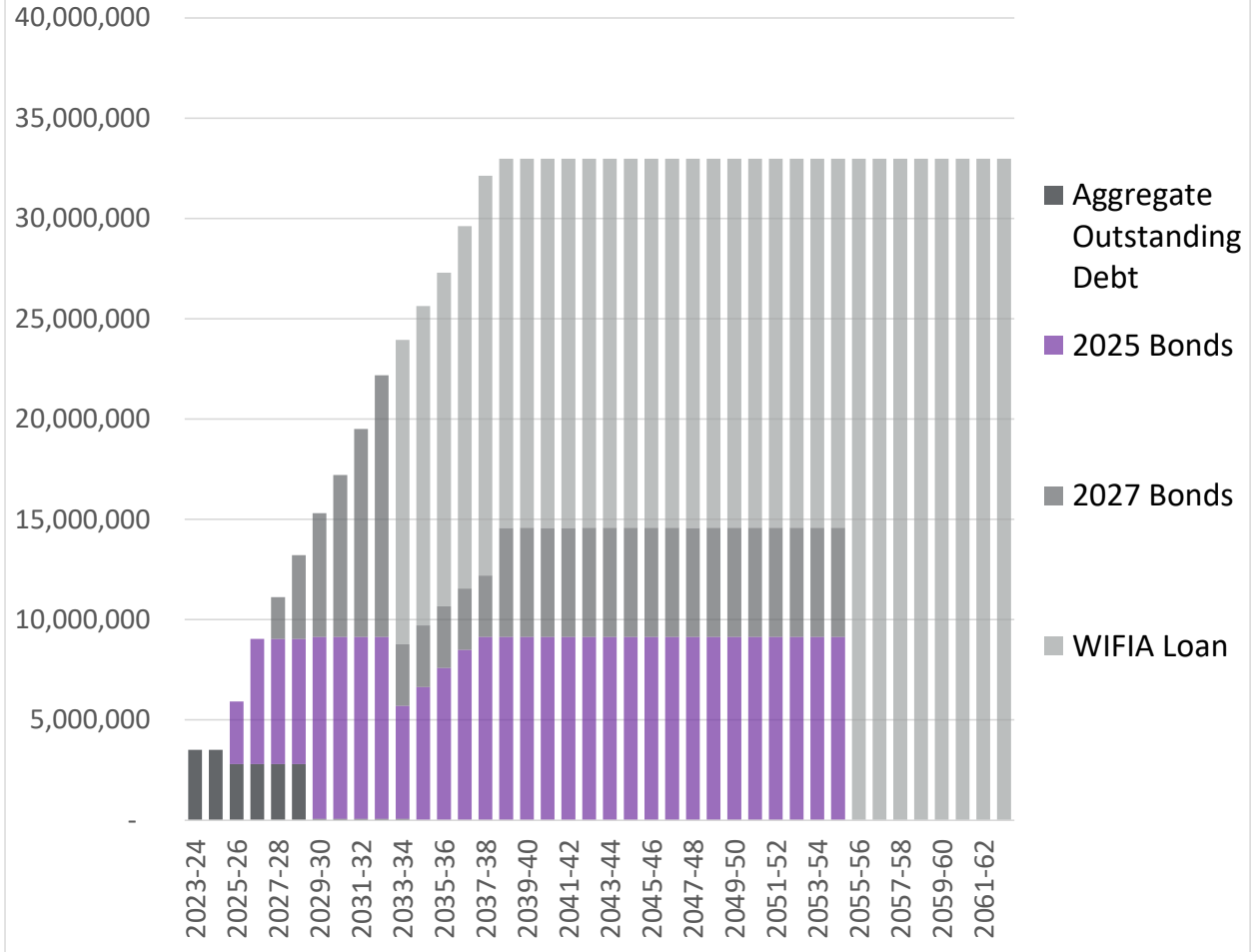
The graphic below illustrates the semi-annual project cost schedule and the anticipated funding sources. The City has been using Sewer Fund reserves to pay Project costs to date and the next source of funding is the 2025 Bonds. Once the funds from the 2025 Bonds have been fully used, the City can begin drawing on its WIFIA Loan to fund construction through the end of 2027. Depending on the final costs of the project, the City will evaluate whether it is necessary to issue a second series of bonds in or around 2027. Finally, the City plans to commit \$25 million in additional Sewer Fund reserves toward the project but is strategically planning to wait to contribute those funds until the final stages of Project closeout.



**DISCUSSION**

The 2025 Bonds will be structured as fixed-rate debt with a 30-year term and will mature in March 2055. The anticipated 2025 Bonds structure is shown in the graph below (purple series). The dark grey series on the bottom of the graph is the aggregate debt service on the Sewer Fund’s outstanding debt (2006 State Revolving Fund (SRF) Loan, 2011 California Energy Commission (CEC) Loan, 2019 CEC Loan). The medium grey and light grey series on top of the purple series shows the anticipated structure of the future 2027 Bonds and WIFIA Loan, respectively.

**City of Hayward Wastewater Fund  
Aggregate Outstanding and Anticipated Debt Service**



The 2025 Bonds will have a first interest payment due in FY 26 but will not commence principal repayments until FY 30. From FY 30 through FY 33, the 2025 Bonds will have level annual principal and interest payments of approximately \$9.1 million per year. In FY 34, the 2025 Bonds will have an interest-only payment to provide some capacity for the Sewer Fund to make the anticipated payments on the WIFIA loan. Starting in FY 35, principal repayments re-commence and increase gradually each year until FY 38, when the annual principal and interest payments are expected to stay at approximately \$9.1 million annually through final maturity in FY 55.

The 2025 Bonds will be sold to the public via a competitive sale. During a competitive sale process, the City provides notice to bond underwriting firms of the date and time when bids will be accepted. At that specified date and time, the City will work with NHA to evaluate the bids received and will award the bid to the bond underwriting firm that provides the lowest

true interest cost of funds. Once the winning bid is awarded, the interest rates and bond amounts will be finalized and will not be subject to change.

There are several items attached to this staff report that are open for City staff consideration. Key features and aspect of those documents are summarized below:

1. **Authorizing Resolution** (Attachment II): The authorizing resolution authorizes the issuance of the 2025 Bonds, the sale of the 2025 Bonds in a competitive sale and approves the form of the legal documents for the 2025 Bonds. The resolution also authorizes the execution of the legal documents for the 2025 Bonds, provided the final pricing of the 2025 Bonds is within not-to-exceed parameters identified in the resolution. These not-to-exceed parameters authorize Staff to cause the 2025 Bonds to be issued, provided the final principal amount and interest rates are equal to or less than the following: (1) the principal amount of the 2025 Bonds cannot exceed \$135,000,000 and (2) the maximum true interest cost cannot exceed 5.25%. These not-to-exceed amounts are set higher than the expected actual principal amount or true interest cost to provide a little flexibility given the unpredictability in the bond markets.
2. **Indenture of Trust** (Attachment III): The Indenture formalizes the relationship between the City of Hayward and BNY Mellon Trust Company, National Association ("BNY Mellon") as Trustee for the 2025 Bonds. The Indenture describes the terms of the 2025 Bonds, including the payment terms and schedule, prepayment options, other covenants related to the 2025 Bonds (many of which match those in the 2006 SRF Loan agreement and the WIFIA Loan documents), and other administrative items.
3. **Notice of Sale** (Attachment IV): The Notice of Sale lays out the terms and conditions of the competitive bond sale, including the date and time of the sale, location where bids will be received, requested structure and redemption terms, and limitations placed on bidders.
4. **Preliminary Official Statement** (Attachment V): A preliminary official statement ("POS") will be distributed to potential investors to provide material information regarding the terms of and security for the 2025 Bonds.

Once the 2025 Bonds have been sold to an underwriter through competitive sale, the final pricing information will be inserted into the POS, thereby converting it to a final Official Statement. The winning underwriter will then distribute the final Official Statement to the individuals and institutions that placed orders to buy the 2025 Bonds from the Underwriter.

The attached POS has been reviewed and approved for transmittal to Council by City staff and its financing team. The distribution of the POS is subject to federal securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934. These laws require the POS to include all facts that would be material to an investor in

the 2025 Bonds. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the 2025 Bonds. If Council concludes that the POS includes all facts that would be material to an investor in the 2025 Bonds, it will authorize a member of staff to execute a certificate to the effect that the POS has been "deemed final."

The Securities and Exchange Commission (the "SEC"), the agency with regulatory authority over compliance with the federal securities laws, has issued guidance as to the duties of Council with respect to their approval of the POS. In its "Report of Investigation in the Matter of County of Orange, California as it Relates to the Conduct of the Members of the Board of Supervisors" (Release No. 36761 / January 24, 1996) (the "Release"), the SEC stated that, if a member of the an issuer's legislative body has knowledge of any facts or circumstances that an investor would want to know about prior to investing in a proposed securities issuance such as the 2025 Bonds, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such facts are adequately disclosed in the preliminary official statement. In the Release, the SEC stated that the steps that a member of the issuer's legislative body could take include becoming familiar with the preliminary official statement and questioning staff and consultants about the disclosure of such facts.

Debt service on the 2025 Bonds will be payable from the net revenues of the Wastewater System. As such, information about the Wastewater System and the Sewer Fund is the focus of the POS, and the key provisions of the POS include the following:

- The section entitled "THE 2025 BONDS" summarizes the terms of the 2025 Bonds, including interest and principal payment dates and redemption (prepayment) terms.
- The section entitled "SECURITY AND SOURCES OF PAYMENT FOR THE 2025 BONDS" summarizes the pledge of net revenues of the Wastewater System to the 2025 Bonds and other obligations payable from the net revenues. This section also summarizes the City's rate covenant, pursuant to which the City agrees to levy Wastewater System rates and charges in an amount sufficient to (i) pay the costs of operating the Wastewater System, (ii) pay debt service on the 2025 Bonds and other obligations and (3) generate net revenues equal to a "debt service coverage" amount.
- The section entitled "CITY OF HAYWARD WASTEWATER SYSTEM" summarizes the Wastewater System infrastructure, the Wastewater System customer base, the rates and charges paid by Wastewater System customers, and the historical and projected revenues and expenses of the Wastewater System.

- The section entitled “CERTAIN RISK FACTORS” describes various risk factors that could impact the City’s ability to pay debt service on the 2025 Bonds, including those circumstances that reduce net revenues (either by increasing expenses or decreasing revenues).

5. **Continuing Disclosure Certificate (attached to the Preliminary Official Statement):** Under the Continuing Disclosure Certificate, the City will agree to provide an annual report containing certain financial and operating information relevant to the security of the 2025 Bonds, to be filed on the EMMA system (the internet-based information repository for municipal bonds issued in the United States maintained by the Municipal Securities Rule Making Board) to make such information available to the investors. The City will also agree to disclose and make filings upon the occurrence of enumerated significant events (for example, a change in trustee, a rating change, or a missed debt payment on the 2025 Bonds).

## **STRATEGIC ROADMAP**

This agenda item supports the Strategic Priority of Invest in Infrastructure. Specifically, this item relates to the implementation of the following project:

Project N22: Design Water Pollution Control Facility Phase II upgrade

## **ECONOMIC AND FISCAL IMPACT**

### *Debt Service*

There will be no immediate impact to the FY 25 Budget. Annual debt service on the 2025 Bonds is expected to commence in FY 26 and will have interest-only payments through FY 30. From that point through final maturity, the annual principal and interest payment on the 2025 Bonds is expected to be approximately \$9.1 million per year, with the notable exception is the period from FY 34 through FY 37 when the payments decrease to allow the Sewer Fund additional capacity for the anticipated future WIFIA Loan payments. Costs of issuing the 2025 Bonds will be paid out of the proceeds of sale and amortized over the life of the bonds. While the underwriting expenses will not be known until the day of the sale (and will be factored into the calculation to determine the lowest true interest cost bidder), issuance costs are not expected to exceed 1% of total par.

### *Sewer Rates and Connection Fees*

On February 18<sup>th</sup>, 2025<sup>4</sup>, Council adopted the sewer rate increases of 12% annually from FY 26 through FY 30 and the sewer connection fee increases of 10% in FY 26 and FY 27. The rate and connection fees adjustments will enable the City to fund the required borrowings to fund the implementation of improvements to meet the requirements of the San Francisco Regional Water Board’s newly adopted 3rd Watershed Permit. The adjustments will also allow the City

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<sup>4</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=7139170&GUID=F5F42295-1235-4AEB-89FD-ED864F22001B&Options=&Search=>



to keep pace with the cost of sewer service collection, treatment, and disposal. This includes building reserves for future capital costs and ensuring that costs are recovered equitably. The required rate increases are anticipated to moderate after the first five years.

There is no General Fund Impact related to this.

### **SUSTAINABILITY FEATURES**

There are no Sustainability Features directly associated with this item.

### **PUBLIC CONTACT**

The WRRF Phase II Project includes a web page to be hosted on the City's website which is being periodically updated throughout the multi-year duration of the project.

### **NEXT STEPS**

If approved, City staff will work with the financing team to publish the Notice of Intention, Notice of Sale, and the Preliminary Official Statement. The competitive sale of the 2025 Bonds will happen approximately 2 weeks later (mid-March) and closing of the 2025 Bonds and delivery of funds will happen approximately two weeks after that (late March).

In addition, Staff expect to bring a future item before Council at a March meeting regarding the authorization for the City to enter into the WIFIA Loan.

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*Recommended by:* Alex Ameri, Director of Public Works  
Regina Youngblood, Interim Director of Finance

Approved by:



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