



DATE: April 16, 2024

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt Resolutions Authorizing the City Manager to Apply for a United States Environmental Protection Agency (EPA) Water Infrastructure Finance and Innovation Act (WIFIA) Loan for the Water Resource Recovery Facility (WRRF) Improvements – Phase II Project in an Amount up to \$260 Million, and Authorize Payment of WIFIA Loan Application Fee in the Amount of \$100,000

RECOMMENDATION

That Council adopts resolutions (Attachments II and III) authorizing the City Manager to:

- 1) Apply for a United States Environmental Protection Agency (USEPA) Water Infrastructure Finance and Innovation Act (WIFIA) Loan for the Water Resource Recovery Facility (WRRF) Improvements – Phase II Project in an amount up to \$260 Million.
- 2) Authorize payment of WIFIA Loan Application Fee in the Amount of \$100,000.

SUMMARY

The City of Hayward's Department of Public Works & Utilities is pursuing the WRRF (formerly WPCF) Improvements Phase II Project in anticipation of the upcoming San Francisco Bay Regional Water Quality Control Board (Water Board) regulatory requirements limiting discharge of nutrients to the Bay. Council previously authorized the City Manager to apply for the U.S. Environmental Protection Agency (USEPA) Water Infrastructure Finance and Innovation Act (WIFIA) Loan for 49% of eligible project costs, up to the amount of \$200 million, to finance the project. As the project design has been further refined, and other WIFIA eligible costs have been included, the upper range of the estimated total project cost has increased to \$530 million, which increases the total 49% eligible costs for WIFIA funding to \$260 million. Staff requests that the Council revise the authorized resolution to increase the loan amount from \$200 million to \$260 million.

In addition, a \$100,000 application fee is due at submittal with the WIFIA Application. The fee covers EPA time and resources necessary to close the loan. The application fee is an

eligible cost that can be included in the WIFIA loan amount. Staff requests that the Council authorize the payment of the WIFIA loan application fee in the amount of \$100,000.

BACKGROUND

The Water Resource Recovery Facility (WRRF), formerly known as Water Pollution Control Facility (WPCF), 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. Over the years, the WRRF has undergone several major upgrades to meet more stringent discharge requirements, as well as increasing capacity as the City's population and industry have grown. The WRRF now treats an average flow of approximately eleven million gallons per day (MGD) and meets current regulatory requirements for discharge of treated effluent to the deep waters of the San Francisco Bay (Bay).

In May 2019, the San Francisco Bay Regional Water Quality Control Board (Water Board) announced upcoming regulatory requirements limiting discharge of nutrients (nitrogen) to the Bay. In June 2020, the City completed a comprehensive Master Plan update, the WPCF Phase II Facilities Plan (Facilities Plan), to identify improvements required for the WRRF to upgrade its treatment process to incorporate required nutrient reduction in the treated effluent discharges to meet the upcoming requirements. In July 2022, Council authorized design and engineering services with Brown & Caldwell for the WRRF Improvements – Phase II Project (Phase II Project).

Staff are exploring funding opportunities for the Phase II Project, including the State of California Clean Water State Revolving Fund Loan (CWSRF) program, USEPA WIFIA loan program, and municipal bonds. The WIFIA program offers funding for water infrastructure projects for up to 49% of eligible project costs. The WIFIA application consists of a two-step application process – 1) submission of a Letter of Interest (LOI), and, if invited by the EPA, 2) submission of an application.

On December 12, 2023¹, Council authorized the City Manager to sign the WIFIA Letter of Interest and subsequent application, and for the City Manager to be the authorized representative for the City in carrying out the City's responsibilities under the Letter of Interest and Financial Assistance Application including compliance with applicable state and federal laws. The total project cost eligible for funding, at the time, was estimated to be \$410 million. Of the total project cost, 49% of the total cost is eligible for WIFIA funding, which was approximately \$200 million and stated in the authorized resolution. Staff submitted the WIFIA LOI to the EPA in January 2024, with the Council authorized resolution.

DISCUSSION

In March 2024, the EPA formally invited the City to submit a WIFIA Application. As the project design is further refined, and other WIFIA financing eligible costs have been estimated, the

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=6448360&GUID=CB5A4ECF-8AF0-49B8-B838-81002AFE119D>

upper range of the estimated project cost has increased from \$410 million to approximately \$530 million, which increases the total 49% of eligible costs for WIFIA funding from \$200 million to approximately \$260 million. The increase is not solely due to an increase in estimated construction cost (\$10M), but also due to the inclusion of other WIFIA financing eligible costs, such as construction contingency (\$39M), construction management, building permit fees, and City staff time (\$28M), reserve fund for both WIFIA and municipal bonds debt services (\$40M), EPA application fees and issuance costs (\$2M). Thus, staff is requesting Council to revise the authorized resolution to increase the loan amount from \$200 million to \$260 million.

An application fee in the amount of \$100,000 is due at the time of the application for the loan. The fee covers USEPA time and resources necessary to complete the technical, environmental, and financial reviews necessary to close the loan. Although this fee is nonrefundable, it is credited towards the credit processing fee. The credit processing fee varies with project complexity and risk, and typically ranges between \$150,000 to \$300,000 inclusive of the \$100,000 application fee. The application fee is an eligible cost and can be included in the loan amount.

Environmental Review

Staff are seeking funding assistance from the USEPA WIFIA program and potentially the State of California CWSRF loan program in the future. As part of that effort, an environmental review of the Project will be performed including CEQA+ documentation as required by the CWSRF and National Environmental Policy Act (NEPA) documentation as required by the WIFIA funding applications.

ECONOMIC AND FISCAL IMPACT

The costs have been further refined as part of the final design effort that is currently underway. The current estimated construction cost for the project is now estimated to be between \$254 and \$360 million. It is anticipated that these improvements will affect sewer service rates and sewer connection fees; however, the extent to which rates will need to be adjusted cannot be determined with certainty at this point. Staff does anticipate that customers could see a significant impact over the current rates.

Funding assistance for the project is included in the consultants' scope of work. Funding efforts will pursue financing under both the CWSRF loan program and the WIFIA program. WIFIA funding is typically at a slightly higher interest rate than SRF; however, the payback period can be deferred by up to 5 years after substantial completion of the project and provides for a 35-year loan term. SRF loans payback period begins one year after substantial completion and typically provide for a 30-year (or useful life of the project whichever is lower) loan term. Up to 49% of the project cost is eligible under WIFIA funding, therefore staff plan to pursue both avenues of funding as part of this project.

Staff is in the process of applying for a WIFIA loan, and planning to apply for potential funding from CWSRF in the future, as well as selling bonds. WIFIA funding can be applied to fund

multiple projects, as well as retroactively reimburse for engineering design services, however WIFIA funds can only cover 49% of the eligible project costs. The building will not be eligible to apply for CWSRF. Only the Phase II Project is likely to score high enough to be eligible for CWSRF funding; however, loans are currently limited to \$50 million in the FY 23-24 funding cycle, and competition is very high with many projects already included on the eligible funding list ahead of the City's project. Furthermore, CWSRF has announced a funding hiatus that will be in effect for several years starting in FY 25; therefore, staff are pursuing financing through bonds as part of the funding strategy. Staff will also continue to seek grants throughout the life of the project.

STRATEGIC ROADMAP

This agenda item supports the various goals of Council's Strategic Roadmap. The WRRF Improvements Phase II Project will address infrastructure needs, and improvements to increase the reliability of the City's treatment plant, and construct process improvements to meet more stringent nutrient limits in accordance with upcoming regulatory requirements, while supporting Council's goals. Specifically, this item relates to the implementation of the following projects:

Confront Climate Crises & Champion Environmental Justice.

Mitigate Climate Crisis Impacts through Resilient Design and Community Engagement
Project C14b: Implement Shoreline Master Plan, including mitigating sea level rise in the industrial corridor through building requirements and outreach

Invest in Infrastructure.

Invest in Water Supplies, Sanitation Infrastructure & Storm Sewers
Project N19: Update Water Pollution Control Facility Phase II Plan

SUSTAINABILITY FEATURES

The WRRF Improvement Project Phase II will help maintain and improve the biology and health of the Bay which is vital for the region and the State. The Phase II Project will also satisfy the early actor requirements specified in the Water Board's 2nd Watershed Permit to reduce nitrogen loads to the Bay.

The effects and risks of rising sea water levels will be reviewed and incorporated into the design of the new facilities.

The Administration and Laboratory Building will be reviewed by the Building Division for conformance with State and local requirements related to sustainability (i.e., California Building Code, California Energy Code, etc.) which require a minimal level of energy efficiency, resource conservation, material recycling, etc. In addition, the building will be designed and constructed to meet Leadership in Energy and Environmental Design (LEED) standards for a Silver Certification, or better.

PUBLIC CONTACT

As part of the funding process, an environmental study (CEQA and/or Initial Study and Mitigated Negative Declaration) will be posted for public review and comment.

The webpage for this Project is currently posted on the City's website. Staff will continue to post periodic updates throughout the multi-year duration of the project.

NEXT STEPS

If Council approves, staff will submit the revised authorized resolution and the application fee to the USEPA with the WIFIA application.

Prepared by: Elli Lo, Senior Management Analyst

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager