ORD 26-049

AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY'S GENERAL OBLIGATION BONDS AND GENERAL OBLIGATION BOND ANTICIPATION NOTE IN ORDER TO PROVIDE THE FUNDS NECESSARY TO FINANCE VARIOUS CAPITAL PROJECTS SPECIFIED IN THE CITY'S FISCAL YEAR 2024 AND 2026 CAPITAL BUDGETS; PROVIDING FOR THE SALE OF THE BONDS AND THE BAN; AND AUTHORIZING OTHER NECESSARY ACTION

#0300

Sponsor:

Council Member Harlee

WHEREAS, the City of Wilmington (the "City") presently intends to fund various capital projects specified in the capital budgets for its Fiscal Years ending June 30, 2024 and June 30, 2026 (collectively, the "Project"); and

WHEREAS, the City has determined to issue on a tax-exempt and/or taxable basis (i) one or more series of its General Obligation Bonds in an aggregate principal amount not to exceed $20,000,000 (the "Bonds") and (ii) one or more series of its General Obligation Bond Anticipation Note in an aggregate principal amount not to exceed $20,000,000 (the "BAN") to provide permanent and temporary financing, respectively, for the Project and the costs associated with issuing such Bonds and/or BAN, as the case may be; and

WHEREAS, the City has heretofore adopted the General Obligation Bond Ordinance, No. 83-019, Division 7 of Article VI of Chapter 2 of the Wilmington City Code (the "General Ordinance"), authorizing the City to issue General Obligation Bonds and General Obligation Bond Anticipation Notes secured by a pledge of the City's full faith, credit, and taxing power, for the purpose of, among other things, paying the costs of capital projects; and

WHEREAS, this Ordinance is a Supplemental Ordinance adopted pursuant to the General Ordinance and provides for the issuance and sale of the Bonds and/or the BAN.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Defined Terms. Terms used in this Ordinance and not otherwise defined shall have the meaning specified in the General Ordinance.

SECTION 2. Authorization of General Obligation Bonds and General Obligation Bond Anticipation Note. The City hereby authorizes the issuance of its tax-exempt or taxable Bonds in an aggregate principal amount not to exceed $20,000,000 for the purpose of providing permanent financing for the Project and for the costs associated with issuing the Bonds. Prior to and in anticipation of the issuance of the Bonds, the City is also authorized to issue its BAN in an aggregate principal amount not to exceed $20,000,000 on a tax-exempt or taxable basis for the purpose of providing temporary, interim financing for the Project and for the costs associated with issuing the BAN. The Bonds and the BAN shall be issued pursuant to and in accordance with the General Ordinance, as supplemented by this Ordinance and the Bond Committee Resolution (as defined herein) for the purpose of financing the Project and the costs of issuing the Bonds and/or the BAN, as the case may be. The Bonds and the BAN shall be sold at a private negotiated sale or competitive sale as determined by such Bond Committee Resolution. It is intended that the BAN will be paid from the proceeds of the Bonds.

The Bonds and/or the BAN shall be awarded and sold by the Bond Committee to one or more underwriters, placement agents, or other financial institutions to be selected by the Bond Committee (the "Purchaser") at a purchase price and in accordance with such terms and conditions as will be set forth (i) in the case of a negotiated sale, in a Note Purchase Agreement or a Bond Purchase Agreement, as the case may be, or similar agreement or commitment, to be entered into by the Purchaser and the City, or (ii) in the case of a competitive sale, in a Bid Form submitted to the Bond Committee in response to an Invitation to Bid prepared and distributed by the Bond Committee. In the case of clause (ii) above, the Bond Committee will accept the Bid Form which represents the lowest true interest cost to the City. The appropriate officials of the City are hereby authorized to enter into such BAN Purchase Agreement or such Bond Purchase Agreement, as the case may be, and to execute the Note Purchase Agreement or Bond Purchase Agreement on behalf of the City, or to accept the most favorable Bid Form.

The Bonds and the BAN shall bear such rate or rates of interest (not to exceed 8.0%), shall mature in such principal amounts and on such dates, shall be subject to redemption, shall be sold at such price and in such manner, and shall be in such form and contain or be subject to such other terms and conditions, as shall be determined in the Resolution adopted by the Bond Committee (the "Bond Committee Resolution").

SECTION 3. Authorization of Paying Agent's Agreement. If the Bond Committee determines that retaining a Paying Agent (as defined herein) is in the best financial interests of the City, a fiscal agent, paying agent, and registrar for the BAN or the Bonds (the "Paying Agent") may be selected and appointed by the Bond Committee. In the event that it is determined that it is advantageous to use a Paying Agent, the appropriate officials of the City are hereby authorized and directed to contract with the Paying Agent in connection with the performance of duties as paying agent and registrar on the usual and customary terms. The Paying Agent Agreement shall be in such form as shall be approved by the Bond Committee.

SECTION 4. Preparation of Preliminary Official Statement and Official Statement. If the City determines to sell the Bonds and/or the BAN pursuant to a public sale, the Bond Committee is authorized and directed to prepare, approve, and "deem final" a Preliminary Official Statement and an Official Statement with respect to the Bonds and/or the BAN. The final Official Statement shall contain the final terms of the Bonds and/or the BAN and shall be prepared for use in the public offering and the sale of the Bonds and/or the BAN.

SECTION 5. Execution of the Bonds and the BAN. The Bonds and the BAN shall be executed by the manual or facsimile signatures of the Mayor, the City Treasurer, and the City Auditor, and by the actual or facsimile impression of the City Seal, both attested by the manual or facsimile signatures of the City Clerk or Deputy City Clerk. The Bonds in definitive form may be printed, typewritten, or lithographed without steel engraved borders.

SECTION 6. Security for the Bonds and the BAN. The full faith, credit, and taxing power of the City is hereby pledged to the prompt payment of the principal of, premium, if any, and the interest on the Bonds and the BAN. The Bonds and the BAN shall be the direct and unlimited obligations of the City, and unless paid from other sources, the City shall levy ad valorem taxes upon all taxable property in the City for the payment of the Bonds and the BAN without limitation as to rate or amount.

SECTION 7. Federal Tax Covenants. In the event that the Bonds and/or the BAN are issued on a tax-exempt basis, the City hereby covenants not to take or omit to take any action so as to cause interest on the Bonds and the BAN to be no longer excluded from gross income for purposes of federal income taxation and to otherwise comply with the requirements of Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), and all applicable regulations promulgated with respect thereto, throughout the term of the Bonds and the BAN, as the case may be. The City further covenants with the registered owners of the Bonds and the BAN that it will make no investments or other use of the proceeds of the Bonds and the BAN, respectively, which would cause such Bonds or BAN to be "arbitrage bonds" as defined in Section 148 of the Code. The City further covenants to comply with the rebate requirements (including the prohibited payment provisions) contained in Section 148(f) of the Code and in any regulations promulgated thereunder, to the extent applicable, and to pay any interest or penalty imposed by the United States for failure to comply with rebate requirements, to the extent applicable.

SECTION 8. Official Intent. In accordance with Treasury Reg. § 1.150-2, the City hereby confirms its intentions that a portion of the proceeds of the obligations authorized by this Ordinance will be used to reimburse itself for qualifying expenditures paid prior to the date of issuance of the obligations authorized by this Ordinance. All original expenditures to be reimbursed will be capital expenditures (as defined in Treasury Reg. § 1.150-1(b)) and other amounts permitted to be reimbursed pursuant to Treasury Reg. § 1.150-2(d)(3) and (f).

SECTION 9. Proceeds of the Bonds. The moneys raised by the issuance of the Bonds, after the payment of charges and expenses connected with the preparation, sale, and issuance thereof, shall be expended for the purposes and in the respective amounts authorized in this Ordinance, or as may otherwise be properly authorized by City Council, including, but not limited to, reimbursement of City funds for authorized advances made prior to the sale of such Bonds. If for any reason any part of such proceeds of the Bonds is not applied to or is not necessary for such purposes, such unexpended proceeds of the Bonds, after consultation with the City's bond counsel, may be (i) used to finance any other capital project set forth in capital budgets adopted prior to the Fiscal Year ending June 30, 2024 or in any capital budgets adopted subsequent to the Fiscal Year ending June 30, 2026, or (ii) applied to the payment of the principal of or interest on the Bonds.

SECTION 10. Further Action. The appropriate officers of the City are hereby authorized and directed to take all such action, execute, deliver, file, and record all such documents, publish all notices, and otherwise carry out the intent of the General Ordinance and this Ordinance in the name of and on behalf of the City.

SECTION 11. Inconsistent Provisions. In the event that any provision of the Bonds or the BAN, or any term or condition contained in any agreement relating to the Bonds, the BAN, or in this Ordinance, shall be inconsistent with any of the provisions of the General Ordinance, the provision of the Bonds or the BAN, such agreements, and this Ordinance shall be controlling with respect to the Bonds, the BAN, such agreements, and this Ordinance.

SECTION 12. Relation to General Ordinance. This Ordinance is supplemental to the General Ordinance and all sections of the General Ordinance, except as modified herein in accordance therewith, are applicable to the Bonds and the BAN authorized hereunder.

SECTION 13. Effective Date. This Ordinance shall become effective immediately upon its passage by City Council and approval by the Mayor.

First Reading..... November 5, 2026
Second Reading..... November 5, 2026
Third Reading.....

Passed by City Council,

_____
President of City Council

ATTEST:_____
City Clerk

Approved as to form this 30th day of October, 2026.

Elizabeth D. Power
Senior Assistant City Solicitor

Approved this ____ day of _____, 2026.

_____
Mayor

SYNOPSIS: This Ordinance (i) authorizes the issuance of up to $20,000,000 aggregate principal amount of General Obligation Bonds (the "Bonds") and up to $20,000,000 aggregate principal amount of General Obligation Bond Anticipation Note (the "BAN") in order to (a) provide temporary and permanent financing for any duly authorized capital project of the City specified in the City's capital budgets for its Fiscal Years ending June 30, 2024 and June 30, 2026 and (b) pay the costs associated with issuance of the Bonds and the BAN.

FISCAL IMPACT STATEMENT: The Office of Management and Budget (OMB) has reviewed and analyzed this Ordinance, which authorizes the issuance of up to $20 million in a General Obligation Bond Anticipation Note (BAN) for interim financing and up to $20 million in General Obligation Bonds for permanent financing of capital projects authorized in the City's FY 2024 and FY 2026 Capital Budgets, including associated financing costs.

For purposes of estimating the fiscal impact of the BAN, it is assumed that the maximum authorized $20 million is borrowed at the maximum authorized annual interest rate of 8%, remains outstanding for one year, and accrues all interest until maturity. Based on the current proportional dollar allocation of projects between funds, approximately $18.67 million of the BAN would be attributable to the General Fund and just under $1.33 million to the Water/Sewer Fund. Under these assumptions, total interest would be $1.60 million, with $1.49 million attributable to the General Fund and $106,000 to the Water/Sewer Fund, resulting in a combined repayment obligation of $21.60 million at maturity.

The City anticipates issuing permanent General Obligation Bonds in November 2027 to repay the BAN principal and accrued interest. For purposes of this analysis, the permanent bonds are assumed to be structured with an initial long coupon so that debt service payments would not begin until July 1, 2028 (FY 2029).

Assuming the full authorized $20 million in permanent bonds is amortized over 20 years with level semi-annual payments, estimated General Fund debt service would range from $1.37 million annually at 4% to $1.90 million at 8%, while Water/Sewer Fund debt service would range from approximately $97,000 to $134,000 annually. Combined annual debt service would range from approximately $1.46 million to $2.02 million. Actual debt service and its allocation between funds will depend on the amount issued, interest rates, maturities, repayment terms, and final project allocation when the bonds are sold.

If the amount needed to repay the BAN, including accrued interest, exceeds the $20 million maximum authorized principal amount of the bonds, the excess would need to be covered by a bond premium or other available funding. Under the maximum-cost scenario modeled above, the potential funding shortfall attributable to accrued BAN interest would be approximately $1.60 million. Issuance costs and other financing fees are projected to add another $100,000 to $250,000, depending on the method of sale and final financing terms. Accordingly, if the full $20 million in authorized bond principal is needed to repay the BAN principal and sufficient bond premium is unavailable, the amount needed above the $20 million bond authorization limit to cover accrued BAN interest and financing costs could range from approximately $1.70 million to $1.85 million. Financing any portion of that overage through additional bond debt, or appropriating operating funds through a budget amendment, would require subsequent City Council authorization.

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