



Wastewater  
Treatment



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WASTEWATER  
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# Proposed CFCC Refunds for Accessory Dwelling Units

Board of Directors Meeting  
November 8, 2023

# Background

- On July 25, 2023, District received a Government Claim Form from property owner (Mr. Kishore Lal) (Claimant) in Pittsburg
  - Seeking refund of Capital Facilities Capacity Charge (CFCC) paid (\$4,358) for construction of a new accessory dwelling unit (ADU)
- Discrepancy exists between District Code and California Government Code for assessing CFCCs for ADUs
  - Assembly Bill 68 (AB 68), effective January 1, 2020, changed “proportionality” requirement to use either a square footage or drainage fixture unit comparison
  - District Code currently assesses CFCCs for ADUs based on full equivalent residential unit (ERU)—does not include proportionality
  - Example Methodology
    - AB 68: 2,000 sq. ft. main house (1 ERU) + 1,000 sq. ft. ADU (0.5 ERU)
    - District Code: 2,000 sq ft main house (1 ERU) + 1,000 sq. ft. ADU (1 ERU)

# Long-term Process for Revising District Code—CFCCs for ADUs



- Requires a nexus study to “support that the fee or capacity charge does not exceed the estimate reasonable cost of providing service” (GC Section 66016.6[a])
- Completed a 2021 Wastewater Rate Study (for Sewer Service Charges)—provides foundational cost-of-service
- Completed a Resource Recovery Facility Master Plan in November 2022
  - Highlights future flow and loading conditions, associated capital improvements—critical information for determining CFCCs
- Currently initiating a CFCC Study with expected completion by April 2024—subsequent revisions to District Code

# Recommended Near-term Actions



- Consider refunding CFCCs paid by Claimant (\$4,358)
- Consider refunding CFCCs (\$143,509) paid by a total of 34 other property owners since January 1, 2020 (AB 68 effective date)
  - Key Process Issue: Notify property owners and require claim forms to be submitted consistent with HSC Section 5474 (no process for District-initiated refunds); consider “settlement of all claims” language
  - Alternative (Not Recommended): Consider deferring refunds for other property owners until CFCC Study is completed—may result in partial (not full) refunds of CFCCs with proportionate structure in place
- Suspend collection of CFCCs for ADUs until District Code has been revised to comply with AB 68 requirements

# Financial Impacts



- If CFCC refund claims are received from all 35 applicable property owners since January 1, 2020, lost CFCC revenue is estimated at \$147,867 (over four-year period)
- Suspension of ADU fee collection will result in additional lost revenue
- Sufficient funding is available in the Wastewater Capital Asset Expansion Fund (\$13.0 million balance as of June 30, 2023) for this action

# Recommended Actions

1. Accept and allow claim from Mr. Kishore Lal (Claimant) and authorize and direct the Business Services Director to refund to Claimant a CFCC for a new ADU in the amount of \$4,358.
2. Authorize and direct the Business Services Director to:
  - 1) Notify 34 other applicants who paid CFCCs levied on ADUs after January 1, 2020, of opportunity to file a claim and,
  - 2) Issue associated refunds of CFCCs, in accordance with California HSC Section 5474, to verified claimants who paid CFCCs that were levied on or after January 1, 2020, for ADUs.
3. Ratify suspending collection of CFCCs for ADUs until an ordinance is adopted to establish a proportionate rate structure in compliance with California GC Regulations for assessing and collecting capacity fees for ADUs.