



Wastewater Treatment



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# Proposed CFCC Refunds for Accessory Dwelling Units

Finance Committee Meeting  
October 25, 2023

# Background

- On July 25, 2023, District received a Government Claim Form from property owner 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 the individual 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 34 applicable property owners since January 1, 2020, lost CFCC revenue is estimated at \$147,867 (over four-year period)
- Sufficient funding is available in the Wastewater Capital Asset Expansion Fund (\$10.6 million balance as of June 30, 2023) for this action

# Next Steps

- Receive comments from Finance Committee on proposed CFCC refunds for ADUs since January 1, 2020, and associated process
- Seek approval from Finance Committee to submit item for consideration at Board Meeting on November 8, 2023