RESOLUTION NO. 4-2020

ROWLAND WATER DISTRICT
RESOLUTION OF THE BOARD OF DIRECTORS
ADOPTING A METHODOLOGY FOR IMPOSING CAPACITY FEES ON CERTAIN QUALIFYING ACCESSORY DWELLING UNITS, ADOPTING A POLICY FOR PROVIDING WATER TO ACCESSORY DWELLING UNITS, AND TAKING CERTAIN OTHER ACTIONS RELATING THERETO

WHEREAS, the Rowland Water District ("District") is organized and operates pursuant to the County Water District Law, commencing with Section 30000 of the California Water Code (the "County Water District Law"); and

WHEREAS, pursuant to California Government Code section 66013, the District is authorized to impose capacity charges for public facilities in existence at the time the charge is imposed or for new facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged, including supply or capacity contracts for rights or entitlements, real property interests, and entitlements and other rights of the District involving capital expense relating to its use of existing or new public facilities; and

WHEREAS, the District has made significant investments in its potable water system, and will be making additional in the future to ensure there is sufficient capacity in its system to serve all customers connected to its potable water system; and

WHEREAS, pursuant to Resolution No. 5.1-2017, adopted by the District's Board of Directors on the District on May 16, 2017, the District previously adopted a schedule of capacity charges (the "Capacity Charges") in compliance with Government Code section 66013; and

WHEREAS, since the adoption of the Capacity Charges, new legislation has been adopted that creates additional requirements and limitations on the District's ability to impose the Capacity Charges on certain qualifying accessory dwelling units ("ADUs"); and

WHEREAS, specifically, Government Code section 65852.2 provides that the District may not impose the Capacity Charge on ADUs that: (i) are within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure; (ii) have exterior access from the proposed or existing single-family dwelling; (iii) have side and rear setbacks that are sufficient for fire and safety, and additionally may not impose a Capacity Charge on a junior accessory dwelling unit that complies with the requirements of Government Code section 65852.22; and

WHEREAS, for any other ADU that does not meet the limitations described above, the District may impose a Capacity Charge that is proportionate to the burden of the proposed ADU, based

upon either its square feet or the number of its water supply fixture units ("WSFU"), as defined in the Uniform Plumbing Code (UPC) adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system, so long as the Capacity Charge does not exceed the reasonable cost of providing this service; and

WHEREAS, in order to comply with such new legislation, the District previously provided a memorandum analyzing the costs of providing capacity to an ADU based on WSFU (attached hereto as Exhibit "A"); and

WHEREAS, the District now wishes to adopt a Policy Regarding Water Service to be Provided to Accessory Dwelling Units (the "Policy", attached as Exhibit "B"), and further to adopt a schedule of Capacity Charges for ADUs in compliance with Government Code section 65852.2; and

WHEREAS, the Policy and the adoption of this Resolution will not increase or create any new fees or charges of the District; rather, this Resolution provides a separate methodology for imposing existing Capacity Charges on ADUs, which will result in a lower Capacity Charge for such properties.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Rowland Water District as follows:

Section 1. The matters set forth in the recitals to this Resolution are true and correct statements and by this reference incorporated herein and made findings and determinations of the Board of Directors.

Section 2. (a) The District, as lead agency under the California Environmental Quality Act ("CEQA"), has evaluated the potential environmental impacts of the proposed Capacity Charge. As the decision making body for the District, the Board of Directors has reviewed and considered the information contained in the administrative record for the adoption of the proposed rates for the Capacity Charge.

(b) The Board of Directors finds that the proposed Capacity Charges are intended to fund capital improvement projects related to the District's need to finance capital improvements necessary to serve a new development and to provide equity between new development and existing customers. The proposed Capacity Charges do not commit the District to approve any particular project, program, or capital improvement, but will be placed in a separate fund for potential future projects. The proposed Capacity Charges are in response to the District's projected need for additional facilities and infrastructure to provide services to new development, and designed to comply with new laws relating to ADUs. Any activities, including infrastructure improvements, to be funded by Capacity Charge will be subject to future environmental review under CEQA, as applicable, prior to District approval.

(c) The Board of Directors therefore finds the proposed Capacity Charges are not subject to environmental review under CEQA. First, the proposed Capacity Charges, in and of themselves, do not have potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and therefore are not considered a "project" under CEQA. (Pub. Resources Code, § 21065, 14 Cal. Code Regs., § 15378, subd. (a).) Second, the Capacity Charges are covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment; here, there is no possibility that the proposed Capacity Charges, in and of themselves, may have a significant effect on the environment. (14 Cal. Code Regs., § 15061, subd. (b)(3).) And third, the proposed Capacity Charges are considered a government funding mechanism that does not involve any commitment on behalf of the District to any specific project which may result in a potentially significant physical impact on the environment. (14 Cal. Code Regs., § 15378, subd. (b)(4).)

(d) The determination that the proposed Capacity Charges are not subject to CEQA review reflects the Board of Directors' independent judgment and analysis.

(e) The documents and materials that constitute the record of proceedings on which these findings have been based are located at the offices of the District, 3021 Fullerton Road, Rowland Heights, California. The custodian for these records is the Secretary of the Board of Directors of the District.

Section 3. From the effective date of this Resolution, the Board of Directors hereby determines that the Capacity Charge for an ADU subject to such charge, shall be calculated in accordance with the number of WSFU in such ADU, specifically by using Table A 103.1 and Chart A 103.1(2) of Appendix A of the UPC, shown as Table 3 and Chart 1 in Exhibit A, respectfully, to determine and convert the number of WSFU to an equivalent gpm flow as further described in Exhibit "A" and Exhibit "B" herein.

Section 4. The District further adopts the Policy attached hereto as Exhibit "B" and incorporated herein by this reference. Whether an ADU is subject to the Capacity Charges described in Section 3 above will be determined in accordance with such Policy.

Section 5. On January 1, 2021, and each January 1 thereafter, the rates for the Capacity Charge set forth in Section 3 above may be adjusted for inflation each year using the Handy-Whitman Index for that year.

Section 6. The Capacity Charges established herein shall apply only to ADUs as determined in accordance with the Policy. The potable water capacity fee adopted pursuant to Resolution No. 5.1-2017 shall remain in effect with respect to all other property of the District except as explicitly described herein and in the Policy. Nothing contained herein is intended to otherwise rescind, supersede, or otherwise interfere with any other fee or charge of the District, including pre-existing potable water capacity fees, except as specifically described herein and in the Policy.

Section 7. If any section, subsection, clause or phrase in this Resolution or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this Resolution or the application of such provisions to other persons or circumstances shall not be affected thereby. The Board hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof to any person or circumstance be held invalid.

Section 8. The General Manager of the District is authorized and directed to take all actions necessary to implement the new rates for the Capacity Charges for ADUs effective immediately, and to file a Notice of Exemption for the Capacity Charges with the County Clerk for the County of Los Angeles within five working days of the date of the adoption of this Resolution.

Section 9. This Resolution shall take effect immediately.

ADOPTED at a regular meeting of the Board of Directors of the Rowland Water District held on April 14, 2020, by the following vote, to wit:

AYES: Directors Lewis, Rios, Lima, Lu-Yang and Bellah
NOES: None
ABSTAIN: None
ABSENT: None

ATTEST:

_____ _____

TOM COLEMAN
Board Secretary

ROBERT W. LEWIS
Board President

Exhibit "A"

MEMORANDUM

Accessory Dwelling Unit (ADU) – Capacity Charge & Separate Service Policy

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ADU Summary

An Accessory Dwelling Unit (ADU) is a secondary dwelling unit with complete independent living facilities for one or more persons and generally takes three forms:

- Detached: The unit is separated from the primary structure
- Attached: The unit is attached to the primary structure
- Repurposed Existing Space: Space (e.g., master bedroom, garage, etc.) within the primary residence is converted into an independent living unit
    - Junior Accessory Dwelling Units: Similar to repurposed space with various streamlining measures

AB 881 - Capacity Fees

AB 881 provides that ADUs shall not be considered new residential uses for the purpose of calculating utility connection fees or capacity charges, including water and sewer service. The bill prohibits a local agency from requiring an ADU applicant to install a new or separate utility connection or impose a related connection fee or capacity charge for ADUs that are contained within an existing residence or accessory structure. *For attached and detached ADUs, this fee or charge must be proportionate to the burden of the unit on the water or sewer system and may not exceed the reasonable cost of providing the service*.

Resources and References

Referencing the California Department of Housing and Community Development - Accessory Dwelling Unit Memorandum (enclosed herein as **Enclosure 1**), dated December 2018, under the Frequently Asked Questions section, several questions with answers on Pg. 11 of the document highlight how a utility, such as our District, can impose capacity fees and require separate utility connections between the primary dwelling and the ADU. In summary, special districts and non-city and county service districts must account for a lesser impact related to an ADU and should base fees on unit size or number of *plumbing fixtures*. Rowland Water District (RWD) should

consider a proportionate or sliding scale fee structure that addresses the smaller size and lesser impact of ADUs to promote the development of ADUs.

With that being said, Government Code Section 65852.2 (enclosed herein as **Enclosure 2**), under paragraph (4) of subdivision (f), the language reads " For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its *drainage fixture unit (DFU)* values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service."

Provided the foregoing, there is inconsistency with respect to the recommended method in calculating a proportional capacity charge for an ADU. Published reference material refers to using number of *plumbing fixtures* and Government Code Section 65852.2 refers to *drainage fixture units*. A DFU methodology was explored with the intent to develop a proportional cost calculation for ADU's; however, it was quickly determined that a DFU methodology would result in a higher cost capacity charge since drainage fixture units allow for higher flows of water vs. plumbing fixtures. Acknowledging that the intent of the legislation is to develop a *lower* proportional cost capacity fee for ADU's, it was determined that a plumbing fixture (vs. DFUs) methodology would result in a lower proportional cost capacity fee for ADU's.

To correlate a proportional capacity fee, RWD will use its 2017 Capacity Fee Study and Construction Rate Analysis Report (2017 Capacity Fee Report) and the 2018 Uniform Plumbing Code published by the International Association of Plumbing and Mechanical Officials (2018 UPC) as its basis for methodology in calculating capacity fees that are proportionate to the impact of the ADU.

Calculating Capacity Fees for an ADU

As previously stated, special districts and non-city and county service districts must account for the lesser impact related to an ADU and should base fees on unit size or number of plumbing fixtures. Currently, RWD uses its 2017 Capacity Fee Report as its basis for determining capacity fees for new connections. The methodology used in the report consists of a combination of the value of the existing (historical) system assets and the value of planned future improvements as its basis for establishing the capacity fees. Meter equivalencies are used as a proxy for the potential demand that each customer can place on the water system, therefore the capacity fee for a new connection is proportional to the service's meter equivalence. **Table 1** below displays the meter equivalence for each respective meter size and its maximum flow in gallons per minute (gpm).

Table 1 – Meter Equivalence

Meter Size (inch)	Existing Potable Water Meters (1)	Meter Equivalence		Potable Water Meter Equivalent Units
		Maximum Flow (gpm) (2)	Capacity Factor for 5/8 inch Base Meter (3)	
5/8	10,926	20	1	10,926
3/4	98	30	1	98
1	929	50	1	929
1.5	535	100	5	2,675
2	599	160	8	4,792
3	17	320	16	272
4	13	500	25	325
6	11	1,000	50	550
8	6	1,600	80	480
10	2	4,200	210	420
12	-	5,300	265	-
Total	**13,136**			**21,467**

1. Per District utility billing data, as of the July-August 2016 billing period. Exclude fire, recycled and construction meters
2. Source: AWWA M1, Table B-1. Assumes displacement meters for 5/8" through 2" meters.
Compound Class I for 3" through 8" and Turbine Class II for 10" through 12" meters.
3. Due to building code requirements. 1-inch meters will be the minimum size going forward, therefore existing ¾ and 1-inch
Meters are considered equivalent to a 5/8-inch meter.

Provided that the state of California now requires fire suppression systems in all new single-family home construction, the minimum meter size going forward is a 1-inch meter. Consequently, the District has chosen to treat 3/4 and 1-inch meters as equivalent to 5/8-inch meters. However, ADUs are not required to provide fire sprinklers if they are not or were not required of the primary residence. Translating meter equivalencies to capacity fee dollar amounts, **Table 2** below displays the Potable Water Capacity Fees for each respective meter 1-inch and greater.

Table 2 – Potable Water Capacity Fees

Meter Size (inch)	Equivalency Factor		Maximum Unit Cost ($/5/8-inch meter)	Maximum Potable Capacity Fee Per Meter
	Maximum Continuous Flow (gpm) (1)	Equivalency to Base Meter Size		
1	50	1	$ 3,685.00	**$ 3,685.00**
1.5	100	5	$ 3,685.00	**$ 18,424.00**
2	160	8	$ 3,685.00	**$ 29,478.00**
3	320	16	$ 3,685.00	**$ 58,956.00**
4	500	25	$ 3,685.00	**$ 92,118.00**
6	1,000	50	$ 3,685.00	**$ 184,237.00**
8	1,600	80	$ 3,685.00	**$ 294,779.00**
10	4,200	210	$ 3,685.00	**$ 773,794.00**
12	5,300	265	$ 3,685.00	**$ 976,455.00**

1. Source: AWWA M1, Table B-1. Assumes displacement meters for 1" through 2" Compound Class I for 3" through 8" and Turbine Class II for 10" through 12" meters.

Acknowledging the current water capacity fees adopted by RWD, Appendix A of the 2018 UPC will be used to proportionally calculate capacity fees for an ADU.

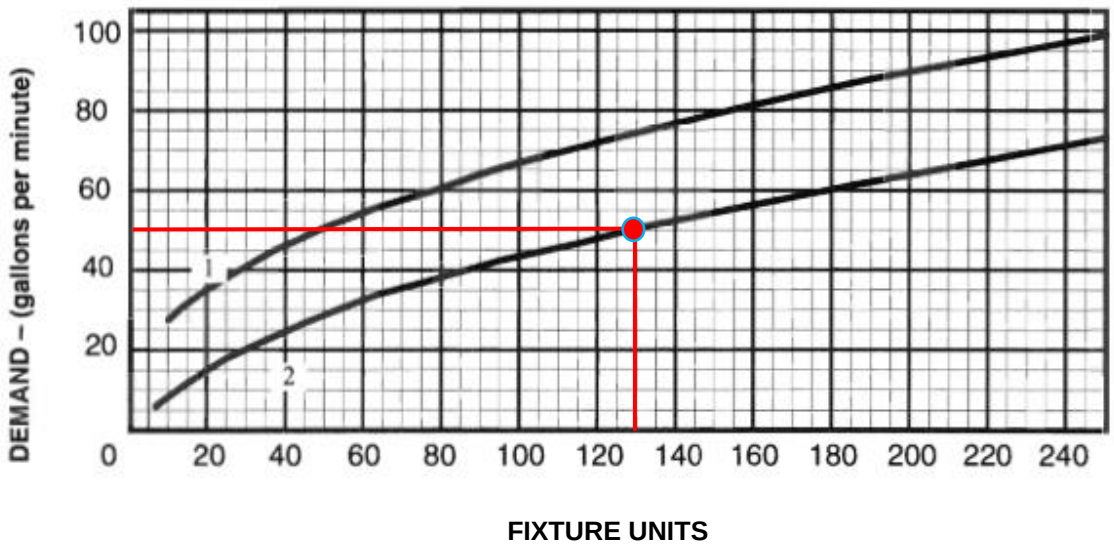
Table A 103.1 of Appendix A of the 2018 UPC, shown as **Table 3** herein, shows how each type of plumbing fixture is assigned a specific number of fixture units that reflects the instantaneous flow requirement of the fixture. Using this chart as the basis of determining the number of fixture counts for an ADU, Chart A 103.1(2) of Appendix A of the 2018 UPC, shown as **Chart 1** herein, can then be used to convert the number of fixture units to an equivalent gpm flow. In the event that a fixture being used on a proposed ADU is not listed in **Chart 1**, RWD will determine a fixture unit value that is similar to a fixture listed in **Chart 1**. Specifically, only fixture values on the Private column will be used since all ADUs fall under the private use definition, as defined in the 2018 UPC, "applies to plumbing fixtures in residences and apartments, to private bathrooms in hotels and hospitals, and to restrooms in commercial establishments where the fixtures are intended for the use of a family or an individual."

Table 3 – Water Supply Fixture Units (WSFU) and Minimum Fixture Branch Pipe Sizes

APPLIANCES, APPURTENANCES, OR FIXTURES	MINIMUM FIXTURE BRANCH PIPE SIZE (inches)	Private	Public	ASSEMBLY
Bathtub or Combination Bath/Shower (fill)	1/2	4	4	-
3/4 inch Bathtub Fill Valve	3/4	10	10	-
Bidet	1/2	1	-	-
Clothes Washer	1/2	4	4	-
Dental Unit, cuspidor	1/2	-	1	-
Dishwasher, domestic	1/2	1.5	1.5	-
Drinking Fountain or Water Cooler	1/2	0.5	0.5	0.75
Hose Bibb	1/2	2.5	2.5	-
Hose Bibb, each additional[7]	1/2	1	1	-
Lavatory	1/2	1	1	1
Lawn Sprinkler, each head[5]	-	1	1	-
Mobile Home, each (minimum)	-	12	-	-
Sinks	-	-	-	-
Bar	1/2	1	2	-
Clinical Faucet	1/2	-	3	-
Clinical Flushometer Valve with or without faucet	1	-	8	-
Kitchen, domestic	1/2	1.5	1.5	-
Laundry	1/2	1.5	1.5	-
Service or Mop Basin	1/2	1.5	3	-
Washup, each set of faucets	1/2	-	2	-
Shower per head	1/2	2	2	-
Urinal, 1.0 GPF Flushometer Valve	3/4	3	4	5
Urinal, greater than 1.0 GPF Flushometer Valve	3/4	4	5	6
Urinal, flush tank	1/2	2	2	3
Wash Fountain, circular spray	3/4	-	4	-
Water Closet, 1.6 GPF Gravity Tank	1/2	2.5	2.5	3.5
Water Closet, 1.6 GPF Flushometer Tank	1/2	2.5	2.5	3.5
Water Closet, 1.6 GPF Flushometer Valve	1	5	5	8
Water Closet, > than 1.6 GPF Gravity Tank	1/2	3	5.5	7
Water Closet, greater than 1.6 GPF Flushometer Valve	1	7	8	10

Using a 50 gpm flow (1-inch meter) as a single point on **Chart 1** as the basis to determine the number of fixture units that a 1-inch meter can accommodate, since the minimum meter size going forward for RWD is a 1-inch meter, the chart indicates a value of 130 fixture units. Using 130 fixture units as the full cost of a 1-inch meter capacity charge, we can then determine a proportional capacity fee based on the number of fixture units for each proposed ADU.

Chart 1 – Enlarged Estimate Curves for Demand Load



As an example of the proportional fee calculation, see Example 1 below:

Example 1: A 500 ft² proposed ADU has the following fixtures:

- Bath/Shower Combo
- Clothes Washer
- Dishwasher
- One Hose Bib
- Kitchen Sink
- Laundry Sink

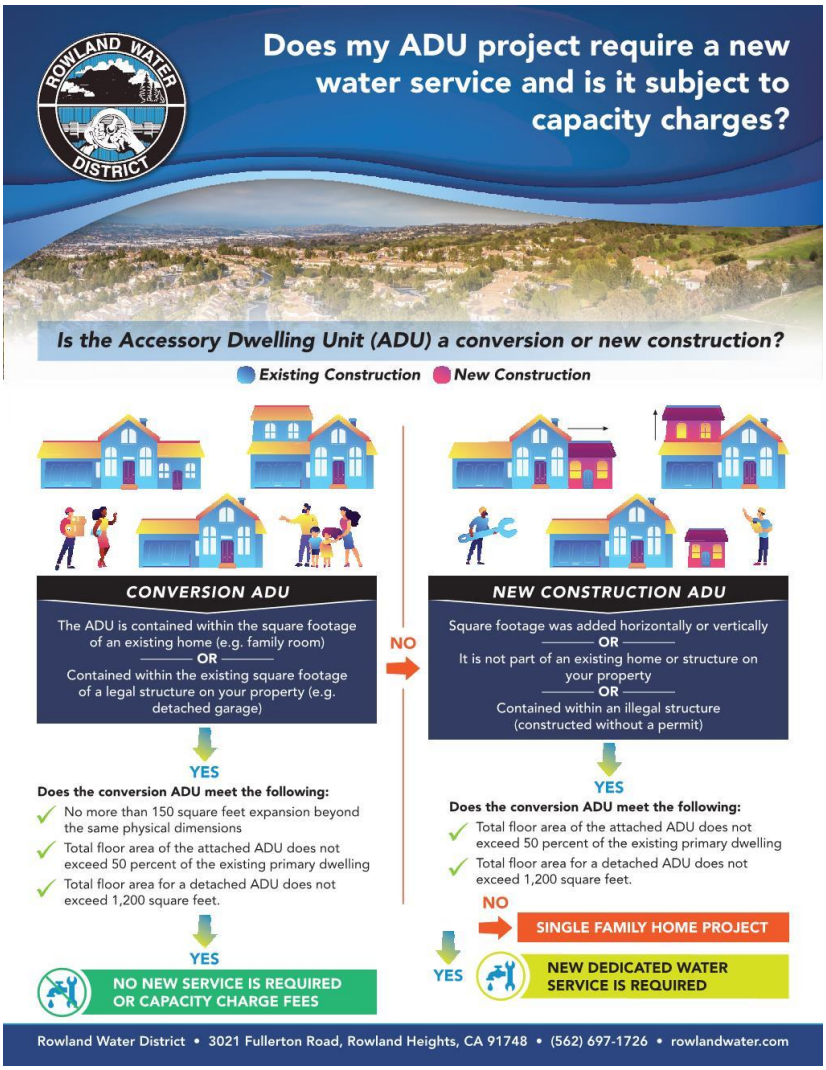
Using **Table 3** to identify the fixture count for each respective fixture, a bath/shower combo consist of 4 fixture units, 4 fixture units for clothes washer, 1.5 fixture units for a dishwasher, 2.5 fixture units for a hose bib, 1.5 fixture units for a kitchen sink, and 1.5 fixture units for a laundry sink. Summing all the fixture counts, it is determined that the total fixture unit count is 15 for this ADU. Using the 130 fixture unit allocation that is allowed for a 1-inch meter (50 gpm), the 15 fixture units equates to 11.5 percent of the capacity of a 1-inch meter. Converting this percentage to a dollar amount, the capacity charge fee for the ADU would be $423.73 ($3,685 x .115).

Using this methodology provides a practical and equitable approach to proportionally scale capacity fees based on the number of plumbing fixtures of an ADU.

Determining if New Service is Required

AB 881 prohibits a local agency from requiring an ADU applicant to install a new or separate utility connection for ADUs that are contained within an existing residence or accessory structure. Using this information as the basis in determining if an ADU will require a separate service from RWD, **Figure 1** below can be used to determine if a proposed ADU will require a separate service.

Figure 1 – ADU Separate Service Requirement



Note that for either a conversion ADU or new construction ADU, if there is an existing primary dwelling, the total floor area of an attached ADU shall not exceed 50 percent of the existing primary dwelling and the total floor area for a detached ADU shall not exceed 1,200 square feet.

Summary

AB 881 provides that ADUs shall not be considered new residential uses for the purpose of calculating utility connection fees or capacity charges, including water and sewer service. For attached and detached ADUs, this fee or charge must be proportionate to the burden of the unit on the water or sewer system and may not exceed the reasonable cost of providing the service. RWD has used its 2017 Capacity Fee Report and the 2018 UPC to develop a methodology that provides a practical and equitable approach to proportionally scale capacity fees based on the number of plumbing fixtures of an ADU. In addition, AB 881 prohibits a local agency from requiring an ADU applicant to install a new or separate utility connection for ADUs that are contained within an existing residence or accessory structure. RWD has developed an infographic that provides information to determine when a new service is required for an ADU.

If there are any questions regarding the context of this memorandum, please feel free to contact me.

Sincerely,

Roy Frausto
Engineering & Compliance Manager
Rowland Water District

Enclosures:

Enclosure 1:	California Department of Housing and Community Development - Accessory Dwelling Unit Memorandum
Enclosure 2:	Government Code Section 65852.2