

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: March 17, 2015

CAO File No. 0160-01567-0000

Council File No. 13-1488

Council District: ALL

To: The Mayor
The Council

From: Miguel A. Santana, City Administrative Officer *MS*

Reference: Transmittal from the Board of Public Works dated October 21, 2013; referred for report on January 6, 2014.

Subject: **Sewer Connection Financial Assistance Program (SCFAP)**

SUMMARY

On October 19, 2011, the Council adopted (C.F. 10-1947) a series of recommendations to adjust the Sewer Service Charge (SSC) and other related fees that support the Bureau of Sanitation's (Bureau) Clean Water Program. At the same time, the Council instructed the Bureau to develop a Sewer Connection Financial Assistance Program (SCFAP) to assist homeowners to finance sewer lateral repairs and connections in an effort to reduce sewage backflows and spills and to encourage the abandonment of On-site Wastewater Treatment Systems (OWTS, also known as septic tanks). On October 21, 2013, the Board of Public Works (Board) submitted the proposed Ordinance to amend Article 4.5 of Chapter VI of the Los Angeles Municipal Code (LAMC) to establish the SCFAP. On November 5, 2013, the Mayor transmitted the proposed Ordinance to the Council for consideration and on November 6, 2013, the item was referred to the Energy and Environment Committee. On January 6, 2014, the Mayor instructed this Office to report back to the Mayor and Council on the proposed SCFAP.

Background

The majority of properties within the City of Los Angeles are connected to the City's sewer system. This connection is referred to as a sewer lateral or house connection sewer and property owners are responsible for constructing, maintaining, and repairing these structures. Over time, these laterals can become damaged due to root intrusion or blockages and the cost to repair them can be costly. Cracks and breaches in damaged laterals not only contaminate the groundwater and cause sewage spills, but can also lead to groundwater infiltration into the City's sewer system, which can place a heavy burden on the capacity of the City's wastewater treatment facilities and waste valuable groundwater. The Bureau reports that it has sent letters to over 1,400 customers notifying them that there may be an issue with their sewer lateral based on closed-circuit television (CCTV) footage of the main sewer line. Properties that are not connected to the City's sewer system use OWTS to manage their wastewater. The Bureau estimates that there are approximately 9,000 OWTS properties that are within 200 feet of a main sewer line.

As with sewer laterals, property owners are also responsible for operating and maintaining OWTS structures. Many of the older OWTS are at high risk for structural failure, which can lead to groundwater contamination and sewage spills. Sewage spills from broken laterals and OWTS present significant risks to the environment and public health and safety and can result in significant fines and penalties from State and Federal regulatory agencies. Therefore, it is in the best interest of the City and its ratepayers to address damaged laterals and OWTS.

We have worked with the Bureau and City Attorney to further streamline the SCFAP while protecting the City treasury. This Office expressed concern that the amount of information required from applicants may discourage participation in the program by those who are in greatest need of the assistance. While there is a need to protect the City treasury, the Bureau has proposed a method of collection that should be reliable. We discussed this with the City Attorney and the Bureau. Subsequently, the Bureau proposed to only require a review of the status of payments for property tax, invoices for Sanitation services, and the City Business Tax (if applicable). We concur with the revised proposal.

The City Attorney has indicated that, consistent with Proposition 218, all current sewer rate payers must have equal access to this program, while the City takes reasonable steps to protect the City treasury. The Bureau proposes using a pilot program to begin. We support this concept.

The Bureau proposes to establish a pilot with customers representing a mix of geographic locations and customer classes as well as those requiring sewer lateral repair and OWTS projects. We have discussed this with the City Attorney and are concerned that focusing participation in the pilot based upon geography or customer class is inconsistent with Proposition 218. We are recommending that the Bureau let the pilot customer group develop organically and to give priority to those with public safety emergencies (i.e. already broken sewer lateral or damaged OWTS system). The Bureau has accepted our recommendation.

The following table summarizes the two recommended changes to the Bureau's proposal:

	Bureau's Proposal	CAO Recommendation
Financial Eligibility Review	<ul style="list-style-type: none"> • Credit Report • Mortgage and property tax status • Sanitation bill status • Value of property and amount of property-related debt • Judgments, if any, against the property and/or property owner 	<ul style="list-style-type: none"> • Property tax status • Sanitation bill status • Business tax (if applicable)
Pilot Program Sample Group	<ul style="list-style-type: none"> • 50 customers • Mix of geographic locations, residential and commercial customers, and sewer lateral repair and OWTS projects 	<ul style="list-style-type: none"> • 50 customers • Mix of sewer lateral repair and OWTS projects

Both of these components of the SCFAP and the corresponding recommended changes will be discussed further in this report and the Bureau concurs with these changes.

Sewer Connection Financial Assistance Program (SCFAP)

The SCFAP will provide low-interest financial assistance to property owners to replace or rehabilitate their sewer laterals or to properly abandon their OWTS and connect to the City sewer system. The program will be available to all property owners who are currently connected to a City sewer or who have an OWTS that they will properly abandon and connect to the City's sewer system. Program participants must meet financial eligibility requirements. Property owners will be eligible for up to \$25,000 in financial assistance per property, with a cumulative cap of \$50,000 per year if the owner has multiple properties. Eligible uses of SCFAP funds are as follows:

- Rehabilitation or replacement of sewer laterals;
- Abandonment of OWTS and construction of sewer lateral;
- Implementation of backflow prevention devices, cleanouts, and private water submeters;
- Reasonable site restoration after construction;
- Pre- and post-construction video inspection and no-fee dye testing, as necessary; and
- All permits and inspections by City staff.

All work must be performed by a licensed or bonded contractor and payments will be issued jointly to the contractor and property owner. Ten percent of the financial assistance amount will be issued at the commencement of construction with the remaining 90 percent paid after City staff has performed inspections to determine the satisfactory completion of work. Assistance amounts will be repaid with interest over five years with amounts greater than \$10,000 repaid over ten years.

Financing Mechanism

Funding for the SCFAP will be provided from the Sewer Construction and Maintenance (SCM) Fund and a separate account will be established within the Fund for this purpose. Low-interest financial assistance will be issued from this new account using seed money collected from a one-half of one percent (0.5%) that was included in the rate adjustment over the first five years. Over this five-year period, the Bureau estimates this 0.5 percent adjustment will generate \$34 million in seed money for the SCFAP. The interest rate will be equal to the annual earnings of the SCM pool of investments at the time the financial assistance is issued and will remain fixed for the life of all financial assistance issued in that year. This rate is expected to be between two and four percent. In accordance with California Assembly Bill 741, cities are allowed to advance funds to property owners for sewer lateral repairs and receive repayments through special assessments collected on the property tax. As such, repayment for SCFAP financial assistance will be collected through the County property tax and deposited back into the new account to provide funding for future SCFAP financial assistance.

Staffing and Implementation Timeline

Due to the potential complexities involved in implementing the new SCFAP, the Bureau proposes implementing a pilot program to fully vet the proposed Ordinance. A pilot program will improve the customer experience by developing and testing the procedures before opening the program up to over 650,000 potential customers.

The Bureau reports that it will fill existing vacant positions to staff the pilot program and no new positions will be required. The Bureau has sufficient hiring authority to fill these vacancies under the hiring policy approved by the Managed Hiring Committee on July 25, 2014. The Bureau also reports that one Accountant II position in the Public Works Office of Accounting will be required to process SCFAP financial assistance checks and sufficient hiring authority is provided under the Board's hiring policy to fill one existing Accountant II vacancy. It should be noted that additional staffing resources may be required if Council elects to fully implement the SCFAP at the conclusion of the pilot project. Lastly, the Bureau reports it will use up to \$300,000 in SCM funds for consultant support to provide financial and technical assistance. Funding is available from the 2014-15 SCM Budget for this purpose.

Upon Mayor and Council approval of the pilot project, the Bureau will conduct outreach to secure a sample group of 50 participants representing a mix of lateral repair and OWTS abandonment projects. This process can take two to three months depending on the interest level of the participants. The next step is the review and processing of financial assistance applications and this process can take another two to three months. The last step is the receipt of financial assistance repayment, which will be collected through the property tax.

Sewer Repair Financial Assistance Programs Across the Country

This Office researched 17 sewer lateral financial assistance programs across the country and contacted those cities and municipalities to understand their programs and discuss some of the challenges and successes in their programs. All of the cities we contacted reported great success in the program and discussed the many benefits of the program. When asked about challenges in recovering the repayment of financial assistance, none of the cities reported issues or problems in the collection process. The most common challenge reported was contractors who would solicit property owners for work that was not necessary or warranted. Therefore, 12 of the 17 programs we contacted require property owners to obtain independent cost estimates from a minimum of two or three bonded and licensed contractors. Twelve of the 17 cities we contacted are outside of California and are not subject to the same State legislation the City is under and have more discretion on the usage of sewer funds. Three of the five agencies surveyed within California use a 50/50 cost sharing program (similar to the City's 50/50 Sidewalk Repair Program). All of the agencies within the State also budget a certain amount of funds for this program and issue financial assistance on a first come first serve basis. An Attachment has been provided to summarize these findings. We did not find any information about sewer repair financial assistance programs for the cities of San Francisco, San Diego, San Jose, Sacramento, Oakland, Riverside, Long Beach, Anaheim, Fresno, or Bakersfield.

After talking to these entities, it was determined that there was no city or agency that best mirrored the City of Los Angeles and the foreseeable challenges that it faces. Cities outside of California are not subject to Proposition 218 and therefore have greater flexibility on the use of sewer funds.

RECOMMENDATIONS

That the Mayor and Council:

1. Approve the one-year pilot project for the Sewer Connection Financial Assistance Program (SCFAP) as modified:
 - Require the Bureau of Sanitation to review property tax status, Sanitation bill status, and Business Tax Compliance (if applicable) to determine financial eligibility for participation in the program; and
 - Modify the sample group to only represent a mix of lateral rehabilitations and On-site Wastewater Treatment Systems (OWTS) projects instead of a sample group representing a mix of geographic locations, residential and commercial customers, and lateral rehabilitations and OWTS projects.
2. Instruct the Bureau of Sanitation to implement the pilot project for the SCFAP using existing staff resources and hiring authority provided under the Bureau's 2014-15 Hiring Plan Policy and using the proposed Ordinance and Rules and Regulations for the administration of the Sewer Connection Financial Assistance Program;
3. Instruct the City Attorney to review the lending aspects of the program to ensure compliance with all applicable lending requirements; and
4. Instruct the Bureau of Sanitation to report back within the given timeframe to the Mayor and Council upon completing the following project milestones:
 - 30 days after identifying 50 participants for the pilot project;
 - 60 days after completing the financial assistance application process; and
 - 30 days after financial assistance repayment has been received or recorded.

This report back should include, but not be limited to, goals and performance metrics, a description of the tasks performed, results of the process, feedback from participants, any challenges or issues encountered, and recommendations to improve the process.

FISCAL IMPACT STATEMENT

Funding in an amount not to exceed \$1,250,000 for the pilot program will be provided from the Sewer Operation and Maintenance Fund and there will be no General Fund impact. The recommendations in this report comply with the City's Financial Policies as ongoing revenues will support ongoing expenditures.