


CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: September 12, 2018

TO: Honorable Nury Martinez, Chair
Honorable Paul Koretz, Member
Honorable Paul Krekorian, Member
Honorable Gilbert A. Cedillo, Member
Honorable Mitch O'Farrell, Member
Energy, Climate Change and Environmental Justice Committee

FROM: 
Enrique C. Zaldívar, Director and General Manager
LA Sanitation and the Environment

SUBJECT: SEWER CONNECTION FINANCIAL ASSISTANCE PROGRAM

Over the years, LA Sanitation (LASAN) has received many requests from residents to provide financial assistance to abandon their septic tanks and connect to an available LASAN sewer and from residents who need to repair the sewer lateral that connects their property to the LASAN sewer. Properties that are not connected to the sewer use On-site Wastewater Treatment Systems (OWTS, also known as septic tanks). Many OWTS are at high risk of structural failure, which can lead to groundwater contamination and sewage spills. In 2011, as a part of a sewer fee rate adjustment, the City Council, with the Mayor's concurrence, authorized the use of one half of one percent (0.5%) of the approved annual sewer service charge rate adjustments for the period from April 6, 2012 to June 30, 2016 as the seed money for a Sewer Connection Financial Assistance Program (SCFAP).

The SCFAP was intended to make low-interest loans to property owners using the seed money and fund new loans from loan repayments. The repayment for the SCFAP loan was envisioned to be collected through the County property tax bill and deposited back to provide funding for future SCFAP financial assistance.

On May 20, 2015, City Council instructed LASAN to implement a one-year pilot project for the SCFAP for a limited number of customers (CF # 13-1488). The Council requested the City Attorney to review the lending aspects of the program to ensure compliance with all applicable lending requirements, and to report back to the Mayor and Council the results of the process, feedback from participants, any challenges or issues encountered, and recommendations to improve the process.

Following the City Council instructions to implement the pilot program, LASAN staff prepared the loan application package consisting of an outreach letter, a program fact sheet, a financial assistance application form, and a contractual assessment loan agreement. A list of properties with highest priority was also developed for the pilot

program and the Rules and Regulations for Administration of the SCFAP were revised to reflect Council's direction.

In August 2015, LASAN submitted the prepared draft documents to the City Attorney for review and advice. Upon analyzing the documents, the City Attorney informed LASAN that there is a potential application of federal regulations regarding consumer credit disclosure, commonly referred to as "Regulation Z" or TILA (Truth in Lending Act). Effective on Jan 1, 2015, under the new Regulation Z, LASAN may be considered a creditor and is subject to compliance.

The City Attorney then consulted with outside counsel to evaluate whether SCFAP is subject to Regulation Z. In December 2015, the Outside Counsel concluded that Regulation Z would apply to all SCFAP loans. This would require greater administrative support to ensure the proper disclosures are made, the required cancellation period is observed for each transaction, and that the interest rate disclosures meet Regulation Z's accuracy tolerance limits. Generally, TILA's requirements are strictly construed and, thus, even inadvertent errors can trigger liability.

Because LASAN is not a lender and it does not have staff with expertise or experience in the area of real estate lending and compliance with Regulation Z requirements, LASAN investigated the possibility of partnering with a financial institution with this expertise to administer the lending aspects of the SCFAP.

LASAN staff contacted several banks, including the Los Angeles Federal Credit Union (LAFCU), Bank of America (BOA), Chase and Citibank to inquire if they would be interested in administering the loan for the City. Both Citibank and Chase showed little interest and require a walk-in service with a business loan banker to discuss the details. LAFCU and BOA stated that they would be interested in the prospect only if they make the loan using their own funds and have a lien on the property.

On February 3, 2017, LASAN attempted to contract out the financial administration work to an eligible financing institution through the issuance of a Task Order Solicitation utilizing LASAN's Pre-qualified Oncall Contract was issued. On March 3, 2017, only one firm, TRC Solution, submitted a bid. Upon evaluating the proposal, it was deemed that the proposal was lacking of lending experience and did not meet the requirements specified in the solicitation. On March 29, 2017 LASAN issued a Notification of Non-Selection to TRC Solution.

Due to the barriers to operating the SCFAP in the way it had been envisioned, LASAN reviewed other methodologies for providing assistance to customers. LASAN staff investigated partnering with the California Property Assessed Clean Energy (PACE) program financial institutions Ygrene Energy Fund and Energy Efficient Equity. The PACE program has been expanded from energy efficiency improvements to include a

range of environmental improvements. These institutions were not interested in administering the SCFAP but only in lending their own funds, with LASAN providing additional funding to reduce (buy down) the interest rate.

LASAN also revisited the concept of implementing and endorsing a warranty program for private sewer laterals such as that which is offered through the National League of Cities (NLC) and administered by Service Line Warranties of America (SLWA) as previously reported on in CF#14-0515. This would involve the customer paying a monthly premium for a company to provide insurance for the replacement or rehabilitation of a sewer lateral.

LASAN staff met with SLWA and reviewed the provided related contract documents. SLWA is a private company based in Pennsylvania that provides optional sewer service line warranties to residential property owners in over 200 cities including the many relatively large cities such as Atlanta, Georgia; Phoenix, Arizona; Milwaukee, Wisconsin; Fort Lauderdale, Florida; Kansas City, Missouri; Las Vegas, Nevada; and San Diego, California.

Property owners who have not set aside money to pay for an unexpected, expensive repair have an opportunity to obtain a warranty that will provide repairs for a monthly fee, with no deductibles or service fees. Warranty contracts are month-to-month and there is no cancellation fee should the property owners decide they no longer wish to participate.

Based on research including contacts with SLWA representatives and a review of testimonials by their municipal sponsors and customers, LASAN believes that a speedy response to an urgent need for repair is a distinguishing characteristic of SLWA's warranty program. Work is performed by licensed, locally-based plumbers who will call the customer within one hour of filing a claim. Repair work is performed quickly and SLWA provides a personally staffed 24/7 hotline for residents, 365 days a year.

A program utilizing this service could follow any of the following models:

1. The City could use a non-exclusive model whereby any number of companies could provide this service to customers. All terms and conditions would be negotiated between the company and the customer and the City would not provide any endorsement. While this is the lowest risk option for the City, it would potentially have the lowest uptake because premiums could be higher and customers could question the validity of the program.
2. The City could enter into an exclusive contract with a single company, providing them access to our customer database and potentially include the premium payment as part of the City Services bill. The City Attorney and City's Risk

Manager do not recommend this option due to concerns about meeting the legal threshold set forth in Charter Section 104.g and LAMC Section 63.108 which stated that the City shall not engage in any purely commercial or industrial enterprise, except upon a majority vote of the voters.

3. The City could license contractors to use the City seal in their outreach and provide access to our customer database (or perform the outreach ourselves), in exchange for the contractor negotiating more favorable premiums and coverage limits. In this option, the company would directly bill the customer and the City would be held harmless in any disagreements between the customer and the service provider.

After exploring various options, LASAN recommends a modified SCFAP with the following portfolio of options:

1. Sewer Service Charge (SSC) Rebate program

In lieu of a loan program that would provide reimbursement for the full cost of the lateral replacement (up to a cap), this option provides an incentive for customers to evaluate their sewer lateral to learn the condition, and an additional incentive to rehabilitate it.

Property owners who have sewer CCTV inspections to determine their sewer lateral condition will receive up to a \$300 rebate. Property owners who are approved for the sewer lateral repair/replacement will receive up to a \$1,000 rebate upon completion of the project and City inspection.

This program can also be used to incentivize customers to install sewer backwater valve for buildings with plumbing fixtures where the floor level is at an elevation lower than the top of the closest upstream maintenance-hole lid. Backwater valve reduce the likelihood of wastewater backups into private property when blockages and surcharges occur in the City's sewer system. Property owners who install a sewer backwater valve on their sewer lateral will receive up to a \$500 rebate upon completion of the project and City inspection.

The Rebate Program will be offered on a first come first served basis. The cap amounts for each type of rebate allow the program to be extended to more customers. Since the rebate would be funded from the seed money, which would not be repaid, this program will only operate a finite time until the funds are depleted. This structure avoids triggering of Regulation Z requirements.

The proper abandonment of OWTS and connection to the sewer system will not be qualified for the Rebate Program because under Proposition 218, ratepayer

fees cannot be used to pay for the sewer connection assistance of non-ratepayers.

2. Private Sewer Laterals Warranty Protection Program

LASAN recommends moving forward with Model 3 described previously.

In 2013, the City of San Diego entered into a licensing agreement with SLWA for a residential water and sewer line warranty program. To avoid liability LASAN recommends the option of utilizing the existing agreement between San Diego and SLWA as a base, then negotiating additional benefits for Los Angeles customers. Based on preliminary discussions with SLWA, LASAN believes that customers can be provided with up to \$12,000 of annual coverage for a monthly premium of approximately \$9.

3. Option to participate in a PACE program

The PACE program will provide the property owners loans for environmental improvements. The PACE program can finance the cost for up to 40 years with interest rates ranging from 6% to 9%. The program bills the customers through the Los Angeles County Property Tax Bills and the payments may be tax deductible depending on the property owners' income. This program could cover either sewer lateral rehabilitations or the proper abandonment of OWTS and connection to an LASAN sewer.

Future Actions - LASAN is exploring other options to provide support to the OWTS removal and connection projects. One of the options is to apply for grants. Though there are no currently available grants for homeowners to connect to sewer lines, grants are available to build sewers for OWTS to sewer conversions. Some of the grant opportunities include the Clean Water State Revolving Fund Loan, the Proposition 1: Groundwater Grant Program, and the Site Cleanup Subaccount Program. By constructing a new system to extend sewer lines closer to OWTS' property, the property owners will be able to connect to a local City sewer at a lower cost.

Recommendations for Council Actions:

1. INSTRUCT LASAN to develop revised Rules and Regulations for the Administration of the Sewer Connection Financial Assistance Program to reflect the Rebate Program and to implement this program;
2. INSTRUCT LASAN to enter into a licensing agreement with SLWA for a Private Sewer Laterals Warranty Protection Program;

3. INSTRUCT LASAN to notify customers about the PACE program through its website, social media, and direct mailings to customers; and
4. REQUEST the City Attorney to draft any modifications to the LAMC required to implement these programs.

If there are any questions, please contact Eva Sung of my staff at (213) 485-3227.