Los Angeles River Ecosystem Restoration Feasibility Study

APPENDIX P
Letters and Guidance Memoranda

September 2015
This page intentionally left blank
Table of Contents

1. City of Los Angeles, Mayor’s Office to District Commander Colonel Mark R. Toy, USACE Los Angeles District, Memorandum Subject: Request for Real Estate Policy waiver, 22 March 2013

2. ASA(CW) to USACE Headquarters, Director of Civil Works, Memorandum Subject: Granting Real Estate Waiver, 8 August 2013

3. City of Los Angeles, Mayor’s Office to District Commander Colonel Kimberly M. Colloton, Memorandum Subject: Seeking Approval to Proceed with Alternative 20, 10 April 2014

4. ASA(CW) to USACE Headquarters, Deputy Commanding General for Civil and Emergency Operations, Memorandum Subject: Cost Sharing and the Locally Preferred Plan (LPP), 27 May 2014
March 22, 2013

Colonel R. Mark Toy
Los Angeles District Commander
United States Army Corps of Engineers
915 Wilshire Boulevard, Suite 1100
Los Angeles, CA 90017

Dear Colonel Toy:

I write to inform you that the City of Los Angeles, as local sponsor of the Corps' Los Angeles River Ecosystem Restoration Feasibility Study (River Study), is supportive of the Los Angeles District's request for a real estate policy waiver for the River Study. The waiver will enable the recommended project to be built and the City of Los Angeles will forego the reimbursement for real estate-related costs above the thirty-five percent to support the project.

As you know, the River Study has advanced to a stage that has identified a set of viable alternatives. Cost estimates for the alternatives are indicative of the challenges we face in urban areas. Large cities such as Los Angeles with high land value may be stretched to meet the corps criteria for local match. In this particular case the City of Los Angeles believes that our best approach is to mirror the approach that Chicago took in 2011(Upper Des Plaines River and Tributaries, Illinois and Wisconsin Feasibility Study). In that case the City of Chicago whose land value was also high was willing to forego reimbursement above the 35%. The City of Los Angeles is prepared to do the same.

Although prevailing Corps policy indicates that projects with land costs exceeding 25% of the total project cost are not likely to be given a high priority for budgetary purposes, we are hopeful that our demonstrated commitment to the Los Angeles River and our productive partnership with the Corps will enable us to transform urban rivers like the LA River into a valuable economic, environmental and recreational asset for the region.

Very truly yours,

ANTONIO R. VILLARAIGOSA
Mayor
cc: Nancy Sutley Chair, Council on Environmental Quality, Executive Office of the President
Jeffrey Zients, Acting Director, Office of Management and Budget, Executive Office of the President
Jo-Ellen Darcy, Assistant Secretary of the Army for Civil Works
Ed P. Reyes, Los Angeles City Councilmember, District One
Sally Ericsson, Associate Director, Natural Resources Programs, Office of Management and Budget
Gary Lee Moore, P.E., City Engineer
MEMORANDUM FOR DIRECTOR OF CIVIL WORKS

SUBJECT: Los Angeles River Ecosystem Restoration Feasibility Study, California – Real Estate Waiver

In response to a July 11, 2013 memorandum from the Chief, Planning and Policy Division, I have evaluated the Corps request for me to grant an exemption to the Army policy in order to allow the city of Los Angeles to forego reimbursement for real estate acquisition which may exceed the legislated 35 percent non-federal share of a Los Angeles River ecosystem restoration project. In a March 22, 2013 letter to the District Engineer, the Mayor of Los Angeles stated that the city would forego reimbursement for real estate costs in excess of the 35 percent non-federal share. The city indicated that they believe that their action would enable a project to be built to restore fish and wildlife habitat in the Los Angeles River corridor.

According to the Corps, the final array of alternatives includes four plans with total costs that range between about $350 million, to over $1 billion. Real Estate costs could range from 45 percent to as much as 85 percent of the project costs. Additionally, the city would be responsible for providing clean lands for the project that are consistent with guidance for hazardous, toxic, and radiological waste.

While I cannot support the city’s conclusion that foregoing reimbursement would automatically enable the project to be built, I am granting this requested exception. The feasibility report should clearly state that the city of Los Angeles has voluntarily agreed to waive reimbursement for the value of real estate above the 35 percent share and explicitly document the estimated real estate costs as well as an estimate of the reimbursement waived. I am withholding my evaluation of whatever plan the Chief of Engineers may ultimately recommend until he provides his report for my review.

Jo-Ellen Darcy
Assistant Secretary of the Army
(Civil Works)
April 10, 2014

Colonel Kimberly M. Colloton, PMP
Commander and District Engineer
United States Army Corps of Engineers
Los Angeles District
915 Wilshire Boulevard
Los Angeles, CA 90053

Dear Colonel Colloton:

I am writing to continue our discussion that started at the White House on October 28, 2013. I was encouraged by your acknowledgment of the importance of our Los Angeles River Ecosystem Restoration Feasibility Study (Study) and understanding that its completion requires an unprecedented kind of collaboration to explore options that will successfully reflect the Administration’s America’s Great Outdoors and Urban Waters Federal Partnership initiatives, which have already prioritized the Los Angeles River.

The City of Los Angeles has been a fully-engaged local sponsor of the Study for 8 years, has committed to its 50% share of the more than $10 million cost, and has attracted funding from a long-standing community partner—Friends of the Los Angeles River—of almost $1 million. The City has also expressed a willingness to assume more than the traditional 35% of the cost of the Study’s recommended project.

Although I was informed by representatives from the U.S. Army Corps of Engineers (Corps) South Pacific Division (SPD) and Los Angeles District (SPL) that the Corps has thus far sustained its recommendation for Alternative 13 as the National Ecosystem Restoration (NER) and Tentatively Selected Plan (TSP), the overwhelming response from the public was for the more ambitious Alternative 20. During the Study’s public review (from September to November 2013), at a public rally on September 28, and at the official hearing on October 17, the clear majority of comments were in favor of Alternative 20. Among these, the Los Angeles and Glendale City Councils, Los Angeles County Board of Supervisors, Los Angeles Unified School District, State legislators, U.S. Environmental Protection Agency, U.S. Department of the Interior, U.S. Congressional delegation representing the Los Angeles region, every major environmental organization, and more than 8,000 petitioners all endorsed Alternative 20.

Given this, I believe that the Corps’ “public acceptability” criterion cannot be met with Alternative 13. The public responses also underscored that our Study is the only large urban project of its
kind in the nation's only Mediterranean-type climate, which is a globally-scarce resource. While habitat connectivity was repeatedly referenced as undervalued in the Study analysis, I believe that other factors that were emphasized, including an opportunity to redress historic environmental injustices, are as critical. Moreover, while I understand that the Study cost may be considerable when compared to other ecosystem restoration efforts, the national ecosystem investment is more than worthwhile when understood as a dollar-per-person investment, not just a dollar-per-acre investment.

Specifically, we must include restoration at the Verdugo Wash confluence because it is the only connection between our largest open space, Griffith Park, and the Verdugo Hills and because it is the only major restoration area that would also benefit our neighboring cities of Burbank and Glendale. We must also make connections between the large restoration areas at the Los Angeles State Historic Park and in the river channel between the William Mead public housing complex and César Chávez Avenue. These benefits are only in Alternative 20 and, without Corps leadership, are unlikely to happen.

On August 23, 2013, the elected representatives of the Los Angeles City Council adopted a resolution supporting the most comprehensive Study alternative—with elements that are only included in Alternative 20—as the NER/TSP. As outlined in the Study, Alternative 20 would require a Federal cost-share of 54% to a Non-Federal cost-share of 46%. Consistent with your August 8, 2013 approval of the City’s request to waive Federal reimbursement above the typical 35% cost-share commitment of local sponsors, I am now offering to advance Alternative 20 at a more equitable 50% to 50% cost-share whereby the City will provide approximately $44 million more for its match. This results in more than $160 million in savings to the Federal government beyond the traditional cost-share relationship.

I am hereby seeking your approval to proceed with this plan. The City acknowledges its commitment to acquire the necessary real estate interests and its responsibility for the costs of 50% of the project’s planning, engineering, design, and construction. Upon your approval, I therefore request that this plan be identified in the Final Integrated Feasibility Report/Environmental Impact Statement/Report as the recommended plan and, because this path forward may extend our completion date beyond December 2014, I am also hereby requesting your assistance in obtaining an exemption from the “3x3x3 Rule” as per CECW-P PB No. 2012-04, reissued January 11, 2013. Given the time-sensitive nature of our case, your swift response would be much appreciated.

I am grateful for your and the Corps’ championing of our Study and am eager to work with you in crafting this new kind of project in the Federal interest that will reflect long-standing local priorities and the principles of your new planning paradigm while honoring our Nation’s urban future.

Sincerely,

ERIC GARCETTI
Mayor

Cc:
Hon. Jo-Ellen Darcy, Assistant Secretary of the Army (Civil Works)

Attachment:
Combined file including real estate waiver, Los Angeles City Council resolution and key support letters
MEMORANDUM FOR DEPUTY COMMANDING GENERAL FOR CIVIL AND EMERGENCY OPERATIONS

SUBJECT: Los Angeles River Aquatic Ecosystem Restoration Feasibility Study, California – Request for Policy Exceptions

I am responding to the May 12, 2014 memorandum from the Director of Civil Works (DCW) which requested an exception to Army policy requiring decision documents to recommend the national environmental restoration (NER) plan. The exception would allow the Chief of Engineers to recommend Alternative 20 as the locally preferred plan (LPP) for the Los Angeles River Aquatic Ecosystem Restoration project. The DCW indicated that the City of Los Angeles, as the non-Federal sponsor, supports the LPP in lieu of the NER plan in order to provide additional restoration that is vital to local interests. The DCW also provided a copy of an April 14, 2014 letter from the City of Los Angeles which requested that the LPP be cost shared equally between the Federal government and City of Los Angeles.

Based on the information from the Corps, the LPP would include additional restoration benefits above that identified for the NER plan at Verdugo Wash, the Los Angeles State Historic Park (Cornfields), and at the Los Angeles Trailer and Container Intermodal Facility (LATC) site. These additional restoration benefits include direct restoration of an additional 131 acres, nearly twice the acreage of local and hydrologic connectivity (298 acres total), and provision of a direct connection to the significant habitat areas of the Verdugo Mountains. Nearly unanimous support for the LPP was expressed by the public through review of the Draft Feasibility report and public meetings. Further, the LPP is consistent with the goals of the Los Angeles River Revitalization Master Plan published in 2007 by the City of Los Angeles. After reviewing the materials provided, I believe implementation of the LPP best addresses the public's expressed desire for increased habitat and hydrologic connectivity, regional economic development and recreation, as well as restored community cohesion. I therefore have decided to grant the requested LPP exception and permit the Corps to recommend the LPP in the final feasibility report and the report of the Chief of Engineers. The LPP estimated cost would be $1.08 billion.

Over the last 150 years, the Los Angeles River has been degraded by development, flooding and channelization, including the Corps construction of the Los Angeles County Drainage Area flood risk management project that modified most of the Los Angeles River, with concrete banks and a mostly concrete bed to protect the city and surrounding areas from catastrophic flooding. The Flood Control Act of 1944
(Public Law 78-534) directed the Corps to construct the Los Angeles County Drainage Area project which ultimately involved construction of 5 dams and over 240 miles of channels to protect communities from significant and recurring flood damages. Restoration of 11 miles of the Los Angeles River that was the focus of the Corps’ Los Angeles River Aquatic Ecosystem Restoration Feasibility Study of September, 2013, is within the footprint of the existing flood risk management project. The ecosystem project would in part, reverse a portion of the degradation associated with the existing Los Angeles County Drainage Area project, and concurrently advance a number of important Administration efforts, including the Climate Action Plan, America’s Great Outdoors initiative, and the Urban Waters Federal Partnership. The Climate Action Plan would be advanced through improved drought resilience as a consequence of restoration activities and the America’s Great Outdoors initiative would be advanced through the provision of increased access to lands and waters for recreation, as well as providing linkages among a variety of recreational facilities including urban parks and habitat corridors. Finally, the Los Angeles River is one of 7 original pilot locations for the Urban Waters Federal Partnership and the proposed restoration activities would advance the goals of restoring the ecosystem and balancing revitalization with flood avoidance to ensure public safety for 11 miles of 51 miles of the Los Angeles River that is the focus of the partnership work.

Quantifications of the connections among restored areas demonstrate the significant benefits to be realized through implementation of the LPP in lieu of the NER plan. Restoration of such connections will involve modifications to the urban river channel by removing concrete and reconfiguring channel walls and widening the channel to restore hydrologic connectivity and additional wetland habitat. The LPP would also provide significantly greater regional economic benefits, including nearly 13,000 more jobs and nearly $3.5 billion in labor income, as well as substantive opportunities for redevelopment in both the Verdugo Wash confluence and Chinatown/Confields areas. Environmental justice benefits would also be realized through restored community cohesion for communities previously separated by the existing Los Angeles County Drainage Area flood risk management project through provision of new public access to restored natural areas with associated recreational amenities. I appreciate the complexities of restoration within the nation’s second largest urban region while also continuing to provide important flood risk reduction to an economically challenged community and that such complex projects represent a significant financial investment on the part of both the Federal government and the non-Federal sponsor.

Having fully reviewed and taken into consideration the unique aspects of the project as detailed by the Los Angeles District, the concurrence by other Federal agencies in the plan, the city’s willingness to limit the Federal government’s exposure to real estate costs beyond 35 percent of project cost as approved in my August 8, 2013 memorandum, and the non-Federal Sponsor’s offer to share equally in the costs of the LPP, I have concluded there is substantial Federal interest in the LPP. Equal cost sharing of the LPP between the Federal government and the non-Federal sponsor, as
requested by the City of Los Angeles, would total $540 million each. I have decided to permit the Corps to recommend equal cost sharing of the LPP plan.

These decisions are subject to the Corps incorporating the information discussed above into the final decision documents and subject to the non-Federal sponsor’s continued agreement to forgo reimbursement or credit for real estate which may exceed 35 percent of the LPP cost. All other requirements of local cooperation remain the same, including the non-Federal sponsor’s requirement to operate, maintain, repair, replace, and rehabilitate (OMRR&R) the project after construction in accordance with Section 103(j) of the WRDA of 1986.

Jo-Ellen Darcy
Assistant Secretary of the Army
(Civil Works)