



Memo to: Board of Directors  
From: Les Sterman  
Subject: Program Status Report  
Date: October 18, 2010, 2010

#### Design

The "Master Services Agreement" with AMEC Earth & Environmental for preliminary design, construction management and program administration was executed in September. Following required approvals by the county boards, three work orders were executed (program administration, subsurface investigation and relief well testing, and preliminary design services). Discussions with affected labor unions led to agreements with soil boring contractors that will maximize the participation of local labor in this initial work. Work on soil borings began on October 11.

The Corps of Engineers has hired a new program manager for the Metro-East levee system, Teresa King. Ms. King was previously working in New Orleans on the rebuilding of the levee system. We are continuing to discuss a joint staffing arrangement to assist the Council in program management oversight for the project. I have also met with other professionals to get a better idea of the capability for oversight that we will need on the project. I expect to have a recommendation at the November Board meeting.

Now that the Limited Reevaluation Report for MESD is complete, we need to work on a Project Partnership Agreement with the Corps that will enable the project to receive federal funds to correct the design deficiency.

#### Inspection

The levee certification inspection being conducted by a team led by AMEC Earth & Environmental will be complete in late October with the submittal of a draft inspection report to our special counsel. Because of continuing high water, it has not been feasible to perform video inspection of gravity drains as required by the scope of work. That portion of the inspection will be done as part of the preliminary design.

#### Financing

We received ratings of AA3 and AA (stable) from Moody's and Standard & Poor's respectively following our presentation in September. This is a very strong rating that will allow us to maximize the proceeds from the bond issue. The rating agencies commented favorably on the

region's economy, the importance of the project, and the strong credit structure that we proposed.

Our financial team has developed all of the documents necessary to support the issue of the Council's sales tax revenue bonds. All of the necessary approvals from the county FPDs and the county boards will be accomplished prior to the Council's upcoming Board meeting. The Council's Board of Directors will consider the Bond Resolution, Intergovernmental Agreements and all ancillary documents at the meeting on October 21. Because we are using the Southwestern Illinois Development Authority as a conduit issuer (to secure an exemption from Illinois state income taxes), the SWIDA Board will approve the documents at their meeting later on October 21. The schedule now calls for the bonds to be priced in early November and the closing of the sale in mid-November.

### Legislation

No action was taken by the Senate on HR 5114, the federal legislation that would delay the imposition of mandatory flood insurance, is still awaiting action in the Senate. The Senate simply extended that national flood insurance program temporarily without making any changes.

I am still focusing on a legislative or regulatory provision that will enable the use of our local investment in the levee system to be used as local match for federal funds that will come in future years.

### Legal

About three weeks ago FEMA issued appeal resolution letters or other responses to the municipalities and levee districts that had submitted appeals and protests of the Preliminary Digital Flood Insurance Rate Maps (DFIRMs).

Notwithstanding FEMA's offer to extend the adoption of the final DFIRMs by providing the opportunity to dispute the agency's finding through a new "scientific resolution panel," our legal counsel indicates that the 60-day window to file suit to block the issuance of the final maps began with the receipt of the appeal resolution letters.

Our legal counsel is actively proceeding, with the support of the counties and other potential plaintiffs, with plans to file suit against FEMA in accordance with the statutory deadline.

The appeal resolution letters also raise additional procedural questions, including FEMA's compliance with the federal statute sponsored by our local congressional delegation that requires the mapping process in Missouri and Illinois portions of the metropolitan region to take place on identical schedules. Because the maps in St. Charles and St. Louis counties were significantly flawed because of their dependence on obsolete data, FEMA issued a new set of preliminary DFIRMs in those counties and started the comment and appeal process from the beginning. We believe that this was a transparent attempt to circumvent the law and hasten the issuance of the Illinois DFIRMs. I sent a letter (copy attached) to FEMA that challenges their approach to the mapping process.

Our legal counsel also sent additional FOIA requests to FEMA and the Corps, since a review of their previous responses made it clear that they did not fully comply with our initial request. We also asked for immediate production of information, as required by law, that was used as a basis to deny the map appeals.

In the absence of a successful legal challenge, we expect that final flood insurance rate maps will be issued in December 2011.

#### Project Administration

An RFP for audit services has been sent out to prospective auditing firms. I expect to have a selection recommendation at the November meeting.