

In the Matter Of:
East Chicago Waterway Management

DISTRICT BOARD OF DIRECTORS' MEETING

June 15, 2023



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**In the Matter Of:
East Chicago Waterway Management**

**DISTRICT BOARD OF DIRECTORS'
REGULAR PUBLIC BOARD MEETING
June 15, 2023**

1 EAST CHICAGO WATERWAY MANAGEMENT DISTRICT
2 BOARD OF DIRECTORS' REGULAR PUBLIC BOARD MEETING

3
4 City of East Chicago, Engineering/Annex Building
5 4444 Railroad Avenue
6 East Chicago, Indiana

7

8 JUNE 15, 2023

9 Thursday, 5:00 p.m.
10

11 Transcript of The East Chicago Waterway Management
12 District Board of Directors' Regular Public Board
13 Meeting had in the above-entitled matter on the 15th day
14 of June, 2023, at 5:00 p.m., before Jennifer R. Wheeler,
15 CSR, and Notary Public, within and for the County of
16 Porter, State of Indiana.

A P P E A R A N C E S

JOHN FEKETE, President

RAYMOND LOPEZ, SR., Treasurer and Fiscal Officer

JOHN BAKOTA, Board Member

JAYLAN ROBINSON, Board Member

FERNANDO TREVINO, FMT Consulting

ELLEN D. GREGORY
Attorney for East Chicago Waterway District

ALSO PRESENT: (Via Zoom)

JIM ADAMS, AECOM
TIM DULL, AECOM

MIKE NGUYEN, Army Corps of Engineers

VANESSA VARGAS, CliftonLarsonAllen

MICHAEL WY SOCKEY, Thatcher Foundation

BOB SANTORE, BMO

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1 MR. FEKETE: I'd like to call to order
2 the East Chicago Waterway Management District Board of
3 Directors' Regular Public Board Meeting. Today's date
4 is June 15, and the time is 5:05.

5 The first order of business is a roll call.
6 John Bakota?

7 MR. BAKOTA: Here.

8 MR. FEKETE: Henry Rodriguez?

9 (No response.)

10 MR. FEKETE: Jaylan Robinson?

11 MR. ROBINSON: Here.

12 MR. FEKETE: Ray Lopez?

13 MR. LOPEZ: Here.

14 MR. FEKETE: John Fekete? Here. We
15 have a quorum.

16 Next order of business is the Executive
17 Director's Report.

18 Mr. Trevino?

19 MR. TREVINO: Yes. Fernando Trevino
20 with FMT Consulting.

21 I would like to start off by going over the
22 contents of your Board packets.

23 You have today's meeting agenda; you have a
24 copy of the public meeting posting for today's meeting;
25 you have the Board minutes for last month's meeting, May

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1 18; you have the CliftonLarsenAllen financial report
2 dated May 31st for the month of May, and that was
3 emailed to you earlier today and hard copies distributed
4 to the Board at today's meeting; you have a copy of
5 today's claim docket dated June 15, along with copies of
6 the purchase orders and check register; you have First
7 Merchant bank statement for the month of May 2023 for
8 accounts ending in -608, -616, along with the copy of
9 the checks that cleared last month, and also a copy of
10 the First Merchant's CD report with a run date of June
11 13, 2023; you have a copy of the new User Fee Appeals
12 Procedure for Board approval consideration; you have the
13 2023 Budget Amendment Spreadsheet dated June 15 for
14 Board approval consideration; you have a Memo dated
15 June 15, 2023 that clarifies the City's financial
16 obligations related to the MOU between the City and the
17 District; this Memo is also on the agenda for approval
18 consideration; you have a bid review and a Board
19 recommendation from AECOM dated June 14, 2023, related
20 to the Canal Street Bridge Project; you have a draft
21 Board motion should the Board agree with the
22 recommendation to award the project to Thatcher; and you
23 also have Board resolution 2023-1 related to the award
24 of the contract, and that was handed out to you during
25 today's meeting; you have Tetra Tech's monthly progress

1 report dated June 10; you have the BMO trust reports
2 through May 31, 2023; you have the Army Corps report to
3 the Board dated June 15, along with correspondence from
4 the Corps, dated May 20 and May 23, 2023, and my email
5 dated June 13, 2023 to project manager Mike Nguyen and
6 Attorney Tim Sable summarizing the district's analysis
7 of their close-out accounting; you have a copy of
8 Attorney Ellen Gregory's report with a revision date of
9 June 11; and you have a copy of Jacob's monthly progress
10 report for the month of May dated May 31, and an email
11 from Jacob summarizing their response to the District's
12 comments to their -- oh, that was from the last Board
13 meeting, so scratch that part. So you just have the
14 monthly progress report dated May 31.

15 And that concludes the items that were
16 emailed in your Board packet and also handed out at
17 today's Board meeting.

18 To give an update on various items, you have
19 several action items on today's agenda: The May Board
20 meeting minutes, the monthly claim docket, the new user
21 fee appeal procedure, three action items related to the
22 Canal Street Bridge Project, 2023 budget amendment, the
23 clarification letter to the District regarding the MOU
24 with the City, and the Board resolution and award of the
25 Canal Street Bridge Project, or the contract.

1 And on a separate item, at the last Board
2 meeting, the Board asked me to send an email to Kevin
3 Doyle asking his status as a Board member and I did send
4 an email and I haven't received a response so I'll try
5 to contact him and see if we can get some conclusion by
6 the next Board meeting.

7 Regarding the finances, the
8 CliftonLarsenAllen financial report, as I mentioned, was
9 emailed earlier today and hard copies provided today and
10 as mentioned, there's a 2023 budget amendment request
11 for Board consideration.

12 Regarding user fees, we have finalized the
13 new user fee appeals procedure, which is in your Board
14 packet and on the agenda for approval consideration.
15 The new procedures cover what we have learned in the
16 prior years and includes an informal negotiation meeting
17 between the two parties; the District and the party who
18 is filing the appeal. The new procedure also includes a
19 pretty neat flow chart that makes it easy to follow the
20 new process. I'm forecasting getting the 2023 user fees
21 out at the end of this month or early July.

22 I had reported in the past that we were
23 exploring entering into a side agreement with
24 Cleveland-Cliffs related to the dredging of their SEP
25 sediments, and we were informed earlier this week that

1 their new path for dredging the material is going to be
2 through a -- directly with a dredging contractor, so we
3 won't need to enter into a side agreement with
4 Cleveland-Cliffs or an MOU with the Corps. So that
5 concludes our participation in that effort. But we will
6 still be able to get credit for the cost share for the
7 work that's affiliated with that. The only caveat is
8 that Cleveland-Cliffs needs to produce the accounting
9 affiliated with the project and so they're aware of that
10 and they said that they would participate in providing
11 that.

12 Regarding the Great Lakes Legacy Act
13 project, the South Tank Farm Sheet Pile Wall project,
14 Atlantic Richfield has started driving steel for the
15 project which is ongoing and is progressing well. The
16 District continues to work with Atlantic Richfield to
17 help resolve easement conflicts for the construction of
18 the sheet pile wall, and the project is forecasted to be
19 completed in early 2024.

20 Regarding the Lake George Canal East
21 section, phase II dredging is scheduled to recommence
22 after the sheet pile wall project is completed, which I
23 mentioned is scheduled to be done in 2024. The Corps is
24 managing the dredging project on behalf of EPA, and the
25 Corps is coordinating additional canal sediment sampling

1 that's scheduled to be done in the next few weeks.

2 Regarding the Lake George Canal Middle
3 project, the Army Corps of Engineers is managing this
4 remediation project on EPA's behalf, the cap
5 construction work is ongoing, the project is getting
6 close to completion, EPA is planning to have a
7 ribbon-cutting ceremony on July 10 at the site.

8 Regarding the Lake George Canal West
9 Remediation Project, that work between BP and EPA is
10 ongoing.

11 Regarding the Grand Cal River Junction
12 Reaches Remedial Design, Tetra Tech continues to work on
13 various aspects of that project, including design
14 completion, coordination of the junction marsh, and
15 coordination with the City dump site.

16 The Grand Cal River Phase I Remediation
17 project is basically on pause as we try to resolve all
18 source-control concerns. Once the team resolves the
19 source-control concerns, the expectation is that EPA
20 will submit a source-control memo stating that all
21 potential known contamination sources are of no concern,
22 and that drafting of that source-control memo is an EPA
23 action item. Once the source-control memo is finalized,
24 we will resume our work on the drafting of the project
25 agreement. And right now we're forecasting finishing

1 the project agreement in 2023.

2 Jim Westcott, is Jim Westcott in attendance?

3 MS. GREGORY: No.

4 MR. TREVINO: Okay. So Jim Westcott is
5 not in attendance.

6 Canal Street Bridge project, as I reported
7 in the past, we've received one bid from Thatcher for
8 the construction of the Waterway Navigation Dolphins at
9 the former Canal Street Bridge project -- or bridge
10 area. Since receipt of their bid, we've had several
11 meetings and conversations with Thatcher that included
12 three contract addendums and a few Thatcher
13 clarification letters. After a careful review and
14 consideration of Thatcher's bid, qualifications, and
15 contract, AECOM is recommending the District award the
16 project to Thatcher. AECOM's recommendation letter
17 dated June 14, 2023, is in your Board packet. And with
18 that, we are recommending the Board approve various
19 action items necessary for the execution of the project,
20 including a 2023 budget amendment, a letter dated June
21 15, 2023 from the District related to financial
22 obligations associated with the MOU between the District
23 and the City of East Chicago, and approval of the Board
24 resolution and contract to award the project to
25 Thatcher. Representatives from AECOM are in attendance

1 to answer any questions the Board might have.

2 Regarding the Atlantic Richfield settlement
3 agreement, the District and Atlantic Richfield continue
4 to work on various action items related to finalizing
5 the conveyance of the properties.

6 The Corps report is in your Board packet.
7 Project Manager Mike Nguyen will be providing an update
8 to the Board, and when Mike provides an update, we'll
9 circle back to talk about the accounting that's
10 affiliated with the tipping fee escrow account.

11 And Attorney Ellen Gregory will be giving an
12 update on various legal matters.

13 And that concludes my report to the Board.

14 MR. FEKETE: Any questions for
15 Mr. Trevino?

16 (No response.)

17 Okay. Hearing none, the next order of business
18 is the approval and consideration of the Board meeting
19 notes for our last meeting, which was May 18, 2023.

20 MR. LOPEZ: Motion to approve.

21 MR. FEKETE: Do I have a second?

22 MR. ROBINSON: Second.

23 MR. FEKETE: And we have a second.

24 Since all Board members in attendance are present
25 physically, I'll entertain a voice vote. All in favor

1 signify by saying aye.

2 (All signify aye.)

3 Any opposition?

4 (No response.)

5 Hearing none, no abstentions, the motion is
6 approved.

7 Accounting Consultant Report?

8 MS. VARGAS: Good afternoon, everyone.
9 Vanessa Vargas with CLA.

10 In front of you, you have a copy of the cash
11 basis financial statements dated May 31, 2023.

12 If we turn to page two, we will begin with a
13 statement of cash receipts and cash disbursements for
14 the five months ending May 31, 2023.

15 You received interest income of \$34,625.40;
16 you've collected user fees of \$130,295.64; you had a
17 trust transfer of \$149,191.38; you've had various
18 disbursements totaling \$201,579.81. This brings you to
19 an increase in cash in an amount of \$112,532.61.

20 You began the year with a cash balance of
21 \$4,300,335.44. As of May 31, 2023, your cash balance is
22 \$4,412,868.05.

23 If you turn to page three, we will continue
24 with the schedule of cash account activity for the five
25 months ending May 31, 2023.

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1 Your operating account began the year with a
2 cash balance of \$1,439,851.14; you've collected interest
3 of \$151.71; you've had cash disbursements through May
4 totaling \$201,579.81; you've received a trust transfer
5 of \$149,191.38, as well as a budget transfer in the
6 amount of \$153,329.23. This brings your operating cash
7 balance as of May 31st to \$1,540,943.65.

8 Your user fee account began the year with a
9 cash balance of \$560,484.30; you've received interest
10 income of \$3,173.64; you've collected user fees totaling
11 \$130,295.64; you disbursed a budget transfer in the
12 amount of \$153,329.23, bringing your user fee account
13 balance as of May 31st to \$540,624.35.

14 You began the year with a CD with a balance
15 of \$2,300,000; you've earned interest of \$31,300.05,
16 bringing your CD balance as of May 31st to
17 \$2,331,300.05.

18 If you turn to page four, we will continue
19 with the schedule of 2023 available budget as of June
20 15, 2023.

21 Your 2023 budget appropriation totaled
22 \$1,709,850; adding back in your accounts payable as of
23 12-31-2022 in the amount of \$32,521.75, brings your 2023
24 total appropriation to \$1,742,371.75. Through May 31st,
25 you had cash disbursements totaling \$201,579.81. In

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1 front of you, you have a claim docket dated June 15,
2 2023, totaling \$42,451.74. This brings your total
3 unused budget to \$1,498,340.20.

4 Are there any questions?

5 MR. FEKETE: Thank you very much.

6 The next order of business is the approval
7 of the Claim Docket; entertain a motion to approve the
8 Accounts Payable Voucher Register dated June 15, 2023.

9 MR. ROBINSON: I'll make a motion.

10 MR. FEKETE: We have a motion.

11 Do we have a second?

12 MR. LOPEZ: Second.

13 MR. FEKETE: Okay. We'll have a roll
14 call vote.

15 John Bakota?

16 MR. BAKOTA: Yes.

17 MR. FEKETE: Henry Rodriguez?

18 (No response.)

19 MR. FEKETE: Jaylan Robinson?

20 MR. ROBINSON: Yes.

21 MR. FEKETE: Ray Lopez?

22 MR. LOPEZ: Yes.

23 MR. FEKETE: John Fekete? I vote yes.
24 That motion is approved.

25 Next item on the agenda is the Amended User

1 Fee Appeals Procedure.

2 MR. TREVINO: Yes, as I've mentioned in
3 the past, Ellen and I were working on an amended
4 procedure for appeals for user fees. So in front of you
5 include a flow chart, a written procedure, two new
6 forms, and I'll also add that Attorney Wieser also had
7 input in our final outcome. So the recommendation is to
8 approve the new appeals procedure for the user fees.

9 MR. LOPEZ: Okay, I'd like to make a
10 motion that we approve the -- well, as presented -- and
11 it's an increase of \$850,000 to our budget, too, right?
12 Total. The total would be \$600,000, and we budgeted --
13 so we're adding another \$250,000?

14 MR. TREVINO: No, this is just approving
15 the user fee appeals procedure.

16 MR. LOPEZ: The approval says it was
17 \$719,000, right?

18 MR. TREVINO: No, that's a different
19 form, Ray. Those are affiliated with the Canal Street
20 Bridge. You probably got these mixed up.

21 MR. FEKETE: Off the record.

22 (A short break was taken at 5:24 p.m.)

23 MR. LOPEZ: Okay. I make a motion that
24 we approve the change as presented.

25 MR. FEKETE: To the appeal process.

1 Okay, we have a motion to approve the
2 changes to the user fee appeal procedure; do we have a
3 second?

4 MR. BAKOTA: Second.

5 MR. FEKETE: We have a second. We'll
6 have a roll call vote.

7 John Bakota?

8 MR. BAKOTA: Yes.

9 MR. FEKETE: Henry Rodriguez?

10 (No response.)

11 MR. FEKETE: Jaylan Robinson?

12 MR. ROBINSON: Yes.

13 MR. FEKETE: Ray Lopez?

14 MR. LOPEZ: Yes.

15 MR. FEKETE: John Fekete? I vote yes.
16 That motion is approved.

17 Okay. Now we're on to the Canal Street
18 Bridge Dolphin Project update.

19 MR. TREVINO: Yeah. So as I've
20 mentioned, we went through a public bidding process for
21 the construction of two dolphins along the area of the
22 former Canal Street Bridge Project to help navigation
23 through those old bridge impediments that were left
24 behind. We've had one contractor that bid on the
25 project, which was Thatcher. The District, along with

1 our engineer AECOM, have done due diligence on reviewing
2 their bid; we've had various meetings with them and it
3 includes three addendums and various clarification
4 letters; AECOM has reviewed the bid and presented a bid
5 review and recommendation letter, which is in your
6 packet, and the recommendation is to award the project
7 to Thatcher.

8 Jim Adams or Tim Dowell, is there anything
9 you'd like to add?

10 MR. DULL: Go ahead, Jim, if you can
11 think of anything.

12 MR. ADAMS: Go ahead, Tim, I got
13 nothing.

14 MR. DULL: So I was just going to say
15 that their bid was in line with our engineer's estimate
16 and so we recommend that the Board award the contract to
17 Thatcher. Thanks.

18 MR. FEKETE: Mr. Adams?

19 MR. ADAMS: Nothing to add. I still
20 agree with the representations.

21 MR. FEKETE: Thank you very much for the
22 well-presented bid package.

23 I'd entertain a motion to accept the
24 recommendation to award the contract to Thatcher
25 Engineering.

1 MR. TREVINO: Which includes the
2 resolution.

3 MR. ROBINSON: I make a motion that
4 Resolution 2023 --

5 MR. TREVINO: From up here; start up
6 here.

7 MR. ROBINSON: I move to award the bid
8 for installation of dolphins at the Canal Street Bridge
9 site to Thatcher Foundations, the sole bidder, in the
10 sum of \$719,000, based upon the following factors:

11 Thatcher Foundation is reputable,
12 well-known, and a responsible contractor in the
13 community and has met all the contract requirements.

14 Thatcher's initial bid exceeded the
15 engineer's estimate; however, the District's engineer
16 AECOM, through a series of discussions, document
17 reviews, and revisions with Thatcher, was able to reduce
18 the bid to the \$719,000 figure, which was slightly in
19 excess of their revised engineer's estimate of \$703,560.

20 AECOM, the District's contract engineer,
21 recommends awarding the bid to Thatcher as being
22 responsive in response of and pursuant to AECOM's
23 Memorandum, dated May 5, 2023, as revised June 14, 2023,
24 which is made part of this motion. A critical component
25 of this project was to begin and complete the project in

1 the calendar year of 2023, and a delay in the awarding
2 of the bid would jeopardize the ability to conclude the
3 project in 2023.

4 I further move that Resolution 2023-1 be
5 approved, the contract for the installation of the
6 bridge dolphins be approved, and the Board President,
7 John Fekete, is authorized to execute and sign the
8 contract.

9 MR. FEKETE: We heard the motion; do we
10 have a second?

11 MR. BAKOTA: Second.

12 MR. FEKETE: Okay, we'll have a roll
13 call vote.

14 John Bakota?

15 MR. BAKOTA: Yes.

16 MR. FEKETE: Henry Rodriguez?

17 (No response.)

18 MR. FEKETE: Jaylan Robinson?

19 MR. ROBINSON: Yes.

20 MR. FEKETE: Ray Lopez?

21 MR. LOPEZ: Yes.

22 MR. FEKETE: John Fekete? I vote yes.
23 That motion is approved.

24 MR. TREVINO: We skipped over a couple
25 items.

1 MR. FEKETE: I know.

2 MR. TREVINO: The 2023 Budget Amendment
3 and the letter.

4 MR. FEKETE: Right. It doesn't matter,
5 we can go either way.

6 MR. TREVINO: Yeah, as long as you still
7 do them, I think you're okay.

8 MR. FEKETE: We'll do the letter first?

9 MR. TREVINO: I don't know that it
10 matters which one goes first.

11 MR. FEKETE: Okay. The approval
12 consideration for the 2023 Budget Amendment referencing
13 the Canal Street Bridge Project, Mr. Trevino?

14 MR. TREVINO: Yeah, so in order to award
15 the project, it was -- when we first put our estimate
16 together, it was a few years ago, and we just kept
17 carrying the \$600,000 figure and, you know, now that
18 we've actually gone out the bids and, you know, we've
19 received a bid and understand the cost, so we're
20 recommending a budget amendment of \$250,000 be added to
21 that budget line item, and that includes some
22 contingency.

23 MR. FEKETE: Okay. We've heard the
24 presentation, and I'll entertain a motion to accept the
25 presentation as stated.

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1 MR. LOPEZ: Motion to approve.

2 MR. FEKETE: Do we have a second?

3 MR. ROBINSON: Second.

4 MR. FEKETE: We have a motion and a
5 second; to signify we'll do a roll call vote.

6 John Bakota?

7 MR. BAKOTA: Yes.

8 MR. FEKETE: Henry Rodriguez?

9 (No response.)

10 MR. FEKETE: Jaylan Robinson?

11 MR. ROBINSON: Yes.

12 MR. FEKETE: Ray Lopez?

13 MR. LOPEZ: Yes.

14 MR. FEKETE: John Fekete? I vote yes.

15 That motion is approved.

16 The next order is the Approval Consideration
17 of the District and City MOU, a Clarification Memo that
18 you have before us. I'll entertain a motion to sign the
19 letter and send it to the City.

20 MR. LOPEZ: Motion to approve.

21 MR. FEKETE: Okay, I need a second.

22 MR. BAKOTA: Second.

23 MR. FEKETE: Okay. Roll call vote.

24 MR. LOPEZ: I have a question before the
25 vote. We are budgeting \$250,000 more, right?

1 MR. TREVINO: Yes.

2 MR. LOPEZ: And that is \$100,000 over
3 the original amount?

4 MR. TREVINO: The current, if you look
5 at the Budget Spreadsheet, the current budget amount for
6 that project is \$600,000 --

7 MR. LOPEZ: Right.

8 MR. TREVINO: -- and I'm recommending a
9 budget amendment of \$250,000, to bring the total budget
10 up to \$850,000. So that --

11 MR. LOPEZ: We have a cushion in there,
12 that's the difference?

13 MR. TREVINO: Right. So that includes
14 some of the work that's already been done this year by
15 AECOM, and it also includes some contingency. So the
16 recommendation is --

17 MR. LOPEZ: Right, okay. Yeah, I
18 understood that, but I just wanted to make sure, you
19 know, because it's good to have more than not enough.

20 MR. TREVINO: Well, it's kind of a
21 standard practice to put some contingency, you know, in
22 the event that it comes up, and if it doesn't, the money
23 gets returned.

24 MR. FEKETE: The money doesn't go away,
25 it continues on so it's available.

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1 MR. TREVINO: Right.

2 MR. FEKETE: Okay. Backing up, let's
3 start this over again.

4 Approval consideration for the District and
5 City MOU, the Clarification Memo to the City, entertain
6 a motion to approve?

7 MR. LOPEZ: Motion to approve.

8 MR. BAKOTA: Second.

9 MR. FEKETE: Okay. Roll call vote.
10 John Bakota?

11 MR. BAKOTA: Yes.

12 MR. FEKETE: Henry Rodriguez?

13 (No response.)

14 MR. FEKETE: Jaylan Robinson?

15 MR. ROBINSON: Yes.

16 MR. FEKETE: Ray Lopez?

17 MR. LOPEZ: Yes.

18 MR. FEKETE: John Fekete? I vote yes.

19 That letter is approved.

20 Okay, all the approvals are underway.

21 Great Lakes Legacy Act and the Grand Cal'
22 River junction.

23 MR. TREVINO: Yes, is Jim Westcott on?

24 MS. GREGORY: I just added somebody with
25 a 773 number. Whoever they are --

1 MR. WYSOCKEY: Michael Wysockey from
2 Thatcher.

3 MR. TREVINO: I guess, for the Board,
4 Michael is with Thatcher, and so we obviously just
5 awarded the project to Thatcher, and I don't know if any
6 Board member had any questions for Thatcher. Or Mike,
7 if you want to say anything on behalf of Thatcher,
8 you're going to do a great job; that kind of thing.

9 MR. WYSOCKEY: Well, you know, I'm
10 sorry, I tried to come in person. I think I was in the
11 building in the east side entrance and the woman that I
12 talked to said I was in the wrong place, that the
13 meeting was in City Hall, so I went to City Hall and
14 they said this meeting just ended. So I apologize for
15 not being there in person.

16 But you know, Thatcher, has been driving
17 piles and working off of marine platforms in the area
18 for 75 years. I'm the President of Thatcher right now,
19 but the level of experience with our company doing these
20 sorts of things is second to none in the area to open
21 pile driving, as well as working in marine environments.

22 But hey, however, you can combine all the
23 things on land that we haven't actually done before,
24 we've done all the individual components, so we're
25 excited to perform this project, and we've talked to a

1 lot of people with experience in the area, including the
2 suppliers and the engineers so we're excited to take
3 this project on.

4 MR. TREVINO: Okay. Thank you.

5 MR. WYSOCKEY: Is there anything that I
6 can answer or help in any way, or anybody have any
7 questions or anything I can be useful to you with?

8 MR. FEKETE: Well, Mike, this is John
9 Fekete. I read through all of your information that was
10 provided to us and it was very well presented, and I
11 look forward to working with you and Thatcher
12 Engineering.

13 MR. WYSOCKEY: Okay, good, thank you
14 very much.

15 MR. TREVINO: Okay, Ellen, you were
16 saying, is Jim Westcott on, or no?

17 MS. GREGORY: No, he is not here.

18 MR. TREVINO: So Jim Westcott isn't in
19 attendance, and I pretty much gave an update on the
20 Grand Cal' River Junction Reaches project, so if there
21 aren't any questions on my earlier update, we can go on
22 to the BMO Trust Report.

23 MR. FEKETE: Okay. Next item is the BMO
24 Trust Report.

25 MR. TREVINO: Is Bob Santore here?

1 MR. SANTORE: Yeah, hi, good afternoon,
2 everybody. The first page shows the money market and CD
3 holdings, and they show the final balance of your money
4 market account and certificate of deposit with BMO, and
5 that current value is \$4,051,060.81, so this was an
6 increase of \$29,406.39 from interest earned over in the
7 month of May from the previous meeting. So this
8 includes the interest credit on the CD of \$28,861.40,
9 and interest credit on the money market account of
10 \$544.99.

11 The second page shows the historical data
12 for the trust account with distributions, and in the
13 year 2023 so far, the distributions total \$149,191.38.

14 Lastly, in the month of May, your money
15 market rate jumped up a bit again. The new interest
16 rate is now 1.311 percent on that account, from the
17 previous rate of 1.232 percent, so that is the end
18 current rate on that, as well, on the money market
19 account.

20 Does anybody have any questions? I'll be
21 happy to answer them. Otherwise, I think that covers
22 the month of May.

23 MR. BAKOTA: Thank you.

24 MR. FEKETE: Thank you, Mr. Santore.

25 Hearing no questions, the next order of business is the

1 U.S. Army Corps of Engineers Board Report.

2 Mike?

3 MR. NGUYEN: Yes, can everyone hear me?

4 MR. TREVINO: Yes.

5 MR. FEKETE: Yes.

6 MR. NGUYEN: So this will be a quick
7 report. So for the CDF Construction, first for the
8 facility operations, the water treatment will resume
9 once we have a new contract.

10 Phase II Dike Raise construction is ongoing.
11 Nothing to report on the Oil Boom Coordination.

12 The PCA closeout, the Corps sent a letter
13 dated May 20, 2023, notifying that the Corps will
14 withdraw \$12,473,548 from the tipping fee escrow account
15 to balance and close out the cost share that we will
16 send ECW a check for the, I guess any surplus funds
17 after balancing and closing out the cost share.

18 For the Parkway improvements, for the
19 parkway, the Corps is inspecting once a month and
20 removing the debris as needed.

21 And that's all I have for my report, thank
22 you.

23 MR. BAKOTA: Thank you.

24 MR. NGUYEN: Does anyone have any
25 questions? I believe Fernando was indicating that they

1 had a question on the letter?

2 MR. TREVINO: Yeah, I wanted to update
3 the Board on our conversation earlier about we had sent
4 an email to the Corps, largely agreeing with your
5 close-out accounting, except for the management of the
6 interest that's held at People's Bank for the dredging
7 and tipping fee escrow accounts. And the resolution you
8 recommended was that for the District to send you a
9 letter requesting those funds, and then the Corps would
10 follow up with submitting a certificate of withdrawal,
11 and we'll include an account number, the bank routing
12 and account number, for that to be transferred to. So
13 we're working on that now, so we're hoping to get you a
14 letter requesting those funds, as well.

15 Did you want to add anything to that?

16 MR. NGUYEN: I talked to our Counsel,
17 Tim Sable, and he agreed with the assessment. Because I
18 know during the amended tipping fee account agreement,
19 tipping fee agreement, that indicated that we were
20 supposed to send you the interest, but then that sort of
21 conflicts with us closing out the project first. So if
22 we sent you the interest, the interest would still be
23 accruing on the balance in that account. So I guess the
24 correct process is that we need to close out the cost
25 share and then at this point, we would just send you all

1 the interest after receiving that letter.

2 MR. TREVINO: Okay, yeah, so we'll get
3 you that letter in the next couple days or so, or early
4 next week probably.

5 MR. NGUYEN: Okay.

6 MR. LOPEZ: Mike, Ray Lopez.

7 MR. NGUYEN: Yes?

8 MR. LOPEZ: Is that \$12,473,548?

9 MR. NGUYEN: Yeah, \$12,473,548.

10 MR. LOPEZ: I know, but a few years
11 back, we had that big argument and we asked for an
12 audit, and it was \$8 million. So now it's increased; is
13 that interest or is that just what the audit sums up?

14 MR. NGUYEN: No, that was the original
15 deposit amount that was deposited by Cleveland-Cliffs.
16 So we are withdrawing their original amount.

17 And Cleveland-Cliffs actually do owe money
18 into the tipping fee. They indicated that they will put
19 that money basically inside an ECWMD check for the
20 remaining balance. So this is just to close out the
21 cost share.

22 MR. LOPEZ: Okay. You don't know when
23 they will send it to us, do you? When can you return
24 it, because I know you guys are hurting for money. But
25 if you could send it to us, we're hurting for money too.

1 We take cash.

2 So you got that account at First, right?

3 MR. TREVINO: What we'll do is we'll ask
4 them to transfer it to the First Merchants non-operating
5 account.

6 MR. LOPEZ: Okay. You hear that, Mike?

7 MR. NGUYEN: Yes.

8 MR. LOPEZ: Okay, thank you.

9 MR. FEKETE: Any other questions for
10 Mr. Nguyen?

11 Thank you, Mike.

12 MR. NGUYEN: Okay.

13 MR. FEKETE: Well, the next order of
14 business is the Ellen Gregory Report.

15 MS. GREGORY: Ellen Gregory with Ellen
16 Gregory Law.

17 So Mr. Trevino and I have been coordinating
18 regarding the 2023 user fee assessments. As mentioned,
19 those are expected to go out at the end of this month,
20 or the beginning of July.

21 Also, as you know, we've just approved the
22 new user fee appeal procedures, along with a flow chart
23 and appeal forms that are designed to streamline the
24 appeal procedure that hasn't been amended since it was
25 originally put in place maybe more than ten years ago.

1 Also, we have been assisting and reviewing
2 the Thatcher contract and approval documents. Todd
3 Relue with Plews Shadley is working on the close-out
4 letter regarding interest that was just discussed with
5 Mr. Nguyen.

6 And Jim Wieser and I are assisting with the
7 property transfer for the properties that will be
8 transferred to AR. Attorney Wieser is coordinating with
9 AR and AR's counsel regarding title exceptions and
10 preparing the remaining real estate documents that are
11 required to close that deal, including the payment of --
12 the settlement payment from AR to the District.

13 And that's all I have.

14 MR. FEKETE: Any questions for
15 Ms. Gregory? Thank you very much.

16 Any other comments to come before the Board
17 from the public, or any other Board Member comments?

18 I'd like to just make one observation.
19 Mr. Trevino sent out an email indicating that the
20 WG Jackson is a biological water vessel that is located
21 on Lake Michigan, and they do a lot of water testing, a
22 lot of water sampling. They're going to be at the
23 Hammond Marina on the 18th and 19th of this month, so if
24 you know of anybody that would be interested, young
25 people, friends, whatever, I would encourage you all to

1 go. It's a nice experience and sometimes you get a boat
2 ride.

3 MR. BAKOTA: I went there a few years
4 ago.

5 MR. FEKETE: You did, and it was pretty
6 good.

7 MR. BAKOTA: Yeah, they did some
8 testing, they took some samples.

9 MR. FEKETE: Sure, they show you what
10 they do. So I'm glad to see they're back in action.

11 Any other comments before the Board?

12 Okay, I entertain a motion to adjourn.

13 MR. BAKOTA: Motion to adjourn.

14 MR. FEKETE: Do I have a second?

15 MR. ROBINSON: Second.

16 MR. FEKETE: All in favor, signify by
17 saying aye.

18 (All signify aye.)

19 This meeting is adjourned. Thank you.

20

21 **** MEETING ADJOURNED****

22

23

24

25

C E R T I F I C A T E

I, Jennifer R. Wheeler, Certified Shorthand Reporter (CSR), and Notary Public within and for the County of Porter, State of Indiana, do hereby certify that I appeared on the aforementioned date, time, and location, for the East Chicago Waterway Management District Board of Directors' Regular Public Board Meeting.

I further certify that I then and there reported in machine shorthand the proceedings of said Public Board Meeting, and that the proceedings were then reduced to typewriting from my original shorthand notes, and the foregoing transcript is a true and accurate record of said proceedings.

I further certify that I am not related by blood or marriage to any of the parties, nor am I an employee of any of the parties or of their attorneys or agents, nor am I interested in any way, financially or otherwise, in the outcome of said proceedings.

Dated this 14th day of July, 2023.

Jennifer R. Wheeler, CSR

Jennifer R. Wheeler, CSR

My Commission expires: 2/22/2024



District Board of Directors' Meeting

06/15/2023

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