City of Hart, Michigan
CITY COUNCIL AGENDA
August 8, 2023, 7:30 PM
407 State St. – Council Chamber
NOTICE OF PUBLIC MEETING
REGULAR COUNCIL MEETING

1. Call to Order
2. Roll Call – Adams, Burillo, Evans, Hodges, Klotz, Trygstad, Platt
3. Pledge of Allegiance
4. Approval of Agenda
5. Public Comments – **Public comment on any matter other than a scheduled public hearing. We ask that you please limit your comments to 3 minutes.**
    a. Correspondence, Events, Presentations
        i. State of Michigan Department of Environment, Great Lakes, and Energy Administrative Consent Order – Historical Review Presentation, Rob Splane
            1. Copy of executed Administrative Consent Order
            2. Executive Summary from Barbara Marczak
6. Consent Agenda:
    a. Approval of Minutes from July 25, 2023 Council meeting.
    b. Bills, Claims, Payroll
    c. Reports of Boards, Commissions, and Committees
    d. Department Reports – Police/BioPure/Public Works/Energy/♥C&E Dvlp.
7. Action Items
    a. Resolution 2023-37 Fiscal Year 2023 Budget Amendment
    b. Resolution 2023-38 Resolution to Cancel August 22, 2023, Council Meeting
8. Discussion Items
    a. City Manager Performance Review - review
9. City Manager Report
10. Communications from the Mayor and Council (Including board and committee updates.)
11. Adjournment –

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With advance notice of seven calendar days, the City will provide interpreter services at all public meetings, including language translation and signage for the hearing impaired. Call 231-873-2488. La Ciudad proporcionará servicio de intérprete para esta reunión pública si se pide con siete días de anticipación, lo cual incluye la traducción de idioma y letreros para los con una discapacidad auditiva. Llame al 231-873-2488.

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER RESOURCES DIVISION

In the matter of:

ACO-000176
Date Entered: 2-11-15

City of Hart
407 State Street
Hart, Michigan 49420

_____/

ADMINISTRATIVE CONSENT ORDER

This document results from allegations by the Department of Environmental Quality (DEQ), Water Resources Division (WRD). The DEQ alleges that the City of Hart (City) with City offices located at 407 State Street, Hart, Michigan, Oceana County, is in violation of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.3101 et seq. and the Part 4 Rules, Water Quality Standards, promulgated pursuant to Part 31, being 1979 AC R323.1041 et seq., as amended. The City is a person, as defined by Section 301 of the NREPA. The City and the DEQ agree to resolve the violations set forth herein through entry of this Administrative Consent Order (Consent Order).

I. STIPULATIONS

The City and the DEQ stipulate as follows:

1.1 The NREPA MCL 324.101 et seq. is an act that controls pollution to protect the environment and natural resources in the state.

1.2 Pollution Control, Part 31, Water Resources Protection, of the NREPA (Part 31), MCL 324.3101 et seq., and the rules promulgated pursuant thereto, provides for the protection, conservation, and the control of pollution of the water resources of the state.

1.3 The DEQ is authorized by Section 3112(4) of Part 31 of the NREPA, MCL 324.3112(4), to enter orders requiring persons to abate pollution, and the director of the DEQ may delegate this authority to a designee under Section 301(b) of the NREPA, MCL 324.301(b).

1.4 The City consents to the issuance and entry of this Consent Order and stipulates that the entry of this Consent Order constitutes a final order of the DEQ and is enforceable as such under Section 3112(4) of Part 31. The City agrees not to contest the issuance of this Consent Order, and that the resolution of this matter by the entry of this Consent Order is appropriate and acceptable. It is also agreed that this Consent Order shall become effective on the date it is signed by the chief of the WRD, delegate of the director, pursuant to Section 301(b) of the NREPA.

1.5 The City and the DEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the City that the law has been violated.

1.6 The signatory to this Consent Order on behalf of the City agrees and attests that he is fully authorized to assure that the City will comply with all requirements under this Consent Order.

1.7 The City shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in Section III, Compliance Program, of this Consent Order.

II. FINDINGS

2.1 The City owns and operates the Hart Hydroelectric Project (Hart Dam), which operates in a run-of-river mode, consists of a 580-foot-long earthen dam; a 40-foot-long concrete-lined spillway; a 240-acre reservoir; a powerhouse containing two generating units with a combined capacity of 320 kilowatts (kW); a 1-mile-long transmission line; and appurtenant facilities.

2.2 On October 2, 2003, the City was issued its current license by the Federal Energy Regulatory Commission (FERC License No. 3516) to continue to operate and maintain the 320 kW Hart Hydroelectric Project No. 3516 on the Pentwater River in Oceana County, Michigan. The license expires on September 30, 2043.

2.3 On June 13, 2001, the DEQ issued a Water Quality Certification to the City (401 Certification), certifying that the Hart Dam located on the Pentwater River in Oceana County will comply with Section 401(a) of the federal Clean Water Act and the Michigan Water Quality Standards, providing that the conditions set forth in the 401 Certification were met. The 401 Certification expires with the expiration of the FERC license on September 30, 2043.

2.4 The Pentwater River downstream of the Hart Dam is a Designated Trout Stream per the Michigan Department of Natural Resources Director's Order No. DFI-101.97 under authority of Section 48701(m) of 1994 PA 451, as amended, MCL 324.48701(m) and therefore is designated and protected for coldwater fisheries (1979 AC R 323.1100, as amended).

2.5 Section 2.0 of the 401 Certification and Rule 75 of the Part 4 Rules prohibits the City from warming the Pentwater River downstream of the Hart Dam, by operation of the Hydroelectric Project, to temperatures higher than the following monthly average temperatures (degrees Fahrenheit (F):

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV	DEC
38	38	43	54	65	68	68	68	63	56	48	40

2.6 Since 2004, the City has been conducting annual water quality studies of the Pentwater River as required by the FERC license and in coordination with the DEQ as outlined in the May 6, 2004, Water Quality Studies Coordination Letter.

2.7 The annual study results have shown that the South Branch of the Pentwater River downstream of the Hart Dam does not consistently meet temperature and dissolved oxygen (D.O.) requirements during the warmest, driest months of the year (July and August). The temperature standards that are being exceeded are outlined in paragraph 2.5 of this Consent Order.

2.8 Section 2.2 of the 401 Certification and Rule 64 of the Part 4 Rules prohibits the City from causing the D.O. concentration measured in the Pentwater River downstream of the Hart Dam, by operation of the Hydroelectric Project, to be less than 7.0 milligrams per liter (mg/l) at any time.

2.9 Due to the City's violations of the temperature and D.O. requirements in the 401 Certification and the Part 4 Rules in the warmest, driest months of the year at the monitoring location of the Pentwater River downstream of the Hart Dam, the DEQ sent the City a letter on January 19, 2012, requesting the City to develop a long-term plan, as required by Section 2 of the 401 Certification. The DEQ requested that the long-term plan include the estimated cost documentation for previous feasibility analysis options that could be instituted to reduce the downstream temperatures below the Hart Dam and the projected improvement to water temperatures associated with those options. Additionally, the DEQ requested that all best management practices to help achieve the water temperature goal should be considered.

III. COMPLIANCE PROGRAM

IT IS THEREFORE AGREED AND ORDERED THAT the City shall take the following actions to prevent further violations of Part 31:

3.1 Not later than May 31, 2015, the City shall submit to the DEQ for review and approval at the address located in paragraph 3.7 of this Consent Order an interim plan with implementation schedule that includes, but is not limited to, two projects to be completed before November 30, 2015 (Interim Plan). A project may be removing a weir board on Russell Creek to increase free water flow through the Creek, with the goal of reducing the temperature and increasing the D.O. The City is required to first obtain all necessary permits from the DEQ and any other Agency or Department necessary prior to commencing any work in or near the waters of the state. Another project is a temperature monitoring plan that will be implemented by the City beginning in 2016 for monitoring water temperature flowing into the Hart Lake impoundment and out of the impoundment at representative monitoring locations.

3.2 Not later than November 30, 2015, the City shall submit to the DEQ for review and approval at the address located in paragraph 3.7 of this Consent Order a Long-Term Temperature Reduction Plan (Long-Term Plan) to reduce the water temperatures and increase D.O. in the Pentwater River downstream of the Hart Dam. The plan shall include the locations of the upstream and downstream monitoring points and shall include all measures to be implemented that will assist in lowering the temperature and increasing the D.O. of the water being discharged from the impoundment. The Long-Term Plan shall have an implementation schedule and shall describe the implementation of the best management practices and projects to be completed upstream of the Hart Dam which will have an impact on the water temperature and D.O. The Long-Term Plan's projects shall be completed no later than December 31, 2024, so that the City is compliant with the temperature and D.O. standards in the Part 4 Rules and the 401 Certificate no later than December 31, 2026. The City shall demonstrate its compliance with the standards by the January 30, 2027 submittal of the results of the 2026 water quality monitoring. Some of these projects may include, but are not limited to, barrier or impoundment removal in Russell Creek; removal of a culvert restricting the flow of Chippewa Creek, delivering groundwater or hypolimnic water from the impoundment into the Pentwater River downstream of the Hart Lake impoundment, and other improvements to the Russell Creek and Chippewa Creek watersheds, for temperature reductions and increased D.O. in the Pentwater River. If the DEQ requests modifications to the long-term plan, the City shall revise the long-term plan accordingly and shall submit the revised long-term plan to the DEQ for review and approval not later than 30 days after receiving the DEQ's written request. The DEQ-approved Long-Term Plan and all subsequent revisions to the Plan shall be incorporated into this Consent Order by reference and enforceable hereunder.

3.3 Each year, not later than January 30 and beginning with January 30, 2017, the City shall submit a progress report to the DEQ at the address in paragraph 3.6 of this Consent Order detailing the work it has completed to comply with the DEQ-approved Long-Term Plan. In each annual update, the City shall also include the results from the monitoring

efforts from July 1 through September 30 of the preceding monitoring year, in accordance with the reporting requirement of the City's 401 Certificate.

3.4 The DEQ and the City agree that the City shall comply with the following monitoring schedule as an alternative to some portions of the monitoring schedule listed in the City's 401 Certificate:

- During 2016, the City shall implement the temperature monitoring plan approved by the DEQ and described in paragraph 3.1 of this Consent Order for monitoring water temperature flowing into the Hart Lake impoundment and out of the impoundment at representative monitoring locations.
- The City agrees that it will monitor hourly as required by Section 3 of the 401 Certificate for temperature and D.O. each year, from July 1 through September 30, beginning in 2015 and continuing through 2026. The City shall monitor as required in its 401 Certificate from 2027 through the expiration of its current 401 Certificate and the FERC License on September 30, 2043.
- The City shall install and use water quality sondes (sondes) in the approved upstream and downstream locations in the Pentwater River, as approved by the DEQ in the Long-Term Plan, to monitor and log the temperature and D.O. The sondes shall continually run from July 1 through September 30. The sondes will be calibrated and maintained according to manufacturer's specifications.
- After the City implements the Interim Plan and Long-Term Plan and is able to successfully demonstrate consistent compliance with the City's 401 Certification and the Part 4 Rules, the City may request an alternative monitoring frequency in accordance with paragraph 3.6 of the City's 401 Certification. If the City is unable to successfully demonstrate consistent compliance with the City's 401 Certification and the Part 4 Rules by February 1, 2027, it shall submit a Corrective Action Plan (CAP) to the DEQ for review and approval not later than March 1, 2027, that contains a compliance schedule and detailed program for reducing the temperature and increasing D.O. in the Pentwater River downstream of the Hart Dam. If the DEQ requires revisions to the CAP, the City shall revise the CAP accordingly and re-submit it to the DEQ for review and approval not later than 30 days after receiving the DEQ's written comments.

3.5 The DEQ and the City agree that if the monthly average calculated temperature or D.O. concentration in the Pentwater River at the monitoring locations downstream of the Hart Dam exceed the temperature or the minimum D.O. limits in the 401 Certification and the Part 4 Rules and the monthly average calculated temperature at the downstream monitoring locations is between one and five degrees Fahrenheit above a calculated average of the temperature at the monitoring locations in the Pentwater River upstream of the Hart Lake impoundment, then the City shall pay a stipulated damage reimbursement payment in accordance with paragraph 10.2 of this Consent Order. The DEQ agrees that stipulated damage reimbursements will not be assessed if the temperature and D.O. at the downstream monitoring locations is in compliance with the 401 Certification and the Part 4 Rules. The DEQ agrees to consider using enforcement discretion when determining if assessing a stipulated damage reimbursement payment is appropriate for the downstream monitoring locations when the monitoring locations upstream of the Hart Lake impoundment exceed the cold water temperature or D.O. standards of the Part 4 Rules and paragraphs 2.5 and 2.8 of this Consent Order and the 401 Certification.

3.6 If the monthly average calculated temperature in the Pentwater River at the downstream monitoring locations is 5 degrees Fahrenheit or greater above the monthly average calculated temperature of the monitoring locations in the Pentwater River upstream of the Hart Lake impoundment, then the City shall pay a monthly stipulated damage reimbursement payment in accordance with paragraph 10.3 of this Consent Order. The DEQ agrees that stipulated damage reimbursement payments will not be assessed if the downstream monitoring locations are in compliance with the 401 Certification and the Part 4 Rules. The DEQ agrees to consider using enforcement discretion when determining if assessing a stipulated damage reimbursement payment is appropriate for the downstream monitoring point when the monitoring points upstream of the Hart Lake impoundment exceed the cold water temperature or D.O. standards of the Part 4 Rules and paragraphs 2.5 and 2.8 of this Consent Order.

3.7 The City shall submit all reports, work plans, specifications, schedules, or any other writing required by this section to the Surface Water Assessment Section Chief, WRD, DEQ, 525 West Allegan Street, P.O. Box 30458, Michigan 48909. The cover letter with each submittal shall identify the specific paragraph and requirement of this Consent Order that the submittal is intended to satisfy.

IV. DEQ APPROVAL OF SUBMITTALS

4.1 For any work plan, proposal, or other document, excluding applications for permits or licenses, that are required by this Consent Order to be submitted to the DEQ by the City, the following process and terms of approval shall apply.

4.2 All work plans, proposals, and other documents required to be submitted by this Consent Order shall include all of the information required by the applicable statute and/or rule, and all of the information required by the applicable paragraph(s) of this Consent Order.

4.3 In the event the DEQ disapproves a work plan, proposal, or other document, it will notify the City, in writing, specifying the reasons for such disapproval. The City shall submit, within 30 days of receipt of such disapproval, a revised work plan, proposal, or other document which adequately addresses the reasons for the DEQ's disapproval. If the revised work plan, proposal, or other document is still not acceptable to the DEQ, the DEQ will notify the City of this disapproval.

4.4 In the event the DEQ approves with specific modifications, a work plan, proposal, or other document, it will notify the City, in writing, specifying the modifications required to be made to such work plan, proposal, or other document prior to its implementation and the specific reasons for such modifications. The DEQ may require the City to submit, prior to implementation and within 30 days of receipt of such approval with specific modifications, a revised work plan, proposal, or other document which adequately addresses such modifications. If the revised work plan, proposal, or other document is still not acceptable to the DEQ, the DEQ will notify the City of this disapproval.

4.5 Upon DEQ approval, or approval with modifications, of a work plan, proposal, or other document, such work plan, proposal, or other document shall be incorporated by reference into this Consent Order and shall be enforceable in accordance with the provisions of this Consent Order.

4.6 Failure by the City to submit an approvable work plan, proposal, or other document, within the applicable time periods specified above, constitutes a violation of this Consent Order and shall subject the City to the enforcement provisions of this Consent Order, including the stipulated penalty provisions specified in paragraph 9.3.

4.7 Any delays caused by the City's failure to submit an approvable work plan, proposal, or other document when due shall in no way affect or alter the City's responsibility to comply with any other deadline(s) specified in this Consent Order.

4.8 No informal advice, guidance, suggestions, or comments by the DEQ regarding reports, work plans, plans, specifications, schedules or any other writing submitted by the City will be construed as relieving the City of its obligation to obtain written approval, if and when required by this Consent Order.

V. EXTENSIONS

5.1 The City and the DEQ agree that the DEQ may grant the City a reasonable extension of the specified deadlines set forth in this Consent Order. Any extension shall be preceded by a written request in duplicate to the DEQ, WRD, Enforcement Unit Chief, Constitution Hall, 525 West Allegan Street, Lansing, Michigan 48909-7773, and the Surface Water Assessment Section Chief at the address in paragraph 3.7, no later than ten business days prior to the pertinent deadline, and shall include:

a. Identification of the specific deadline(s) of this Consent Order that will not be met.
b. A detailed description of the circumstances that will prevent the City from meeting the deadline(s).

c. A description of the measures the City has taken and/or intends to take to meet the required deadline.

d. The length of the extension requested and the specific date on which the obligation will be met.

The Surface Water Assessment Section Chief, in consultation with the Enforcement Unit Chief, shall respond in writing to such requests. No change or modification to this Consent Order shall be valid unless in writing from the DEQ, and if applicable, signed by both parties.

VI. REPORTING

6.1 The City shall verbally report any violation(s) of the terms and conditions of this Consent Order to the Surface Water Assessment Section Chief by no later than the close of the next business day following detection of such violation(s) and shall follow such notification with a written report within five business days following detection of such violation(s). The written report shall include a detailed description of the violation(s), as well as a description of any actions proposed or taken to correct the violation(s). The City shall report any anticipated violation(s) of this Consent Order to the above-referenced individual in advance of the relevant deadlines whenever possible.

VII. RETENTION OF RECORDS

7.1 Upon request by an authorized representative of the DEQ, the City shall make available to the DEQ all records, plans, logs, and other documents required to be maintained under this Consent Order or pursuant to Part 31 or its rules. All such documents shall be retained by the City for at least a period of three years from the date of generation of the record unless a longer period of record retention is required by Part 31 or its rules.

VIII. RIGHT OF ENTRY

8.1 The City shall allow any authorized representative or contractor of the DEQ, upon presentation of proper credentials, to enter upon the premises of the Hart Dam at all reasonable times for the purpose of monitoring compliance with the provisions of this Consent Order. This paragraph in no way limits the authority of the DEQ to conduct tests and inspections pursuant to the NREPA and the rules promulgated thereunder, or any other applicable statutory provision.

IX. PENALTIES

9.1 The City agrees to pay a civil fine of **$8,000** for the violations specified in Section II of this Consent Order. Payment shall be made within 30 days of the effective date of this Consent Order in accordance with paragraph 9.7.

9.2 For each failure to comply with a specific deadline contained in paragraph(s) 3.1 through 3.4 or Section IV of this Consent Order, the City shall pay stipulated penalties of **$5,000**. If, after 30 days from the original deadline, the City has not fully corrected the violation, stipulated penalties shall begin to accrue in accordance with paragraph 9.3 of this Consent Order.

9.3 Except as provided for in paragraph 3.5, 3.6 and 9.2, for each failure to comply with a provision of this Consent Order, the City shall pay stipulated penalties of $200 per violation per day for 1 to 7 days of violation, $300 per violation per day for 8 to 14 days of violation, and $500 per violation per day for each day of violation thereafter.

9.4 For each failure to comply with a provision of Section VI, VII, or VIII of this Consent Order, or any other requirement of this Consent Order, the City shall pay stipulated penalties of $200 per violation per day for each day of violation.

9.5 To ensure timely payment of the above civil fine and stipulated penalties, the City shall pay an interest penalty to the General Fund of the State of Michigan each time it fails to

make a complete or timely payment. This interest penalty shall be based on the rate set forth at MCL 600.6013(8), using the full increment of amount due as principal, and calculated from the due date for the payment until the delinquent payment is finally made in full.

9.6 All payments shall be submitted within 30 days of receipt of an invoice from the DEQ. The City agrees to pay all funds due pursuant to this Section by check made payable to the State of Michigan and delivered to the Accounting Services Division, Cashier's Office for DEQ, P.O. Box 30657, Lansing, Michigan 48909-8157, or hand delivered to the Accounting Services Division, Cashier's Office for DEQ, 425 West Ottawa Street, Lansing, Michigan 48933. To ensure proper credit, all payments made pursuant to this Section must include the **Payment Identification No. WRD40032**.

9.7 The City agrees not to contest the legality of the civil fine paid pursuant to paragraph 9.1 above. The City further agrees not to contest the legality of any stipulated penalties or interest penalties assessed pursuant to paragraphs 9.2, 9.3 and 9.4 above, but reserves the right to dispute the factual basis upon which a demand by the DEQ for stipulated penalties or interest penalties is made.

X. STIPULATED DAMAGE REIMBURSEMENT PAYMENTS

10.1 The DEQ and the City stipulate that when the temperature standards are exceeded or the minimum D.O. standards are violated downstream of the Hart Dam as specified in paragraph 3.5 and 3.6 of this Consent Order, the City shall mitigate those natural resources damages that occur through a monthly stipulated damage reimbursement payment. The DEQ and the City agree that exceedances of temperature standards and minimum D.O. standards in the same month will result in one stipulated damage reimbursement payment by the City for that month. The DEQ and the City agree that a stipulated damage reimbursement payment will not be demanded by the DEQ for any temperature or D.O. violations detected from the monitoring results obtained during 2015-2016. Mitigation is appropriate as compensation for the resources that cannot be restored, such as depleted oxygen due to increases in temperature in the Pentwater River

and recreational opportunity impairment related to the loss of coldwater fishable areas in the lower Pentwater River.

10.2 For each failure to comply with paragraph 3.5 of this Consent Order, the City shall pay a stipulated damage reimbursement payment of **$3,000** per month of violation as detected from the monitoring results obtained during years 2017-2021. The City shall pay a stipulated damage reimbursement payment of **$5,000** per month of violation as detected from the monitoring results obtained during years 2022-2026 and thereafter until the DEQ grants the City termination of this Consent Order in accordance with Section XIII of this Consent Order.

10.3 For each failure to comply with paragraph 3.6 of this Consent Order, the City shall pay a stipulated damage reimbursement payment of **$8,000** per month of violation as detected from the monitoring results obtained during years 2017-2021. The City shall pay a stipulated damage reimbursement payment of **$10,000** per month of violation as detected from the monitoring results obtained during years 2022-2026 and thereafter until the DEQ grants the City termination of this Consent Order in accordance with Section XIII of this Consent Order.

10.4 The City agrees to pay all stipulated damage reimbursement payments pursuant to this Section by check made payable to the address in paragraph 9.6 of this Consent Order. The DEQ and the City agree that the City's payment of stipulated damages shall be deposited in the "Water Quality Protection Fund Grant Program" account, created within the State Treasury (MCL 257.811(i)), to be used to provide grants to local units of government for the purpose of protecting the water quality of the Michigan Great Lakes and inland lakes, rivers and streams. To ensure proper credit, all payments made pursuant to this Section must include the **Project No. 481444-14.**

XI. FORCE MAJEURE

11.1 The City shall perform the requirements of this Consent Order within the time limits established herein, unless performance is prevented or delayed by events that constitute a "Force Majeure." Any delay in the performance attributable to a "Force Majeure" shall

not be deemed a violation of the City's obligations under this Consent Order in accordance with this section.

11.2 For the purpose of this Consent Order, "Force Majeure" means an occurrence or nonoccurrence arising from causes not foreseeable, beyond the control of, and without the fault of the City, such as: an Act of God, untimely review of permit applications or submissions by the DEQ or other applicable authority, and acts or omissions of third parties that could not have been avoided or overcome by the City's diligence and that delay the performance of an obligation under this Consent Order. "Force Majeure" does not include, among other things, unanticipated or increased costs, changed financial circumstances, or failure to obtain a permit or license as a result of the City's actions or omissions.

11.3 The City shall notify the DEQ, by telephone, within 48 hours of discovering any event that causes a delay in its compliance with any provision of this Consent Order. Verbal notice shall be followed by written notice within ten calendar days and shall describe, in detail, the anticipated length of delay, the precise cause or causes of delay, the measures taken by the City to prevent or minimize the delay, and the timetable by which those measures shall be implemented. The City shall adopt all reasonable measures to avoid or minimize any such delay.

11.4 Failure of the City to comply with the notice requirements and time provisions under paragraph 10.3 shall render this Section XI void and of no force and effect as to the particular incident involved. The DEQ may, at its sole discretion and in appropriate circumstances, waive in writing the notice requirements of paragraph 11.3, above.

11.5 If the parties agree that the delay or anticipated delay was beyond the control of the City, this may be so stipulated, and the parties to this Consent Order may agree upon an appropriate modification of this Consent Order. However, the DEQ is the final decision-maker on whether or not the matter at issue constitutes a force majeure. The parties to this Consent Order understand and agree that the final decision by the DEQ regarding a force majeure claim is not subject to judicial review. The burden of proving that any delay

was beyond the reasonable control of the City, and that all the requirements of this Section XI have been met by the City, rests with the City.

11.6 An extension of one compliance date based upon a particular incident does not necessarily mean that the City qualifies for an extension of a subsequent compliance date without providing proof regarding each incremental step or other requirement for which an extension is sought.

XII. GENERAL PROVISIONS

12.1 With respect to any violations not specifically addressed and resolved by this Consent Order, the DEQ reserves the right to pursue any other remedies to which it is entitled for any failure on the part of the City to comply with the requirements of the NREPA and its rules.

12.2 The DEQ and the City consent to enforcement of this Consent Order in the same manner and by the same procedures for all final orders entered pursuant to Part 31, MCL 324.3101 et seq.; and enforcement pursuant to Part 17, Michigan Environmental Protection Act, of the NREPA, MCL 324.1701 et seq.

12.3 This Consent Order in no way affects the City's responsibility to comply with any other applicable state, federal, or local laws or regulations.

12.4 The WRD reserves its right to pursue appropriate action, including injunctive relief to enforce the provisions of this Consent Order, and at its discretion, may also seek stipulated fines or statutory fines for any violation of this Consent Order. However, the WRD is precluded from seeking both a stipulated fine under this Consent Order and a statutory fine for the same violation.

12.5 In the event the City sells or transfers the Hart Dam, it shall advise any purchaser or transferee of the existence of this Consent Order in connection with such sale or transfer. Within 30 calendar days, the City shall also notify the Surface Water Assessment Section

Chief, in writing, of such sale or transfer, the identity and address of any purchaser or transferee, and confirm the fact that notice of this Consent Order has been given to the purchaser and/or transferee. The purchaser and/or transferee of this Consent Order must agree, in writing, to assume all of the obligations of this Consent Order. A copy of that agreement shall be forwarded to the Surface Water Assessment Section Chief within 30 days of assuming the obligations of this Consent Order.

12.6 The provisions of this Consent Order shall apply to and be binding upon the parties to this action, and their successors and assigns.

12.7 This Consent Order constitutes a civil settlement and satisfaction as to the resolution of the violations specifically addressed herein; however, it does not resolve any criminal action that may result from these same violations.

XIII. TERMINATION

13.1 This Consent Order shall remain in full force and effect until terminated by a written Termination Notice (TN) issued by the DEQ. Prior to issuance of a written TN, the City shall submit a request consisting of a written certification that the City has fully complied with the requirements of this Consent Order, has complied with the 401 Certification, including the temperature and D.O. requirements for a period of not less than five concurrent years, and has made payment of any fines, including stipulated penalties, required in this Consent Order. Specifically, this certification shall include:

a. The date of compliance with each provision of the compliance program in Section III, the five years of concurrent data showing compliance with the 401 Certification and the date any fines or penalties were paid.
b. A statement that all required information has been reported to the Surface Water Assessment Section Chief.
c. Confirmation that all records required to be maintained pursuant to this Consent Order are being maintained by the City.

The DEQ may also request additional relevant information. The DEQ shall not unreasonably withhold issuance of a TN.

Signatories

The undersigned CERTIFY they are fully authorized by the party they represent to enter into this Consent Order to comply by consent and to EXECUTE and LEGALLY BIND that party to it.

DEPARTMENT OF ENVIRONMENTAL QUALITY

William Creal, Chief
Water Resources Division

2-11-2015
Date

CITY OF HART

By: Stan Rickard, City of Hart Manager

1-26-2015
Date

APPROVED AS TO FORM:

By: Neil D. Gordon, Assistant Attorney General
For: S. Peter Manning, Chief
Environment, Natural Resources, and Agriculture Division
Michigan Department of Attorney General

Feb. 6, 2015
Date

EXECUTIVE SUMMARY

The City of Hart owns and operates a hydroelectric plant. A dam adjacent to the plant creates an impoundment along the South Branch Pentwater River (Pentwater River), commonly known as Hart Lake. The Pentwater River upstream and downstream of Hart Lake is a Designated Trout Stream according to the Michigan Department of Environmental Quality (MDEQ); therefore, the monthly stream temperatures and dissolved oxygen (D.O.) levels are regulated to coldwater fishery standards. Annual temperature and D.O. monitoring have shown that while the Pentwater River upstream of Hart Lake consistently meets water quality standards, standards are not consistently met downstream of Hart Lake during the warmest, driest months of the year.

The City of Hart and MDEQ signed an Administrative Consent Order (ACO) on February 11, 2015, which requires the City to submit a Long-Term Temperature Reduction Plan (Long Term Plan) to reduce the water temperatures and increase D.O. in the Pentwater River downstream of the Hart Dam. As part of the Long Term Plan, the City of Hart proposed to conduct a Water Quality Improvements and Feasibility Study to evaluate the feasibility of potential improvements that could be implemented to achieve temperature and D.O. standards at the Pentwater River downstream monitoring location. The results of this study are presented herein.

The scope of the study included review of historical monitoring data and previous reports, collection of field topographic data on Hart Lake and Russell and Chippewa Creeks, and development of a computerized hydraulic and water quality model, which was used as a tool to evaluate the effectiveness of several of the alternatives considered. The following alternatives were considered:

- *Groundwater discharge to Pentwater River;*
- *Removal of restrictions on Russell Creek;*
- *Removal of restriction on Chippewa Creek;*
- *Dredging sediment and removing dam remnant from Hart Lake impoundment;*
- *Employment of storm water best management practices (BMPs) for temperature reduction;*
- *Delivery of hypolimnic water from the Hart Lake Impoundment into the Pentwater River including a combined alternative which blends groundwater with hypolimnic water; and*
- *A Hart Lake bypass.*
- *Mechanical Aeration at the Hart Dam Tailrace*

Each alternative was evaluated for the following:

- *Technical feasibility;*
- *Ability to meet water quality standards at downstream monitoring point;*
- *Probable construction costs and ongoing operation and maintenance expenses;*
- *Advantages and disadvantages; and*
- *Permitting requirements.*

The only alternative considered that can meet the water quality standards is the bypass of Hart Lake. However, the cost of this alternative at over $16,000,000 makes it economically infeasible for the City. Mechanical aeration may be a feasible alternative to achieve the dissolved oxygen goal; however, aeration is not able to reduce the stream temperatures of the Pentwater River. Stormwater Best Management Practices may have a positive impact on the health of Hart Lake and its tributaries, however, will not have a measurable impact on the water temperature downstream of the Hart Dam.

City of Hart
Water Quality Improvements and Feasibility Study

Table 4 - Summary of Evaluated Alternatives

Alternative	*Description*	*Permits Required*	*Advantages*	*Disadvantages*	*Opinion of Probable Cost*	*Opinion of Probable Annual O&M* Cost*
Groundwater Discharge to Pentwater River	Discharge cooler groundwater to the Pentwater River downstream of the dam	• Part 301 MDEQ Inland Lakes & Streams • Part 303 MDEQ Wetlands • Part 327 Water Withdrawal MDEQ • County SESC	• Potential to provide redundant source of drinking water to water users north of Hart Lake • Could help meet downstream water quality goals during an average July and August and a cooler September	• High capital and O&M cost • May require land acquisition or easements • Potential to lower groundwater levels in existing wells and reduce capacity • Groundwater has low dissolved oxygen levels and may reduce dissolved oxygen even further at the compliance point • Does not meet downstream water quality goals	$650,000 for 3 wells North of Hart Dam (1,500 gpm) $5,870,000 for additional 4-5 City wells South of Hart Lake with significant transmission piping to river (7,200 gpm)	$20,000+
Removal of Restrictions on Russell Creek	Remove restrictions at Mechanic Street; lower and upsize West Main Street and Johnson Street culverts	• Part 301 MDEQ Inland Lakes & Streams • Part 303 MDEQ Wetlands • Part 31 Floodplains MDEQ • County SESC	• Return creek to natural, free flowing, pre-development conditions • Shrink impoundments during low flow periods • Limit solar exposure to shallow areas	• Loss of recreational, scenic, and irrigation resources • Change existing habitat • Only minimal impact (0.1 ^{o}F) on the temperature of the Pentwater River at the downstream compliance point • Does not meet downstream water quality goals	$1,726,000	Negligible
Removal of Restriction on Chippewa Creek	Remove restriction at the East Main Street culvert	• Part 301 MDEQ Inland Lakes & Streams • Part 303 MDEQ Wetlands • Part 31 Floodplains MDEQ • County SESC	• Return creek to natural, free flowing, pre-development conditions • Shrink impoundment during low flow periods • Limit solar exposure to shallow areas	• Loss of recreational and scenic resources • Only minimal impact (<0.1 ^{o}F) on the temperature of the Pentwater River at the downstream compliance point • Change existing habitat • Does not meet downstream water quality goals	$892,000	Negligible
Dredging	Remove dam remnant and dredge sediment from Hart Lake between Oceana Drive and State Street	• Part 301 MDEQ Inland Lakes & Streams • Part 303 MDEQ Wetlands • County SESC	• Remove safety risk of boaters hitting the dam remnant • Deepening the impoundment could reduce the effect of radiation from the sun • Potential 0.1^{o}F temperature reduction at the compliance point	• Requires maintenance - sediment will begin to fill back in the dredged areas • Sediment disposal requires land • Negligible effect on the temperature of the Pentwater River at the downstream compliance point • Does not meet downstream water quality goals	$1,780,000	$20,000
Stormwater Best Management Practices (BMPs)	Employ temperature reducing BMPs throughout the City when redesigning stormwater infrastructure, tree planting	Varies - generally minor	• Shading can increase aesthetics while simultaneously limiting heat absorption • Infiltration practices decrease pollutant loadings to receiving waters • Easy to permit	• May not be practical in some areas as BMPs often require large areas for implementation • Slow implementation • Negligible effect on the temperature of Russell Creek, Chippewa Creek and the Pentwater River • Does not meet downstream water quality goals	Varies, but may be cost effective if implemented appropriately with other city capital improvements	Varies
Hypolimnic Water Intake Including Combined Groundwater and Hypolimnic Water	Extend an intake to the deepest location of Hart Lake to deliver cooler, hypolimnic water to the Pentwater River. Combining a new intake with groundwater discharge was also considered.	• Part 301 MDEQ Inland Lakes & Streams • Part 303 MDEQ Wetlands • Part 31 Floodplains MDEQ • Part 315 Dam Safety MDEQ • FERC Amendment to License • County SESC	• Blending would reduce the downstream temperature for a short period of time • The deep intake could be utilized during the hottest times of the summer	• Not enough groundwater recharge to replenish deep water impoundment to last entire summer • Hypolimnic and groundwater have low dissolved levels and may reduce dissolved oxygen even further at the compliance point • Difficult construction • May be difficult to permit • Does not meet downstream water quality goals	$4,610,000 for hypolimnic water intake only $10,680,000 for combined groundwater and hypolimnic water	Negligible for hypolimnic water intake only $20,000+ for combined groundwater and hypolimnic water
Bypass Hart Lake	Construct a large diameter bypass of the lake from Hart Dam to East of Oceana Drive	• Part 301 MDEQ Inland Lakes & Streams • Part 303 MDEQ Wetlands • Part 31 Floodplains MDEQ • Part 315 Dam Safety MDEQ • FERC Amendment to License • County SESC	• Capability to bypass only during summer months with little to no impact on existing dam operations • Only considered alternative capable of consistently meeting downstream water quality goals	• Highest cost alternative • Potentially heat up Hart Lake even further and promote algae blooms due to lack of nutrient removal and stagnation • Potential safety hazard at the intake • Difficult construction • Difficult to permit	$16,000,000+	$15,000
Mechanical Aeration	Install mechanical aerators at the tailrace of Hart Dam in order to increase dissolved oxygen	• Part 301 MDEQ Inland Lakes & Streams • Part 31 Floodplains MDEQ • Part 315 Dam Safety MDEQ • County SESC	• Flexibility to operate aerators based on real-time dissolved oxygen readings • Capable of consistently meeting downstream dissolved oxygen goals	• Potential public safety concern • Potential to negatively affect fish and aquatic life • Energy intensive (60% of O&M cost) • Space constraint at the dam tailrace • Does not meet downstream temperature goals, only dissolved oxygen goals	$500,000	$25,000

*O&M = Operation and Maintenance

CITY OF HART
407 S. STATE ST.
HART, MI 49420
SPECIAL MEETING OF CITY COUNCIL - COUNCIL PROCEEDINGS
July 25th, 2023
MINUTES – Draft

PRESENT: Councilors: Mayor Vicki Platt, Justin Adams, Dean Hodges, and Amanda Klotz,
ABSENT: Catalina Burillo, Jim Evans, and Kris Trygstad
OTHERS PRESENT: City Manager – Rob Splane, City Clerk – Karla Swihart, and BioPure Superintendent – Paul Cutter, Sharon Hallack, and Dick Huntington

Mayor Platt called the meeting to order; following the roll call, then led the Council in the pledge of allegiance.

APPROVAL OF AGENDA:

- C. Burillo motioned to approve the agenda and was supported by K. Trygstad
  - Ayes: 6 Nays: 1 Absent: 0

PUBLIC COMMENTS:

- Dick Huntington, 115 Creeks Drive, running into some problems in the subdivision have an upset property owner who is trying to blame the HOA for the problems she is running into trying to build, she bought a lot without realizing how much preparation the lot was going to take to build a building on. The Drain Commissioner has been there looking at it and, she would need to get a $25,000 bond, also a 5ft retaining wall that would have to be put in on the back of the lot just so they can fill that lot to bring it up to the level it needs to be in order to build. A lot of people do buyer beware its your problem if you buy something your stuck with it, but that isn't how the City should do business nor their realtor, They should let people know that all those lots slop back into a flood plain which will require fill, at $25,000 bond that will go away once the retaining wall is put in and the Drian Commission says its acceptable. They have also talked with EGLE, and they have problems with those lots backing up to Russell's Creek as once you raise those lots where is the water going to go? That is not the HOA issues as we are not selling the lots, we only approve the plans.
  Several months ago, I asked to have a meeting with the Council, HOA, City manager and Relator to talk about these lots. That has not happened.

CORRESPONDENCE, EVENTS, PRESENTATIONS:

- None

CONSENT AGENDA:

- Approval of minutes from July 11th, 2023.
- Bills, Claims, Payroll
- Reports of Boards, Commissions, and Committees
- Department Reports – Police/BioPure/Public Works/Energy/C&E Dvlp
  - A. Klotz motioned to approve Consent Agenda and supported by J. Adams
    - Ayes: 7 Nays: 0 Absent: 0

ACTION ITEMS:

- Resolution 2023-33 Resolution to Support Redevelopment Liquor License Application
  WHEREAS, the City of Hart is supportive of economic development and redevelopment; and
  WHEREAS, the City believes that making Redevelopment Liquor Licenses available as authorized by MCL 436.521a(1)(b) will lead to desirable development, job creation, reinvestment, redevelopment and an increased tax base; and
  WHEREAS, the City of Hart has demonstrated that the total amount of private and public investment in real and personal property in the TIFA District was at least $200,000 in the past five years; and
  WHEREAS, the City of Hart recognizes the properties in question are currently owned and operated by Pink Elephant Diner Inc. at physical addresses of 201 S. State Street and 207 S. State Street Hart MI, 49420; and

WHEREAS, in order to secure the benefits of efficient self-government and to promote and protect our common interests and welfare , the City Council hereby declares;
NOW THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL:

It is the consensus of City Council to recommend this application be considered for approval by the Michigan Liquor Control Commission.

Authorizes and directs the City Clerk to sign the Local Government Approval Form on behalf of the City of Hart and attest to the approval as written in the attached MLCC approval form.

- C. Burillo motioned to approve Resolution 2023-33 and supported by J. Adams
  - Ayes: 7 Nays: 0 Absent: 0

- Resolution 2023-34 Designate 2012 Chevrolet Silverado as Surplus Equipment

WHEREAS, the City of Hart owns, and operates a 2012 Chevrolet Silverado used by the Energy Department; and
WHEREAS, per the fiscal year 2023 budget, the Department has recently updated the vehicle fleet with planned new units that replace the operational need for older vehicles; and
WHEREAS, retention of the vehicle incurs annual costs of insurance, maintenance and certification with limited return/use; and
WHEREAS, the City Council desires to secure the benefits of efficient self-governance and to promote and protect our common interests and welfare; and
NOW THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL:

Designates the 2012 Chevrolet Silverado as surplus equipment and authorizes the City Manager to take the necessary steps to offer the truck for sale to the highest bidder.

- J. Adams motioned to approve Resolution 2023-34 and supported by K. Trygstad
  - Ayes: 7 Nays: 0 Absent: 0

- Resolution 2023-35, Approve State Revolving Fund agreements and documents in connection with issuance of City Revenue Bonds – BioPure Projects

At a regular meeting of the City Council of the City of Hart, held at the City Hall, 407 S. State Street, Hart Michigan, on the 25th day of July 2023, at 7:30 p.m. Local Time
Present Memebers: J. Adams, C. Burillo, J. Evans, D. Hodges, A. Klotz, K. Trygstad and Mayor V. Platt
Absent Members:
The following resolution was offered by C. Burillo and supported by A. Klotz:

RESOLUTION TO APPROVE STATE CLEAN WATER REVOLVING FUND AGREEMENTS AND DOCUMENTS IN CONNECTION WITH PROPOSED ISSUANCE OF CITY SEWER SYSTEM REVENUE BONDS, SERIES 2023A TO EVIDENCE A STATE CLEAN WATER REVOLVING FUND LOAN

Whereas, the City of Hart (the “City”) is proposing to sell Sewer System Revenue Bonds, Series 2023A in accordance with Act 94 of the Public Acts of Michigan of 1933, as amended, (the "Bonds”) in the maximum amounts of $6,175,000, to evidence of State of Michigan Clean Water Revolving Fund loan (the “CWSRF Loan”) to fund improvements to the City Sewer System; and
WHEREAS, the proposed Bonds are to be sold to the Michigan Finance Authority (the “Authority”) in accordance with the terms of a Purchase Contract by and between the City and the Authority (the “Purchase Contract”) in substantially the form set forth in Exhibit A attached hereto and a Supplemental Agreement by and between the City, the Authority and the State of Michigan acting through the Department of Environment, Great Lakes and Energy (the “Supplemental Agreement”) in substantially the form set forth in Exhibit B attached hereto; and
WHERAS, the City will also be required to execute and deliver an Issuer’s Certificate (the “Issuer’s Certificate”) to the Authority in substantially the form set forth in Exhibit C attached hereto; and
WHEREAS, the Authority may require the City to execute and deliver a Revenue Sharing Pledge Agreement (the “Pledge Agreement”) with respect to the Bonds in substantially the form set forth in Exhibit D attached hereto.
NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Purchase Contract, The Supplemental Agreement, the Issuer's Certificate, and the Pledge Agreement are hereby each approved in the forms attached hereto as Exhibits A, B, C, and D, respectively. The Mayor and City Clerk/Treasurer are hereby authorized and directed to execute on behalf of the City, and deliver to the Authority, the Purchase Contract, the Supplemental Agreement, and the Issuer's Certificate in substantially the forms approved with such additions and deletions as are consistent with the terms of the Bonds and in the best interest of the City.
2. To the extent determined to be necessary by the Authority, the Mayor and City Clerk/Treasurer are hereby authorized and directed to execute on behalf of the City, and deliver to the Authority, the Pledge Agreement.
3. In the absence or disability of the Mayor, the Mayor Pro Tempore shall act in her stead. In the event of the absence or disability of the City Clerk/Treasurer, the Deputy (if any) shall act in her stead.
4. All resolutions or portions thereof inconsistent with the provisions of this resolution are here by rescinded.

YEAS: 7
NAYS: 0
ABSTAIN: 0

STATE OF MICHIGAN)
) ss.
COUNTY OF OCEANA)

I, Karla Swihart, the duly qualified and acting Clerk/Treasurer of the City of Hart, Oceana County, Michigan (the "City") do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council at a regular meeting held on the 25th day of July, 2023. The original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, including in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.
IN WITNESS WHEREOF, I have hereto affixed my official signature this 25th day of July 2023.
Karla Swihart, Clerk/Treasurer
City of Hart

- Ordinance NO. 23-03 –
  AN ORDIANCE TO AUTHORIZE AND PROVIDE FOR THE CONSTRUCTION OF IMPROVEMENTS TO THE CITY OF HART SEWER SYSTEM, TO PROVIDE FOR THE ISSUANCE OF SEWER SYSTEM REVENUE BONDS OF EQUAL STANDING WITH SEWER SYSTEM REVENUE BONDS NOW OUTSTANDING TO PAY THE COST THEREFORE, TO PROVIDE FOR THE SECURITY OF THE BONDS HEREIN AUTHORIZED, AND TO PROVIDE FOR OTHER MATTERS RELATIVE TO SAID BONDS.
  Upon roll call vote, the vote upon the motion adopting said Ordinance was as follows:
  YEAS: J. Adams, C. Burillo, J. Evans, D. Hodges, A. Klotz, K. Trygstad and Mayor V. Platt
  NAYS: NONE
  ABSTAIN: NONE
  The City Clerk/Treasurer declared the Ordinance Adopted
  The following Ordinance No. 23-03 as adopted.
  "ORDIANCE NO. 23-03 CAN BE OBTAINED AT CITY HALL"
- Resolution 2023-36 Approve State Revolving fund agreements and documents in connection with issuance of City Revenue Bonds – Dryden Street projects.
  At a regular meeting of the City Council of the City of Hart, held at the City Hall 407 S. State Street, Hart Michigan, on the 25th day of July 2023, at 7:30pm. Local time.

PRESENT: Justin Adams, Catalina Burillo, Jim Evans, Dean Hodges, Amanda Klotz, Kris Trygstad, and Mayor Vicki Platt
ABSENT: NONE
The following Resolution was offered by C. Burillo and supported by K. Trygstad:

RESOLUTION TO APPROVE STATE CLEAN WATER REVOLVING FUND AGREEMENTS AND DOCUMENTS IN CONNECTION WITH PROPOSED ISSUANCE OF CITY SEWER SYSTEM JUNIOR LIEN REVENUE BONDS, SERIES 2023B TO EVIDENCE A STATE CLEAN WATER REVOLVING FUND LOAN.

WHEREAS, the City of Hart (the "City") is proposing to sell Sewer System Junior Lien Revenue Bonds, Series 2023B in accordance with Act94 of the Public Acts of Michigan of 1933, as amended, (the "Bonds") in the maximum amounts of $1,432,500, to evidence a State of Michigan Clean Water Revolving Fund loan (the "CWSRF Loan") to find improvements to the City Sewer System: and
WHEREAS, the proposed Bonds are to be sold to the Michigan Finance Authority (the "Authority") in accordance with the terms of a Purchase Contract by and between the City and the Authority (the "Authority") in accordance with the terms of a Purchase Contract by and between the City and the Authority (the "Purchase Contract") in substantially the form set forth in Exhibit A attached hereto and a Supplemental Agreement by and between the City, the Authority and the State of Michigan acting through the Department of Environment, Great Lakes and Energy (the "Supplemental Agreement") in substantially the form set forth in Exhibit B attached hereto: and
WHEREAS, the City will also be required to execute and deliver as Issuer's Certificate (the "Issuer's Certificate") to the Authority in substantially the form set forth in Exhibit C attached hereto: and
WHEREAS, the Authority may require the City to execute and deliver a Revenue Sharing Pledge Agreement (the "Pledge Agreement") with respect to the Bonds in substantially the form set forth in Exhibit D attached hereto.
NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

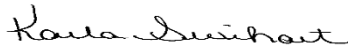
1. The Purchase Contract, The Supplemental Agreement, the Issuer's Certificate, and the Pledge Agreement are hereby each approved I the forms attached hereto as Exhibits A, B, C, and D, respectively. The Mayor and City Clerk/Treasurer are hereby authorized and directed to execute on behalf of the City, and deliver to the Authority, the Purchase Contract, and the Supplemental Agreement and the Issuer's Certificate in substantially the forms approved with such additions and deletions as are consistent with the terms of the Bonds and in the best interest of the City.
2. To the extent determined to be necessary by the Authority, the Mayor and City Clerk/Treasurer are hereby authorized and directed to execute on behalf of the City, and deliver to the Authority, the Pledge Agreement.
3. In the absence or disability of the Mayor, the Mayor Pro tempore shall act in her stead. In the event of the absence or disability of the City Clerk/Treasurer, the Deputy (if any) shall act in her stead.
4. All resolutions or portions in thereof inconsistent with the provisions of this resolution are hereby rescinded.

AYES: C. Burillo, K. Trygstad, J. Adams, J. Evans, D. Hodges, A/ Klotz and Mayor V. Platt.
NAYS: NONE
ASBSENT: NONE
RESOLUTION DECLARED ADOPOTED

Karla Swihart

Karla Swihart, Clerk,
City of Hart
STATE OF MICHIGAN }
} ss.
COUNTY OF OCEANA }

I, Karla Swihart, the dual qualified and acting Clerk/Treasurer of the City of Hart, Oceana County, Michigan (the "City") do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council at a regular meeting held on the 25th day of July, 2023, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, including in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.
IN WITNESS WHEREOF, I have hereto affixed my official signature this 25th day of July 2023.



Karla Swihart, Clerk,
City of Hart

- Ordinance NO. 23-04
  AN ORDINANACE TO AUTHORIZE AND PROVIDE FOR THE CONSTRUCTION OF IMPROVEMENTS TO THE CITY OF HART SEWER SYSTEM, TO PROVIDE FOR THE ISSUANCE OF SEWER STSTEM JUNIOR LIEN REVENUE BONDS, TO PROVIDE FOR OTHER MATTERS RELATIVE TO SAID BONDS
  Upon roll call vote, the vote upon the motion adopting said Ordinance was as follows:
  YEAS: J. Adams, A. Klotz, K. Trygstad, C. Burillo, J. Evans, D. Hodges, and Mayor V. Platt
  NAYS: NONE
  ABSTAIN: NONE
  The City Clerk/Treasurer declared the Ordinance adopted.
  "ORDINANCE NO. 23-04 CAN BE OBTAINED AT CITY HALL"

DISCUSSION ITEMS:

- None

CITY MANAGER'S REPORT:

UPDATES:

- Great Lakes Packing would like to invite City Council members to take a tour of their cherry production facility. Time is available this Thursday and Friday.
- Pre-audit in progress with support from Brickley Delong
- Michigan Department of Environment, Great Lakes, and Energy has engaged with the Federal Energy Regulation Commission asking for stronger enforcement of the City of Hart's Administrative Consent Order due to rising average water temperatures from Hart Lake into the Pentwater River. The City is working with our environmental consultants, engineers, and legal advisors on how to best proceed. Likely a meeting with EGLE is forthcoming.
- To celebrate the work of Toney Bennett, Tony Bennett musical tracks will play on the downtown loudspeaker system, Wednesday July 26th during the afternoon and early evening.
- Wayfinding signage is still being deployed and has received positive comments from community members and businesses. Supplies for the signage and MDOT approvals are pending.
- Property Maintenance Code Enforcement actions have started with rental inspection training planned for this fall.
- Griswold Street and Polk Road Utility Improvements projects are ready to begin July 31st, Griswold Street and Polk Road will see phased closures through the beginning of November. This work will be coordinated with all effected businesses, schools, and public safety entities to ensure no (or minimal) interruption of services.
- Weekly Thursdays on Main – 6pm Makers Markey and Main Street Market opens – Music at 7pm.
- Terry Birkman Retirement. Terry Birkman retired on July 20th from Hart Energy.

Legacy Topics:

- The Charter review committee has requested a meeting with the City attorney to discuss how aggressively to proceed with additional recommended changes to the charter. The amendments will be processed for ballot approval at the next general election.
- Safe Routes to School trail project – pending state approval projected start date June 2024.

Upcoming Topics:

- Adoption of 2022-2026 Park and Rec Master Plan
- Veteran's Memorial Park final design approval

- Water, Wastewater, and Energy rate studies
- Council adoption of code enforcement policies, procedures, and implementation.
- BioPure biosolids hauling contract RFQ
- City IT support consultant RFQ.
- * Special City Council Meeting to be held in lieu of August 22nd meeting as necessary. Tentatively Aug 15th will be holding a special meeting at 5:30pm

COMMUNICATIONS FROM THE MAYOR AND COUNCIL:

- J. Evans, Cemetery invited me to the for the opening of the columbarium which is where they put the people who are cremated. With 65% of the people being cremated now they are becoming popular.

ADJOURN:

- There being no further business to come before the Council, the meeting adjourned upon a motion by J. Adams and supported by A. Klotz. The next regularly scheduled meeting will be on August 8th, 2023, at 7:30 pm.

Respectfully Submitted

Karla Swihart

Karla Swihart, City Clerk

Payables Date 8.8.2023	Description	Total	General +	DPW	Energy	BPTF	Water
Adams, Matt	Phone Reimbursement	$ 35.00		$ 35.00			
APX	Mirecs	$ 28.33			$ 28.33		
Bell Equipment	Street Sweeper Pmt	$ 5,800.00		$ 5,800.00			
City Of Hart	Utility Bills	$ 55,304.26	$ 5,967.97	$ 1,148.56	$ 2,557.89	$ 41,331.32	$ 4,298.52
Cutter, Paul	Reimburse Truck Accessory Exp.	$ 800.00		$ 400.00	$ 400.00		
Dacott	Power Purchase Report	$ 650.00			$ 650.00		
DTE	Natural Gas	$ 623.36	$ 112.54	$ 50.79	$ 225.44	$ 177.22	$ 57.37
EATON/CANNON	Yukon Master Server Hosting/Support Fee	$ 17,167.00			$ 8,583.50		$ 8,583.50
Eisenlohr, Mike	Phone Reimbursement	$ 35.00		$ 35.00			
Fish Window	Window Cleaning - City Hall	$ 105.00	$ 105.00				
Freed Mgmt	#10 JGP Mgrs	$ 3,500.00	$ 3,500.00				
Huntington Bank	Credit Card Charges	$ 6,521.47	$ 2,364.17	$ 457.85	$ 2,901.79	$ 797.66	
HydroCorp	Cross Connection Control Program	$ 707.00					$ 707.00
Ingalls, Joe	Phone Reimbursement	$ 35.00	$ 35.00				
Kendall Electric	Parts/Supplies	$ 179.57			$ 179.57		
Kendall Electric	Parts/Supplies	$ 566.66				$ 566.66	
Kies, Chris	Phone Reimbursement	$ 35.00				$ 35.00	
KISM	Lift Station Monitoring	$ 14,194.00				$ 14,194.00	
LARA	LIEAF Program	$ 961.20			$ 961.20		
Larson's	Various Parts/Supplies	$ 1,334.55	$ 242.17	$ 481.36	$ 456.06	$ 154.96	
Lighthouse Car Care	Used Tire/Oil Change	$ 118.00	$ 118.00				
Medler Electric	Parts/Supplies	$ 123.88				$ 123.88	
Mike Blackmer Electric	Finishes to Building	$ 790.00			$ 790.00		
Model Coverall Services	Rugs, Rags, Uniforms	$ 457.14		$ 165.72	$ 66.20	$ 225.22	
Moore, Andrew	Phone Reimbursement	$ 35.00	$ 35.00				
MPPA	Purchased Power	$ 56,503.85			$ 56,503.85		
MPPA	Purchased Power	$ 60,386.34			$ 60,386.34		
Munextrix	Municipal transparency EditionLicense	$ 2,709.00	$ 677.25		$ 677.25	$ 677.25	$ 677.25
Nutrien	Amine	$ 93.95				$ 93.95	
NYE Uniforms	Boots - Waterproof	$ 178.64	$ 178.64				
Out of Favor Boys	MOC 8/10/23	$ 650.00	$ 650.00				
Pixel Grafix	Envelopes	$ 650.00	$ 650.00				
Power Line Supply	Parts/Supplies	$ 455.40			$ 455.40		
Power Line Supply	Parts/Supplies	$ 9.12			$ 9.12		
Power Line Supply	FR Pants	$ 660.00			$ 660.00		
Power Line Supply	Parts/Supplies	$ 72.00			$ 72.00		
Power Line Supply	Parts/Supplies	$ 1,104.82			$ 1,104.82		
Power Line Supply	Parts/Supplies	$ 1,379.72			$ 1,379.72		
Pranger Property Mgmt	CH/CC/HC Cleaning Services	$ 295.00	$ 295.00				
Republic Services	Starting Block Garbage Service	$ 196.62			$ 196.62		
Ricoh	Copier Overage Fees	$ 57.04	$ 57.04				
Riggs, Jason	Phone Reimbursement	$ 35.00		$ 35.00			
Ryder, Ray	Phone Reimbursement	$ 35.00	$ 35.00				
Salazar, Juan	Phone Reimbursement	$ 35.00	$ 35.00				
Schiller, Mike	Phone Reimbursement	$ 35.00			$ 35.00		
Schmieding, Kevin	Phone Reimbursement	$ 35.00			$ 35.00		
Schmieding, Kevin	Reimburse School Travel Expenses	$ 418.25			$ 418.25		
Schoedel, LiZ	Phone Reimbursement	$ 35.00	$ 35.00				
Seritas Blackk Rose	MOC 8/17/23	$ 500.00	$ 500.00				
Skipski, Kevin	Phone Reimbursement	$ 35.00	$ 35.00				
Southeast Publishing	Historic District Advertising	$ 419.00	$ 419.00				
Splane, Rob	Car Allowance/Phone Reimbursement	$ 335.00	$ 335.00				
Stacy,Leigh Ann	Meter Dep Refund	$ 74.73			$ 74.73		
Stoneman, Thomas	Phone Reimbursement	$ 35.00				$ 35.00	
SyncWave	Internet Hosting	$ 468.14	$ 107.66	$ 84.27	$ 84.27	$ 191.94	
Tanner Plumbing & Heating	Parts/Supplies	$ 24.40				$ 24.40	
Trace Analytical	Water Testing	$ 1,135.74				$ 1,135.74	
Truog, Patrick	Phone Reimbursement	$ 35.00			$ 35.00		
Uline	Rugs	$ 232.39		$ 232.39			
VanAgtmael, Scott	Phone Reimbursement	$ 35.00			$ 35.00		
VanHydraulics	Rebuild BellyBlade Plow Cylindner	$ 757.60		$ 757.60			
VanZoeren, Andy	Phone Reimbursement	$ 35.00			$ 35.00		
VRC	Recycling Services	$ 55.32	$ 55.32				
Western Michigan Redi-Mix	Limestone	$ 440.00	$ 440.00				
Western Michigan Redi-Mix	Screened Topsoil	$ 510.00		$ 510.00			
Whitney, Devin	Phone Reimbursement	$ 35.00			$ 35.00		
Windridge	Lobby/Council Signage	$ 800.00	$ 800.00				
		$ -					
		$ -					
		$ -					
		$ -					
		$ -					
		$ -					
		$ -					
		$ -					
		$ -					
		$ -					
		$ -					
		$ -					
		$ -					
	Sub-total	**$ 242,098.49**	**$ 17,784.76**	**$ 10,193.54**	**$ 140,032.35**	**$ 59,764.20**	**$ 14,323.64**

--OVER--

Payables Date 8.8.2023	Description	Total	General +	DPW	Energy	BPTF	Water
HAND CHECKS/ACH/EFT							
Alerus	City Share 401 Retirement - PR 181	$ 4,861.14					
US Postmaster	Postage/Tax Bills	$ 483.25			$ 314.11	$ 145.00	$ 24.14
AFLAC	Insurance Premium	$ -					
Guardian	Insurance Premium	$ -					
Delta Dental	Insurance Premium	$ -					
MWG/Amfirst	Insurance Premium	$ 4,455.61					
Blue Cross Blue Shield	Insurance Premium	$ -					
	TOTAL HAND CHECKS	**$ 9,800.00**	**$ -**	**$ -**	**$ 314.11**	**$ 145.00**	**$ 24.14**
	Sub-Total Regular Bills/Hand Checks	***$ 251,898.49***	***$ 17,784.76***	***$ 10,193.54***	***$ 140,346.46***	***$ 59,909.20***	***$ 14,347.78***
Gross Payroll	PR 181	$ 80,386.35					
	Sub-Total	**$ 80,386.35**					
	GRAND TOTAL	***$ 332,284.84***	**$ 17,784.76**	**$ 10,193.54**	**$ 140,346.46**	**$ 59,909.20**	**$ 14,347.78**

RESOLUTION 2023-37
CITY COUNCIL
City of Hart, Michigan
Oceana County

Fiscal Year 2023 Final Budget Amendment

WHEREAS, the City Council may amend the annual budget to reflect changes in purchasing patterns or revised objectives; and

WHEREAS, during year end review, city accountants found a conflict in the action of a previous budget amendment regarding the ability to transfer ACT51 road funding from major street to local street use; and

WHEREAS, this conflict creates a fund deficit in the local streets fund due to state restricted funds; and

WHEREAS, the City Council desires to secure the benefits of efficient self-governance and to promote and protect our common interests and welfare; and

NOW THEREFORE BE IT RESOLVED THAT THE HART CITY COUNCIL:

Amends the FY2023 Annual Budget as follows:
1 - Transfer of $105,000 from Major Street Fund to Local Street Fund
2 – Transfer $24,000 from the General Fund to the Local Street Fund

Moved by _____, supported by _____, and thereafter adopted by the Hart City Council at a regularly scheduled meeting held on August 8, 2023

Ayes: __ Nays: __ Absent: __

RESOLUTION 2023-38
CITY COUNCIL
City of Hart, Michigan
Oceana County

CANCEL AUGUST 22, 2023 CITY COUNCIL MEETING

WHEREAS; the second Council meeting in August is scheduled for August 22nd; and

WHEREAS; the city manager has a commitment to travel with friends and family as approved by city council during the time of the normal city council meeting; and

WHEREAS, Council will plan to hold a special meeting on August 15th at _____ time if there are action items for the agenda at that special meeting or other city business to be discussed; and

WHEREAS, As written in the city charter, the Clerk shall call a special meeting at anytime by the written request of the Mayor or any two members of the Council on at least twelve hours of written notice delivered to all council members and posted to the general public; and

WHEREAS, the City Council desires to secure the benefits of efficient self-governance and to promote and protect our common interests and welfare; and

NOW THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL:

> *The City Council's regularly scheduled August 22, 2023 meeting is cancelled unless reinstated by request of two council members or the Mayor to complete urgent business.*

Moved by _____, supported by _____, and thereafter adopted at the regular City of Hart City Council meeting on August 8, 2023.

Ayes: __ Nays: __ Absent: __