

02-0790R

RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF \$2,220,000 GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2002H, OF THE CITY OF DULUTH, MINNESOTA; ESTABLISHING THE TERMS AND FORM THEREOF; CREATING A DEBT SERVICE ACCOUNT THEREFOR; AND AWARDING THE SALE THEREOF.

BY COUNCILOR HOGG:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 (a) Under and pursuant to the provisions of Chapter 475 of Minnesota Statutes and other pertinent provisions of said Statutes and the home rule charter of the City, the City is authorized to issue its general obligation bonds to finance the cost of local public improvements, and the city council may pledge the full faith and credit and taxing powers of the City for the payment of the principal and interest on such indebtedness.

(b) The city council has, by resolutions adopted on the following dates, ordered the following local public improvements, as more fully described in reports filed with the city clerk by the Special Assessment Board pursuant to and in accordance with Chapter IX of the City Charter (the "Public Improvements"); and the Council determined to defray the following portions of the cost of the improvements set forth below to be assessed against benefitted property:

Order in Resolution No.	Date Resolution Passed	Assessable Cost	Project Description
01-0014	01/16/01	\$7,500	Drainage ditch and storm sewer in Kingston Alley from 51 <sup>st</sup> -52 <sup>nd</sup> Avenue East
01-0386	05/29/01	27,707	Sidewalks 2001 and Pavement Restore

Order in Resolution No.	Date Resolution Passed	Assessable Cost	Project Description
01-0411	05/29/01	39,630	Street in Harding Avenue from Central Entrance-Palm Street
02-0024	01/14/02	21,150	Permanent alley in 61 <sup>st</sup> Avenue West alley (Bristol & Greene)
02-0025	01/14/02	7,200	Resurface 103 <sup>rd</sup> Avenue West alley (McGonagle & 102 <sup>nd</sup> Avenue)
01-0848 (as amended)	12/03/01	90,887	Sanitary sewer and watermain on Rice Lake Road
01-0645	09/24/01	24,800	Permanent alley in Spear Avenue from Glenwood to Park
02-0164	03/11/02	24,050	Sanitary sewer and watermain along Minnesota Avenue
02-0165	03/11/02	16,800	Sanitary sewer on 11 <sup>th</sup> Street alley across North 14 <sup>th</sup> Avenue East
02-0246	04/22/02	132,000	Sanitary sewer in Decker Road
02-0354	05/28/02	275,200	Maryland Street from Dodge to Victoria Street, water, gas, sanitary sewer
02-0401	06/24/02	40,000	Sidewalks 2002 and pavement restore
02-0124	02/11/02	42,000	Fond du Lac water system
02-0554	08/19/02	418,830	Hartley Estates 3
02-0573	08/26/02	34,975	85 <sup>th</sup> Avenue West extension including C&G St., W&G main
02-0563	08/26/02	12,000	Water main on 96 <sup>th</sup> Avenue West
02-0630	09/23/02	22,000	Sanitary sewer in Swenson Avenue at 92 <sup>nd</sup> Avenue West
02-0706	10/15/02	869,600	Northridge Estates Street, sanitary and storm sewer, water and gas
02-0671	10/15/02	28,000	Permanent alley in 3 <sup>rd</sup> Street alley from 15th-19th Avenue East
02-0672	10/15/02	36,470	Permanent alley in 57 <sup>th</sup> Avenue West alley from Cody to 57 <sup>th</sup> Avenue West

(c) Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$2,220,000 General Obligation Improvement

Bonds, Series 2002H, to be dated December 1, 2002, as the date of original issue (the "Bonds").

(d) Evensen Dodge, Inc., financial consultant to the City, has given notification by mail to at least five firms determined by Evensen Dodge, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Evensen Dodge, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.02 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of \_\_\_\_\_ of \_\_\_\_\_ (the "Purchaser"), to purchase the Bonds at a cash price of \$\_\_\_\_\_, plus accrued interest on the total principal amount from December 1, 2002, to the date of delivery of the Bonds and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 (a) The Bonds to be issued hereunder shall be dated December 1, 2002, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective

years and amounts and shall bear interest at the annual rates stated as follows:

Year	Amount	Interest Rate	Year	Amount	Interest Rate
2004	\$100,000		2012	\$150,000	
2005	120,000		2013	155,000	
2006	120,000		2014	165,000	
2007	125,000		2015	170,000	
2008	130,000		2016	180,000	
2009	135,000		2017	190,000	
2010	140,000		2018	195,000	
2011	145,000				

(b) The Bonds maturing on February 1 in the years \_\_\_\_ and \_\_\_\_ shall be subject to mandatory redemption prior to maturity pursuant to the requirements of this Section 2.01(b) at a redemption price equal to the stated principal amount, as hereinafter provided, plus interest accrued thereon to the redemption date, without premium. The Bond Registrar, as designated below, shall select for redemption, by lot or other manner deemed fair, on February 1 in each of the following years, the following stated principal amounts:

(1) For Bonds maturing on February 1, \_\_\_\_ (the "\_\_\_\_ Term Bonds"):

Year	Principal Amount

The remaining \$\_\_\_\_\_ stated principal amount of the \_\_\_\_ Term Bond shall be paid at maturity on February 1, \_\_\_\_.

(2) For Bonds maturing on February 1, \_\_\_\_ (the "\_\_\_\_ Term Bonds"):

Year	Principal Amount

The remaining \$\_\_\_\_\_ stated principal amount of the \_\_\_\_ Term Bond shall be paid at maturity on February 1, \_\_\_\_\_.

If less than such amount of the Term Bonds is outstanding on such payment date, the City shall pay the remaining balance of the Term Bonds then outstanding. The Bond Registrar shall select and call for redemption, in accordance with Section 2.02 hereof, from the Term Bonds the amounts specified above and the Term Bond selected by the Bond Registrar shall become due and payable on such date.

2.02 (a) The Bonds maturing in the years 2004 through 2011 shall not be subject to optional redemption and prepayment before maturity, but those maturing or subject to mandatory redemption pursuant to Section 2.01(b), in the year 2012 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2011, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date.

(b) In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein,

will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

(c) If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2003. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 (a) The Bonds shall be prepared for execution in accordance with the

approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

(b) The city clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the city clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The city clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as public document No. \_\_\_\_\_. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different

Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Bonds eligible for the services provided by DTC, the City has previously agreed to the applicable provisions set forth in the Blanket Issuer Letter of Representations which has been executed by the City and DTC (the "Representation Letter").

(b) All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(c) Additional matters with respect to, among other things, notices, consents and approvals by bond holders and payments on the Bonds are set forth in the Representation Letter.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the

principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

CITY OF DULUTH  
 GENERAL OBLIGATION IMPROVEMENT BOND  
 SERIES 2002H

R-\_\_\_\_\_ \$\_\_\_\_\_

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December 1, 2002	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from December 1, 2002, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2003. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank Minnesota, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15<sup>th</sup> day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$2,220,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant

to Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of said statutes and a resolution adopted by the governing body of the City on December 5, 2002 (the "Resolution"), for the purpose of financing local public improvements, which obligations and interest thereon will be payable from special assessments levied or to be levied against property specially benefitted by local improvements.

The Bonds maturing in the years \_\_\_\_ and \_\_\_\_ shall be subject to mandatory redemption and redeemed in installments as provided in the Resolution, at par plus accrued interest to the date of redemption.

The Bonds of this series maturing in the years 2004 through 2011 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, in the year 2012 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2011, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond, a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral

multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Bond to be executed in its name by the signatures of the mayor and the city clerk.

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Date of Authentication: \_\_\_\_\_

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION  
Bond Registrar

By \_\_\_\_\_  
Authorized Representative

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank Minnesota, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
12/__/02	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

BOND COUNSEL OPINION

I certify that attached hereto is a full, true, and correct copy of the legal opinion rendered by bond counsel on the issuance of the Bonds, dated as of the original date of delivery of and payment for the Bond.

\_\_\_\_\_  
City Clerk

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto \_\_\_\_\_

\_\_\_\_\_  
(Name and Address of Assignee)

\_\_\_\_\_  
Social Security or Other  
\_\_\_\_\_  
Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby  
irrevocably constitute and appoint \_\_\_\_\_  
\_\_\_\_\_ attorney to transfer  
the said Bond on the books kept for registration thereof with full  
power of substitution in the premises.

Dated: \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
NOTICE: The signature of this  
assignment must correspond with  
the name of the registered  
owner as it appears upon the  
face of the within Bond in  
every particular, without  
alteration or enlargement or  
any change whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
(Bank, Trust Company, member of  
National Securities Exchange)

Unless this Bond is presented by an authorized representative  
of The Depository Trust Company, a New York corporation ("DTC"), to  
the City or its agent for registration of transfer, exchange, or  
payment, and any bond issued is registered in the name of Cede & Co.  
or in such other name as is requested by an authorized  
representative of DTC (and any payment is made to Cede & Co. or to  
such other entity as is requested by an authorized representative of  
DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR  
OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the  
registered owner hereof, Cede & Co., has an interest herein.

Section 3. Revenues, Accounts and Covenants.

3.01 The city council covenants and agrees with the holders of the Bonds  
and with its taxpayers that it will assess against benefitted property the cost

of the improvements to the City for the Public Improvements in an amount which is not less than 20% of the costs of such projects financed by the proceeds of the Bonds allocable to the Public Improvements. The city council further covenants and agrees that, with due diligence, it will complete the special assessment process, including any and all supplemental assessments or reassessments that may be required to lawfully assess the benefitted property.

3.02 Upon payment of the purchase price of the Bonds, the City shall credit the proceeds from the sale of the Bonds to a separate construction account (the "2002 Projects Account") within the Special Assessment Capital Projects Fund for the Public Improvements. The proper City officers are authorized and directed to pay out of such construction account from time to time as required, upon presentation of properly verified vouchers or statements of account, such amount or amounts as may be required to pay the cost of the improvements described in Section 1.01 and the costs of issuance of the Bonds.

3.03 A separate account within the Special Assessment Debt Service Fund maintained by the City is hereby created and is designated the "2002 Improvement Bond Account." The money in such account shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in said account, the treasurer shall pay the same from any other fund of the City and said fund shall be reimbursed out of said account. Into the 2002 Improvement Bond Account shall be paid from the proceeds of the Bonds unused discount, if any, capitalized interest in the amount of \$-0-, plus the amount of accrued interest on the Bonds, all special assessments levied for the projects listed in Section 1.01 hereof and the ad valorem taxes levied, if any, pursuant to Section 3.04 hereof.

3.04 It is estimated that the special assessments levied and appropriated to the 2002 Improvement Bond Account will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

3.05 Proceeds of the Bonds on deposit in the 2002 Projects Account and the 2002 Improvement Bond Account may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Tax Covenants; Miscellaneous.

4.01 The city council covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to cause the interest on the Bonds to be excluded from gross income for federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from

spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

4.02 (a) No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in such debt service account (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

(b) In addition, the proceeds of the Bonds and money in such debt service account shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

(c) The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 (a) Pursuant to Section 1.148-7(d) of the Treasury Regulations,

relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

(b) The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk.

Section 6. Certificate of Proceedings.

6.01 The city clerk is directed to file with the county auditor a certified copy of this Resolution and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the Bonds herein authorized have been duly entered on his register.

6.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bonds as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.03 The officers of the City are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Approved:

Approved for presentation to council:

\_\_\_\_\_  
Department Director

\_\_\_\_\_  
Administrative Assistant

Approved as to form:

Approved:

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Auditor

FIN LWB:RET:trg 11/19/2002

STATEMENT OF PURPOSE: This resolution establishes the terms and form and awards the sale of the \$2,220,000 General Obligation Improvement Bonds, Series 2002H, to \_\_\_\_\_ at a true interest cost of \_\_\_\_\_%. The proceeds of the Bonds will be used to provide funds necessary to finance local public improvements, which are payable from special assessments levied or to be levied against property specially benefitted by the improvements.