

PUBLIC WORKS & UTILITIES COMMITTEE

11-0036R

RESOLUTION APPROVING FIRST AMENDMENT TO MANAGEMENT AGREEMENT (CITY CONTRACT NO. 20554) WITH DULUTH STEAM COOPERATIVE ASSOCIATION.

CITY PROPOSAL:

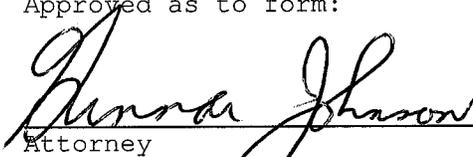
RESOLVED, that the proper city officials are hereby authorized to execute a First Amendment to Management Agreement (City Contract No. 20554), substantially the same as that on file in the office of the city clerk as Public Document No. _____, with Duluth steam cooperative association, amending certain termination provisions.

Approved for presentation to council:



Chief Administrative Officer

Approved as to form:



Attorney

Approved:



Auditor

ADM/ATTY GB7:blj 1/13/2011

STATEMENT OF PURPOSE: This resolution authorizes a First Amendment to Management Agreement (City Contract No. 20554) with the Duluth Steam Cooperative Association, which amends certain termination provisions contained therein.

**FIRST AMENDMENT TO
AGREEMENT FOR MANAGEMENT SERVICES
(CONTRACT NO. 20554)
DULUTH STEAM COOPERATIVE ASSOCIATION**

THIS FIRST AMENDMENT TO AGREEMENT NO. 20554, is entered into this ____ day of _____, 20____, by and between the CITY OF DULUTH, hereinafter referred to as “City,” and DULUTH STEAM COOPERATIVE ASSOCIATION, hereinafter referred to as “Association”.

WHEREAS, City and Association entered into an Agreement for Management Services dated January 15, 2008, which Agreement bears City Contract No. 20554 (“Agreement”) which appointed the Association as the City’s exclusive managing agent for the City’s steam system; and

WHEREAS, the City and Association desire to amend the terms of Section 16 of the Agreement relating to termination.

NOW, THEREFORE, the City and Association agree as follows:

In this First Amendment deleted terms will be struck out and added terms will be underlined.

A. That Section 16 of the Agreement is amended as follows:

16. The term of this Agreement shall commence on January 1, 2007 and continue in effect until June 30, 2012, or until terminated by either party giving to the other at least ~~one~~ year’s 195 day’s advance written notice of such termination; provided, however, that if either party violates the provisions of this Agreement, and if such violation is not cured within 60 days after receiving written notice of such breach from the other party, the other party may then terminate the Agreement. Failure to exercise such right to terminate for violation of any provisions of the Agreement shall not be deemed a waiver of such party’s right to terminate for such breach or any subsequent breach of the Agreement. In case of termination, the Association shall assign to the City all rights it may have in contracts and agreements with third parties pertaining to the operation of the system.

B. That in all other respects, the Agreement, together with all of its terms, covenants and conditions, is hereby confirmed in its entirety.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and date first above shown.

CITY OF DULUTH, a Minnesota
municipal corporation

**DULUTH STEAM COOPERATIVE
ASSOCIATION**

By _____
Its Mayor

By _____
Its President

Attest

City Clerk

Approved as to form:

City Attorney

Countersigned:

City Auditor