FINANCE COMMITTEE

12-038-O

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OR NOTE OF THE CITY OF DULUTH IN THE MAXIMUM AGGREGATE AMOUNT OF $1,000,000 FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Section 444.075 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal sewer utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal sewer utility pledged for their payment. The city has applied for and received commitments from the Minnesota Public Facilities Authority (the "Authority") for a loan and grant for the CIPP lining rehabilitation of sanitary sewers for Sewer Basin No. 24 (the "Project"), as identified in the city's application to the Authority.

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal sewer utility for the Project, and determines that it is necessary to issue general obligation sewer utility revenue bonds or notes, in one or more series, in the maximum aggregate amount of $1,000,000 for the purpose of paying costs of the Project.

1.03 The city has heretofore issued and sold the following: general obligation sewer utility revenue note dated December 12, 2003, now outstanding in the amount of $626,000; general obligation sewer utility revenue bonds dated December 1, 2004, now outstanding in the amount of $265,000; general obligation sewer utility revenue bonds dated December 19, 2005, now outstanding in the

amount of $2,370,000; general obligation utilities revenue bonds dated December 19, 2006, the sewer utility portion of such bonds now outstanding in the amount of $690,000; general obligation sewer utility revenue note dated July 12, 2007, now outstanding in the amount of $1,687,000; general obligation sewer utility revenue bonds dated December 13, 2007, now outstanding in the amount of $1,675,000; general obligation water and sewer utility revenue refunding bonds dated December 13, 2007, the sewer utility portion of such bonds now outstanding in the amount of $641,979; general obligation utilities revenue bonds dated February 19, 2009, the sewer utility portion of such bonds now outstanding in the amount of $1,206,000; general obligation sewer utility revenue note dated August 3, 2009, now outstanding in the amount of $574,726; general obligation sewer utility revenue note dated December 16, 2009, now outstanding in the amount of $2,239,800; general obligation utilities revenue bonds dated December 17, 2009, the sewer utility portion of such bonds now outstanding in the amount of $1,330,143; two general obligation sewer utility revenue notes dated September 14, 2010, in the aggregate original principal amount of $12,840,444, the proceeds of which have not been fully advanced; general obligation utilities revenue bonds dated November 23, 2010, the sewer utility portion of such bonds now outstanding in the amount of $1,765,000; general obligation sewer utility revenue refunding bonds dated November 29, 2011, now outstanding in the amount of $2,265,000; and three general obligation sewer utility revenue notes dated November 29, 2011, in the aggregate original principal amount of $915,320, the proceeds of which have not been fully advanced. Under the provisions of the ordinances authorizing said bonds and notes, the city reserved the privilege of issuing additional bonds and notes payable from said net revenues on a parity with the bonds and notes dated December 12, 2003, December 1, 2004, December 19, 2005, December 19, 2006, July 12, 2007, December 13, 2007, February 19, 2009, August 3, 2009, December 16, 2009, December 17, 2009, September 14, 2010, November 23, 2010, and November 29, 2011.

1.04 Pursuant to the authority herein recited, the city council hereby

authorizes and directs the issuance and sale of general obligation sewer utility revenue bonds or notes, in one or more series, of the city of Duluth in the maximum amount of $1,000,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal sewer utility. Net revenues are defined as sums from time to time within the sewer utility operating account within the sewer utility fund maintained under Section 54 of the City Charter, in excess of sums required to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the municipal sewer utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

1.05 The city reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal sewer utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the city council to be necessary for the improvement of the municipal sewer utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

Section 2. TERMS OF BONDS.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public

interest, all in accordance with the authority recited in Section 1.01 of this ordinance.

Section 3. REVENUES AND ACCOUNTS.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and amounts required to pay the normal, reasonable and current operating expenses and to maintain the municipal sewer utility and also produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore and hereafter issued and made payable from said net revenues.

3.02 The city council shall, by further resolution or resolutions, establish appropriate accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 4. CERTIFICATE OF PROCEEDINGS.

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

4.02 The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of the facts recited therein and the action stated therein to have been taken.

Section 5. EFFECTIVE DATE.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. This ordinance shall be published one time on the city's official website and remain on such website for a period of at least 30 days.

Approved:

Department Director

Approved for presentation to council:

Chief Administrative Officer

Approved as to form:

Attorney

Approved:

Auditor

FINANCE RET:CW:rlb 06/07/2012

STATEMENT OF PURPOSE: This ordinance authorizes the issuance of general obligation revenue bonds or notes in the maximum aggregate amount of $1,000,000 for the construction of CIPP lining rehabilitation of sanitary sewers for Sewer Basin No. 24, and are payable primarily from net revenues of the municipal sewer utility, including clean water fees or surcharges. The Minnesota Public Facilities Authority will purchase such bonds or notes with an estimated interest rate of approximately 2.0% (the actual interest rate for such bonds or notes, the size of the borrowing and the grant amount are to be set after the bids are received). The expected costs of this project are $3,500,000 to $3,800,000, and the expected grant for this project is $2,800,000 with the balance of the costs between $700,000 and $1,000,000 to be financed through such bonds or notes.