



City of Duluth

411 West First Street
Duluth, Minnesota 55802

Master

File Number: 15-063-O

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**Agenda
Section:**

Committee: Finance

File Created: 07/15/2015

Subject:

Final Action: 08/10/2015

Title: AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF TAXABLE GENERAL OBLIGATION STEAM UTILITY REVENUE BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$4,150,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

Internal Notes: Resolution from Fryberger, Buchanan, Smith & Frederick, P.A.; drafted by Bob Toftey.

Sponsors:

Enactment Date: 08/10/2015

Attachments:

Enactment Number: 10397

Recommendation:

Hearing Date:

Drafter: alent@duluthmn.gov

Effective Date: 09/11/2015

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	07/27/2015	read for the first time				
1	City Council	08/10/2015	adopted				Pass
1	Mayor	08/10/2015	approved				
1	City Clerk	08/10/2015	attest				
1	City Council	08/31/2015					
1	City Council	08/31/2015					

Text of Legislative File 15-063-O

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF TAXABLE GENERAL OBLIGATION STEAM UTILITY REVENUE BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$4,150,000 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, Minnesota Laws, 1979, Chapter 113 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and statutes, the city is authorized to issue its general obligation revenue bonds to provide funds for the improvement of the municipal steam plant, which bonds shall be a specific lien upon such plant and may be payable primarily from net revenues to be derived from service charges pledged for their payment.

1.02 The city council determines that it is necessary and desirable to make capital improvements to the municipal steam utility located in the downtown area of Duluth (the "Municipal Steam Utility"), including the (i) capital maintenance improvements; (ii) emergency generator upgrades; (iii) boiler natural gas system upgrades; (iv) DECC piping system repairs and hot water extension to the Great Lakes Aquarium; and (v) biomass cofiring facilities; and determines that it is necessary to issue taxable general obligation steam utility revenue bonds in an amount not exceeding \$4,150,000 for the purpose of paying for the improvements and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The city heretofore issued and sold Taxable General Obligation Steam Utility Revenue Refunding Bonds, Series 2012G, dated November 27, 2012 (the "2012G Bonds"), now outstanding in the amount of \$4,250,000. Under the provisions of the resolution authorizing said bonds, the city reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the 2012G Bonds.

1.04 Pursuant to the authority herein recited, the City Council authorizes and directs the sale of taxable general obligation steam utility revenue bonds of the city of Duluth in an amount not exceeding \$4,150,000 for the purposes stated in Section 1.02 hereof and pledges the full faith and credit and taxing powers of the city irrevocably to the extent required, for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably for such payments the income and revenues to be derived from time to time from the operation of the Municipal Steam Utility in excess of the normal reasonable and current costs of the operating and maintenance thereof.

1.05 The city reserves the right and privilege of issuing additional bonds and of pledging and appropriating the income and revenues of the Municipal Steam Utility for the payment thereof, when authorized in accordance with the law and the City Charter and determined by the city council to be necessary for the improvement of the utility or for the refunding of indebtedness payable from said income and revenues, provided that no such pledge shall constitute a lien upon the income and 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 covenants securing their payment, 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 the 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 facilities of the Municipal Steam Utility at the times and amounts required to pay the normal, reasonable and current operating expenses and to maintain the Municipal Steam Utility and also to 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 or 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. Certificates of Proceedings.

4.01 The city clerk is directed to file with the county auditor of St. Louis County, Minnesota, a certified copy of this ordinance, 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.

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 actions 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.