

FINANCE COMMITTEE

09-0696R

RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF \$12,100,000 TAXABLE GENERAL OBLIGATION CAPITAL IMPROVEMENT BONDS (BUILD AMERICA BONDS - DIRECT PAY), SERIES 2009C; ESTABLISHING THE TERMS AND FORM THEREOF; CREATING A DEBT SERVICE FUND THEREFOR; AND AWARDING THE SALE THEREOF.

CITY PROPOSAL:

BE IT RESOLVED by the city council (the "City Council") of the city of Duluth, St. Louis County, Minnesota (the "City"), as follows:

Section 1. Purpose and Authorization.

1.01 Under and pursuant to the provisions of Minnesota Statutes, Section 475.521 (the "Act") and Chapter 475, the City is authorized to issue its general obligation bonds to fund capital improvements pursuant to an approved capital improvement plan.

1.02 (a) Pursuant to the Act, the City Council has authorized preparation of a capital improvement plan for the years 2009 through 2013 (the "Plan").

(b) The City Council held a public hearing on the proposed Plan on December 1, 2008, and approved the Plan on December 15, 2008.

1.03 (a) On September 14, 2009, the City Council held public hearings on an amendment to the Plan and on the issuance of bonds in an amount not to exceed \$18,000,000 to finance a public safety facility, consisting of construction and equipping a new law enforcement center; all in accordance with the Plan (collectively, the "Project"). The Project is a capital improvement within the meaning of the Act.

(b) Pursuant to a resolution of the City Council adopted on September 14, 2009, the City Council has determined that it is necessary and expedient to issue General Obligation Capital Improvement Bonds in an amount not to exceed \$18,000,000 to provide funds to finance the Project and for payment of the costs of issuing such bonds.

(c) A notice of intent to issue such bonds was published in accordance

with the Act on September 18, 2009.

(d) No petition calling for a vote on the proposed issuance of such bonds, as permitted by the Act, has been filed with the city clerk.

(e) The City Council has determined that it is necessary and expedient to issue \$12,100,000 Taxable General Obligation Capital Improvement Bonds (Build America Bonds - Direct Pay), Series 2009C, of the City (the "Bonds") pursuant to the above-described authority, to provide a portion of the funds to finance the Project and for payment of the costs of issuing the Bonds in an amount not to exceed two percent of the proceeds of the Bonds.

(f) The maximum amount of principal and interest to become due in any year on the Bonds and all the outstanding bonds issued by the City pursuant to Section 475.521, subd. 4 of the Act will not exceed \$9,165,918, which is an amount equal to 0.16 percent of taxable market value of property in the City for taxes payable in 2009.

(g) Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile, electronic data transmission or other form of communication common to the municipal bond trade to at least five firms determined by Public Financial Management, 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.

1.04 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 \$_____, 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. Upon receipt of the good faith deposit, 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. In the event the Purchaser fails to provide the good faith deposit in accordance with the Official Terms of Offering, the mayor shall reject the Purchaser's bid and may award the sale of the Bonds to the bidder with the next best bid, or if such next best bidder fails to enter into a contract for sale of the Bonds and fails to satisfy such deposit requirements, the mayor is authorized to schedule a sale of the Bonds in substantial conformance with the Official Terms of Offering. All actions of the mayor and the clerk and Public Financial Management, Inc., independent financial advisor to the City, taken with regard to the sale of the Bonds are hereby ratified and approved.

Section 2. Terms of Bonds.

2.01 (a) The Bonds to be issued hereunder shall be dated the date of delivery, 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
2021	\$ 790,000	
2022	835,000	
2023	865,000	
2024	900,000	
2025	935,000	
2026	975,000	
2027	1,010,000	
2028	1,060,000	
2029	1,105,000	
2030	1,150,000	
2031	1,200,000	
2032	1,275,000	

The maturities of the Bonds are combined with the maturities of the City's \$7,270,000 General Obligation Capital Improvement Bonds, Series 2009B, dated the

date of issuance of the Bonds, to satisfy the requirements of Minnesota Statutes, Section 475.54.

(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 Bonds 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 Bonds 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 Sections 2.01(c) and (d) 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.

(c) In the event any of the Term 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.

(d) If less than all the Term Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., 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 of the Term 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.

2.02 (a) The Bonds maturing, or subject to mandatory redemption pursuant to Section 2.01(b), in the year 2021 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2020, 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) At the option of the City, the Bonds are subject to a special optional prepayment on any date in whole, but not in part, at a price equal to

the principal amount thereof plus accrued interest to the redemption date, in the event the federal government discontinues the Build America Bonds direct payment program with retroactive applicability to obligations issued prior to the date of such discontinuance (including the Bonds).

(c) 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.

(d) 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, 2010. 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 approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, and cause the opinion to be attached to each Bond.

2.05 The City hereby appoints Wells Fargo Bank, 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. 04-0219-02. 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) Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern.

(c) 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.

(d) DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and deliver, Bonds of such series to all persons who were beneficial

owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new bond in Book-Entry Form in exchange for a previous bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever.

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

(i) with respect to notices of redemption; and

(ii) with respect to any other notice required or permitted under this Bond Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter.

(f) All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

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

TAXABLE GENERAL OBLIGATION CAPITAL IMPROVEMENT BOND
(BUILD AMERICA BOND - DIRECT PAY), SERIES 2009C

R-__ \$_____

Rate	Maturity	Date of Original Issue	CUSIP
%	February 1, ____	December __, 2009	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

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 the Date of Original Issue, 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, 2010. 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, 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 15th 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 \$12,100,000, all of like date and tenor, except as to number, amount, maturity date, redemption privilege and interest rate, pursuant to the authority contained in Minnesota Statutes, Section 475.521 and Chapter 475, the City's approved Capital Improvement Plan, as amended, for the years 2009 through 2013 (the "Plan") and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on November 19, 2009 (the "Resolution"). This Bond is issued for the purpose of providing funds for the law enforcement center which is a capital improvement project designated by the City Council and pursuant to the Plan and the costs of issuing the Bonds, as more fully set forth in the Plan and the Resolution and for the payment of part of the interest cost of the Bonds. The City has levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls for the years and in the amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Bonds, as such principal and interest respectively come due.

The Bonds maturing in the years ____ and ____ (the "Term Bonds") 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 maturing, or subject to mandatory redemption, in the year 2021 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2020, and on any date thereafter, in whole or 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.

All of the Bonds are subject to a special optional prepayment on any date, in whole, but not in part, at the option of the City, at their principal amount and accrued interest to the redemption date, in the event the federal government discontinues the Build America Bonds direct payment program with retroactive applicability to obligations issued prior to the date of such discontinuance (including the Bonds).

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any of the Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; provided, 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.

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 the 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 manual or facsimile 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 the Bond registered in the name of the owner named above in the principal amount and maturing on the date stated above and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION
Minneapolis, Minnesota

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, National Association of Minneapolis, Minnesota, 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 Wells Fargo Bank, National Association, as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
12/___/09	Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	_____

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 has created a separate account designated the 2009 Taxable Capital Improvement Bonds (Build America Bonds - Direct Pay) Construction Account (the "Construction Account") within its Capital Improvement Project Fund 450, Agency 025, to which there shall be credited the proceeds of the Bonds in the amount of \$_____. This account shall be used to pay, or reimburse, expenses duly approved and allowed, which constitute capital expenditures for the Project, within the meaning of Section 1.150-(1)(b) of the Treasury Regulations (and not working capital expenditures, such as current operating expenses or refinancings), and to pay the costs of issuance for the Bonds (which costs, including underwriter's discount, shall not exceed two percent of the proceeds of the Bonds).

3.02 A separate debt service account is hereby created and designated as the "2009 Taxable Capital Improvement Bonds (Build America Bonds - Direct Pay) Debt Service Account" (the "Debt Service Fund") within the City's Debt Service Fund. The money in the Debt Service Fund 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 the Debt Service Fund, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited capitalized interest in the amount of \$_____, the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds, if any, and the ad valorem taxes levied pursuant to

Section 3.03 hereof.

3.03 (a) The full faith and credit and taxing power of the City are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Bonds, as such principal and interest respectively become due. To provide monies for the payment of the principal and interest on the Bonds, there is hereby levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls and collected with and part of the other general property taxes of the City for the years and in the amounts as follows:

Levy Year	Collection Year	Tax Levy
2009	2010	\$
2010	2011	
2011	2012	
2012	2013	
2013	2014	
2014	2015	
2015	2016	
2016	2017	
2017	2018	
2018	2019	
2019	2020	
2020	2021	
2021	2022	
2022	2023	
2023	2024	
2024	2025	
2025	2026	
2026	2027	
2027	2028	
2028	2029	
2029	2030	
2030	2031	

Said levies are such that if collected in full they will produce at least five percent in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that prior to approval of its budget each year (approximately December 1) while any Bonds issued hereunder remain outstanding, the city council shall reduce or cancel the above levies to the extent of an irrevocable appropriation to the Debt Service Fund of

monies actually on hand for payment of the principal and interest payable in the ensuing year and shall direct the county auditor to reduce the levy for such calendar year by that amount.

(b) If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient.

3.04 Proceeds of the Bonds on deposit in the Construction Account and in the Debt Service Fund 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. Qualified Build America Bond Designation; Irrevocable Election; Compliance with Federal Tax Laws.

4.01 The Bonds are hereby irrevocably designated qualified Build America Bonds within the meaning of Subsection 54AA(g) of the Internal Revenue Code of 1986, as amended (the "Code"), and the City hereby irrevocably elects to apply Subsection 54AA(g) of the Code to the Bonds. The City represents that all proceeds of the Bonds, less costs of issuance financed with such proceeds (which costs shall be in an amount not to exceed two percent of such proceeds), plus all income from temporary permitted investments with respect to such proceeds ("Available Project Proceeds"), shall be used only for capital expenditures, as described in Section 3.01 hereof. The City acknowledges that among the requirements for the Bonds to qualify and continue to qualify as qualified Build America Bonds is that the Bonds, but for their qualified Build America Bond designation, would be tax-exempt for federal income tax purposes, and hence that the requirements of the Code and the Treasury Regulations thereunder (the

"Regulations") regarding tax-exempt obligations apply to the Bonds. The City hereby covenants to comply with such requirements.

4.02 The City thus further represents and covenants that the Project financed by the Bonds and its ownership, management and use will not cause the Bonds to be "private activity bonds" within the meaning of Section 141 of the Code. The City further covenants that it shall comply with the provisions of the Code to the extent necessary to maintain the qualified Build America Bond status of the Bonds including, if applicable, the rebate requirements of Section 148(f) of the Code. The City further covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of the Bonds) if taking, permitting or omitting to take such action would cause any of the Bonds to be arbitrage bonds or private activity bonds within the meaning of the Code or would otherwise cause the Bonds to lose their status as qualified Build America Bonds within the meaning of Subsection 54AA(g) of the Code and the Regulations. The auditor, treasurer and other officers of the City charged with the responsibility of issuing the Bonds shall provide an appropriate certificate of the City certifying that the City can, and covenanting that it will, comply with the provisions of the Code and the Regulations.

4.03 The City also covenants to use its best efforts to meet the requirements and restrictions of any different or additional federal legislation which may be made applicable to the Bonds, provided that in meeting such requirements the City will do so only to the extent consistent with the proceedings authorizing the Bonds and the laws of the State of Minnesota and to the extent that there is a reasonable period of time in which to comply.

4.04 All investments made pursuant to this Resolution shall be permitted investment securities under Section 3.14 hereof, but no such investment shall be made in such a manner as would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code or the Regulations, and an officer of the

City, charged with the responsibility for issuing the Bonds, shall certify as to facts, estimates, circumstances and reasonable expectations in existence on the date of delivery of the Bonds to the Purchaser which will permit the conclusion that the Bonds are not "arbitrage bonds" within the meaning of the Code or the Regulations.

Section 5. Qualified Build America Bonds - Application for Direct Payments to the City. The City shall claim available refundable credits from the Treasury with respect to each interest payment on the Bonds as provided under Subsection 54AA(g)(1) of the Code (the "Direct Payments"). The City treasurer, or his designee, is hereby authorized and directed to take all necessary actions on behalf of the City to apply for the receipt by the City of the Direct Payments, including the timely filing of necessary Internal Revenue Service forms and information returns for that purpose and/or submitting requests electronically if and as the Treasury establishes an electronic platform in connection with its direct payment procedures. All of the Direct Payments received by the City shall be promptly deposited in the Debt Service Fund.

Section 6. 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 as public document No. 04-0219-02.

Section 7. Certificate of Proceedings.

7.01 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.

7.02 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.

7.03 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

Chief Administrative Officer

Approved as to form:

Approved:

Attorney

Auditor

Finance RET: CW:rb 11/09/2009

STATEMENT OF PURPOSE: This resolution establishes the terms and form and awards the sale of the City's \$12,100,000 Taxable General Obligation Capital Improvement Bonds (Build America Bonds - Direct Pay), Series 2009C, to _____ at a true interest cost of _____%.