

FINANCE COMMITTEE

09-0699R

RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF \$2,200,000 GENERAL OBLIGATION IMPROVEMENT REFUNDING BONDS, SERIES 2009F; ESTABLISHING THE TERMS AND FORM THEREOF; CREATING DEBT SERVICE ACCOUNTS THEREFOR; AND AWARDING THE SALE THEREOF.

CITY PROPOSAL:

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) The City has previously issued its \$2,750,000 General Obligation Improvement Bonds, Series 1998E, dated December 1, 1998 (the "1998 Bonds"), its \$1,220,000 General Obligation Improvement Bonds, Series 1999G, dated December 1, 1999 (the "1999 Bonds"), and its \$1,405,000 General Obligation Improvement Bonds, Series 2001A, dated April 1, 2001 (the "2001 Bonds"). The 1998 Bonds, the 1999 Bonds and the 2001 Bonds were authorized and issued pursuant to the City Charter, Minnesota Statutes, Chapter 475 and all other laws thereunto enabling such issues.

(b) The 1998 Bonds were a multi-purpose issue consisting of \$1,005,000 General Obligation Improvement Bonds payable from special assessments levied against benefitted properties and of \$1,745,000 General Obligation Michigan Street Improvement Bonds issued pursuant to Minnesota Laws 1974, Chapter 130, and other laws, to finance a new realignment of Michigan Street with connector streets to old Michigan Street (the "Michigan Street Improvements"), which bonds are paid from ad valorem taxes.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and Section 475.67, Subdivisions 1 through 12 of the Act, the City is authorized to issue and sell its general obligation bonds to refund obligations and the interest thereon six months or less before the due date or the redemption date of the obligations, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment

of maturities in relation to the resources available for their payment.

1.03 (a) It is necessary and desirable that in order to reduce debt service costs the City issue \$2,200,000 General Obligation Improvement Refunding Bonds, Series 2009F (the "Bonds"), to refund the outstanding 1998 Bonds, 1999 Bonds and 2001 Bonds maturing on and after February 1, 2010 (the "Refunded Bonds"), of which \$2,550,000 in principal amount is outstanding. The 1998 Bonds, 1999 Bonds and 2001 Bonds maturing on or after February 1, 2011, are subject to prepayment and redemption on February 1, 2010 (February 1, 2010 is herein referred to as the "Redemption Date").

(b) The Bonds, and the maturities therefore, are allocated to the refunding of: (i) the portion of the 1998 Bonds which financed public improvements, the 1999 Bonds and the 2001 Bonds, all of which are payable primarily from special assessments upon benefitted property (the "Public Improvement Portion of the Bonds"); and (ii) the portion of the 1998 Bonds which financed the Michigan Street Improvements, which are payable from ad valorem taxes (the "Michigan Street Improvement Portion of the Bonds"); each as set forth in Section 2.01.

1.04 Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile or electronic data transmission 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, pursuant to and in accordance with Minnesota Statutes, Section 475.60, Subd. 3. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.05 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 \$\_\_\_\_\_, 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 The Bonds to be issued hereunder shall be dated as of 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 stated and shall bear interest as follows:

<b>Year</b>	<b>Michigan Street Improvement Portion of the Bonds</b>	<b>Public Improvement Portion of the Bonds</b>	<b>Amount</b>	<b>Interest Rate</b>
2011			\$ 440,000	
2012			445,000	
2013			455,000	
2014			465,000	
2015			275,000	
2016			120,000	
Total			\$2,200,000	

2.02 The Bonds are not subject to redemption prior to maturity.

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 15<sup>th</sup> 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 or facsimile 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, 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 The Depository Trust Company, New York, New York ("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 first publication or the mailing (if there is no publication) 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 REFUNDING BOND, SERIES 2009F

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

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

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 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 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 \$2,200,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475 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"), and is issued for the purpose of providing money to refund the outstanding principal amount of the \$2,750,000 General Obligation Improvement Bonds, Series 1998E, dated December 1, 1998 (the "1998 Bonds"), the \$1,220,000 General Obligation Improvement Bonds, Series 1999G, dated December 1, 1999 (the "1999 Bonds"), and the \$1,405,000 General Obligation Improvement Bonds, Series 2001A, dated April 1, 2001 (the "2001 Bonds"). The 1998 Bonds were issued (i) in part to finance local public improvements, which obligations and interest thereon will be payable primarily from special assessments upon benefitted property and (ii) in part to finance the local match for grant funds for the realignment of Michigan Street as described in the Resolution, which obligations and interest thereon are payable from annual ad valorem taxes. The 1999 Bonds and the 2001 Bonds will be payable primarily from special assessments upon benefitted property.

The Bonds are not subject to redemption prior to maturity.

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, Minnesota, by its City Council, has caused this Bond to be executed in its name by the facsimile signatures of the Mayor and the City Clerk.

Attest:

\_\_\_\_\_  
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, 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, 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 to 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.

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.

\_\_\_\_\_  
Clerk

Section 3. Escrow Agreement; Escrow Agent.

3.01 Wells Fargo Bank, National Association of Minneapolis, Minnesota, which is a suitable financial institution within the State of Minnesota whose deposits are insured by the Federal Deposit Insurance Corporation whose combined capital and surplus is not less than \$500,000, is hereby designated escrow agent (the "Escrow Agent") with respect to the outstanding 1998 Bonds, 1999 Bonds and 2001 Bonds.

3.02 On or prior to the delivery of the Bonds, the mayor and the clerk are hereby authorized and directed to execute on behalf of the City an escrow agreement (the "Escrow Agreement") with the Escrow Agent in substantially the form now on file with the clerk as public document No. \_\_\_\_\_. The execution and delivery of the Escrow Agreement by the mayor and the clerk, in the form presented to the City Council with such changes, omissions, insertions and revisions as the mayor and the clerk deem advisable is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. All essential terms and conditions of the Escrow Agreement, including payment by the City of reasonable charges for the services of the Escrow Agent, are hereby approved and adopted and made a part of this Resolution, and the City covenants that it will promptly enforce all provisions thereof in the event of default thereunder by the Escrow Agent.

Section 4. Covenants, Accounts and Representations.

4.01 (a) A separate account within the City's Special Assessment Debt Service Fund is hereby created and is designated the "2009F Improvement Refunding Bond Account." The money in such account shall be used for no purpose other than the payment of principal and interest on the Public Improvement Portion of the Bonds. The 2009F Improvement Refunding Bond Account shall be maintained in the manner herein specified until all of the Bonds and interest thereon have been fully paid. To the 2009F Improvement Refunding Bond Account there is hereby

pledged and irrevocably appropriated and there shall be credited: (i) any balance remitted to the City upon termination of the Escrow Agreement attributable to the 1998 Bonds which financed public improvements, the 1999 Bonds and the 2001 Bonds; (ii) any balance remaining on the Redemption Date in the debt service accounts created in the City's resolution authorizing the issuance and sale of the 1998 Bonds (Resolution No. 98-0974R) which financed public improvements, the 1999 Bonds (Resolution No. 99-0790R), and the 2001 Bonds (Resolution No. 01-0238R) (the "Prior Resolutions") after payment of principal and interest on the Refunded Bonds on the Redemption Date; (iii) any collections of the proceeds of special assessments levied for the public improvement projects listed in Section 1 of the Prior Resolutions and the ad valorem taxes hereafter levied for the payment of the Public Improvement Portion of the Bonds and interest thereon; (iv) all investment earnings on funds in the 2009F Improvement Refunding Bond Account; (v) accrued interest, if any, received from the Purchaser upon delivery of the Bonds which is allocable to the Public Improvements Portion of the Bonds, to the extent not required to fund the Escrow Account; (vi) any amount of additional interest permitted by Section 475.56 of the Act paid by the Purchaser allocable to the Public Improvement Portion of the Bonds, to the extent not required to fund the Escrow Account; (vii) all taxes or other funds pledged to repayment of the Public Improvement Portion of the 1998 Bonds, the 1999 Bonds and the 2001 Bonds in the Prior Resolutions hereafter collected pursuant to levies made in the Prior Resolutions; and (viii) any and all other monies which are properly available and are appropriated by the City to the 2009F Improvement Refunding Bond Account including taxes levied in Section 4.04(c) hereof. The amount of any surplus remaining in the 2009F Improvement Refunding Bond Account when the Bonds and interest thereon are paid shall be used as provided in Section 475.61, Subdivision 4 of the Act.

(b) A separate debt service account within the City's Debt Service Fund is hereby created and designated as the "2009F Refunding Bonds Michigan Street

Improvement Debt Service Account" (the "2009 Bonds Michigan Street Account"). The 2009 Bonds Michigan Street Account shall be maintained in the manner herein specified until all of the Bonds and interest thereon have been fully paid. To the 2009 Bonds Michigan Street Account there is hereby pledged and irrevocably appropriated and there shall be credited: (i) any balance remitted to the City upon termination of the Escrow Agreement attributable to the 1998 Bonds which financed the Michigan Street Improvements; (ii) any balance remaining on the Redemption Date in the debt service account created in the City's resolution authorizing the issuance and sale of the 1998 Bonds (Resolution No. 98-0974R) which financed the Michigan Street Improvements (the "1998 Resolution") after payment of principal and interest on the Refunded Bonds on the Redemption Date; (iii) any collections of the ad valorem taxes hereafter levied for the payment of the Michigan Street Improvement Portion of the Bonds and interest thereon; (iv) all investment earnings on funds in the 2009 Bonds Michigan Street Account; (v) accrued interest, if any, received from the Purchaser upon delivery of the Bonds, which is allocable to the Michigan Street Improvement Portion of the Bonds to the extent not required to fund the Escrow Account; (vi) any amount of additional interest permitted by Section 475.56 of the Act paid by the Purchaser allocable to the Michigan Street Improvement Portion of the Bonds, to the extent not required to fund the Escrow Account; (vii) all taxes pledged to repayment of the 1998 Bonds allocable to the Michigan Street Improvements in the 1998 Resolution hereafter collected pursuant to levies made in the 1998 Resolution; and (viii) any and all other monies which are properly available and are appropriated by the City to the 2009 Bonds Michigan Street Account including taxes levied in Section 4.04(b) hereof. The amount of any surplus remaining in the 2009 Bonds Michigan Street Account when the Bonds and interest thereon are paid shall be used as provided in Section 475.61, Subdivision 4 of the Act.

(c) Escrow account.

(i) To the Escrow Account there is hereby pledged and irrevocably appropriated and there shall be credited: (a) the proceeds of the Bonds received from the Purchaser which are not appropriated to either the 2009F Improvement Refunding Bond Account or the 2009 Bonds Michigan Street Account or are not to be used for payment of costs of issuance of the Bonds; (b) accrued interest on the Bonds; (c) additional interest permitted by Section 475.56 of the Act paid by the Purchaser [amounts referenced in clauses (a), (b) and (c) are herein referred to as the "Proceeds"]; (d) funds of the City in an amount sufficient to meet the requirements of the Escrow Account (the "Funds"); and (e) investment earnings on such monies referenced in clauses (a), (b), (c) and (d), for the payment of principal and interest due on the 1998 Bonds, 1999 Bonds and 2001 Bonds on the Redemption Date and for the Refunded Bonds called for redemption on the Redemption Date.

(ii) The Escrow Account shall be maintained with the Escrow Agent pursuant to the Escrow Agreement and this Resolution. The Escrow Account shall be invested in accordance with the Act, the Escrow Agreement and this Section, in securities specified in Section 475.67, Subdivision 8(a) of the Act.

(iii) From the Escrow Account there shall be paid: (a) all principal of and interest to be paid on the 1998 Bonds, 1999 Bonds and 2001 Bonds to and including the Redemption Date; and (b) the principal of the Refunded Bonds due by reason of redemption on the Redemption Date.

(iv) The Escrow Account for the 1998 Bonds, 1999 Bonds and 2001 Bonds is irrevocably appropriated to the payment of the principal of and interest on the 1998 Bonds, 1999 Bonds and 2001 Bonds to and including the Redemption Date and to prepayment of the Refunded Bonds due by reason of redemption on the Redemption Date. The monies to be deposited in the Escrow Account for the 1998 Bonds, 1999 Bonds and 2001 Bonds shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus in the Escrow Account may be

remitted to the City all in accordance with the Escrow Agreement. Any monies remitted to the City upon termination of the Escrow Agreement shall be deposited in the 2009F Improvement Refunding Bond Account and the 2009 Bonds Michigan Street Account on a prorata basis.

(v) Securities purchased for the Escrow Account shall be purchased simultaneously with the delivery of and payment for the Bonds. The mayor and clerk or their designee are authorized and directed to purchase such securities.

(d) The construction funds created for the 1998 Bonds, 1999 Bonds and 2001 Bonds have previously been terminated and all bond proceeds therein have been expended.

4.02 The city council hereby declares that it has assessed against benefitted property not less than 20 percent of the cost of the projects financed by the 1998 Bonds, 1999 Bonds and 2001 Bonds. The City further declares that it has completed the special assessment process, including any and all supplemental assessments or reassessments that were required to lawfully assess the benefitted property.

4.03 It is hereby determined that upon the receipt of proceeds of the Bonds (the "Proceeds") for payment of the 1998 Bonds, 1999 Bonds and 2001 Bonds that an irrevocable appropriation to the Escrow Account shall have been made within the meaning of Section 475.61, Subdivision 3 of the Act and the clerk is hereby authorized and directed to certify such fact to and request the county auditor to cancel any and all tax levies made by the Prior Resolutions for collection year 2010 and thereafter.

4.04 (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.

(b) To provide monies for the payment of the principal and interest on the Michigan Street Improvement Portion of 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	

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 Michigan Street Improvement Portion of the Bonds.

Such tax levies shall be irrevocable as long as any of the Michigan Street Improvement Portion of the Bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the city council may reduce or cancel the above levies to the extent of an irrevocable appropriation to the 2009 Bonds Michigan Street Account of monies actually on hand for payment of the portion of such principal and interest payable from such ad valorem taxes, and may direct the county auditor to reduce the levy for such calendar year by that amount. All proceeds of said taxes are hereby appropriated and shall be paid when collected into the 2009 Bonds Michigan Street Account. If the balances in the 2009 Bonds Michigan Street Account are 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 2009 Bonds Michigan Street Account when the balances therein are sufficient.

(c) It is estimated that the special assessments levied and appropriated to the 2009F Improvement Refunding Bond Account will be received at the times and in amounts not less than five percent in excess of the amounts needed to meet

when due the principal and interest payments on the Public Improvement Portion of the Bonds and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Public Improvement Portion of 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 Public Improvement Portion of the Bonds, without limitation as to rate or amount.

(d) All proceeds of said special assessments and said taxes are hereby appropriated and shall be paid when collected into the 2009F Improvement Refunding Bond Account within the Special Assessment Debt Service Fund. If the balances in the 2009F Improvement Refunding Bond Account are 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 2009F Improvement Refunding Bond Account when the balances therein are sufficient.

Section 5. Refunding, Findings, Prepayment of Refunded Bonds.

5.01 It is hereby found and determined that based upon information presently available from the City's financial advisers, the issuance of the Bonds is consistent with covenants in the Prior Resolutions and is necessary and desirable for the reduction of debt service cost to the City.

5.02 It is hereby found and determined that the Proceeds and other available funds appropriated to the Escrow Account will be sufficient to pay all of the principal of and interest on the 1998 Bonds, 1999 Bonds and 2001 Bonds due on February 1, 2010, and the principal of the Refunded Bonds on the Redemption Date.

5.03 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form

of notice of call for redemption attached to the Escrow Agreement, which terms and conditions are hereby approved and incorporated herein by reference. The clerk or his designee is hereby authorized and directed to forthwith, no later than 30 days prior to the Redemption Date, to send written notice of call to the registered owners and paying agent and to the bond insurance company of the Refunded Bonds.

5.04 When the principal of the 1998 Bonds, 1999 Bonds and 2001 Bonds and all interest thereon have been discharged as provided in this section, all pledges, covenants and other rights granted by the Prior Resolutions to the holders of the 1998 Bonds, 1999 Bonds and 2001 Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal and interest on the 1998 Bonds, 1999 Bonds and 2001 Bonds shall remain in full force and effect.

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. Tax Covenants.

7.01 The City covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to assure that the interest

on the Bonds will be excluded from gross income for federal income taxes including, without limitations, 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.

7.02 (a) The proceeds of the 1998 Bonds, 1999 Bonds and 2001 Bonds have been totally expended for the governmental purpose for which issued; the gross proceeds of the Bonds will, within 90 days of the date of issuance of the Bonds, have been totally expended for the purpose of refunding the outstanding principal amount of the Refunded Bonds and interest thereon and paying costs of issuance of the Bonds. Therefore, no rebate of arbitrage profit is required under the Internal Revenue Code of 1986, as amended (the "Code").

(b) In addition, the proceeds of the Bonds and money in the debt service accounts established herein 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 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.

(d) The City expects that all proceeds of the Bonds will be expended within six months of the date of issue of the Bonds.

7.03 In addition to the Bonds, the City is selling, pursuant to a single offering document and on the same date, the following tax-exempt obligations: General Obligation Capital Improvement Bonds, Series 2009B (the "Series 2009B Bonds"), General Obligation Capital Equipment Notes, Series 2009D (the "Notes"), and General Obligation Utilities Revenue Bonds, Series 2009E (the "Series 2009E Bonds"). The Bonds will not be paid out of substantially the same source of funds as the Series 2009B Bonds, the Notes and the Series 2009E Bonds; consequently, the Bonds will not be combined with them for a single issue.

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 \$2,200,000 General Obligation Improvement Refunding Bonds, Series 2009F, to \_\_\_\_\_, at a true interest cost of \_\_\_\_\_%.