FINANCE COMMITTEE

11-042-O

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION AIRPORT IMPROVEMENT BONDS IN THE MAXIMUM AMOUNT OF $7,650,000 OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 Pursuant to Minnesota Laws 1969, Chapter 577, as amended, the City was authorized to and did organize the Duluth Airport Authority (the "Authority") to administer, promote, control, direct, manage and operate all airports of the City. The Authority is in the process of constructing a new terminal facility at the Duluth International Airport, including a new parking ramp, access road and aprons (the "Project").

1.02 The City has received grants from the State of Minnesota in the amount of $16,600,000 for the Project, and the Authority has received grants for the Project from the Federal Aviation Administration and TSA in the amount of $48,088,363 and from the State of Minnesota in the amount of $4,500,000.

1.03 The Authority needs additional matching funds in an amount not to exceed $7,650,000 for completion of the Project, costs of issuance and capitalized interest.

1.04 Under the provisions of Minnesota Laws 1974, Chapter 130, the City Council may by ordinance provide for the issuance of general obligation bonds to provide the funds necessary to match state, private or federal grant funds for projects within the City's boundaries, which bonds are to be supported by the full faith and credit of the City and are to be issued subject to the provisions of Minnesota Statutes, Section 475, except that they may exceed the limitations in Minnesota Statutes, Section 475.53, by an amount not to exceed $2,000,000, and they may not be issued if the City's contribution to the project, including the proceeds of the bonds, exceeds 60% of the total project cost where such

contribution is used to match state or federal grants, or 70% where it is used to match government and private grants, or 80% where it is used to match private grants alone. The Project is of the nature contemplated by said law. The City and the Authority have been awarded grants of state and federal funds and other funds for the Project, and it is estimated that such funds, together with the proceeds of bonds issued by the City in an amount not to exceed $7,650,000, will be sufficient to pay the total project costs estimated at $75,465,821, and that the amount of the City's contribution, from the proceeds of the bonds or otherwise, will not exceed the limitations set forth in said law.

1.05 Pursuant to the authority herein recited, the City Council hereby authorizes and directs the issuance and sale of General Obligation Airport Improvement Bonds of the City in an amount not to exceed $7,650,000, and pledges the full faith and credit and taxing powers of the City irrevocably for the payment of the principal and interest when due on such bonds.

Section 2. TERMS OF BONDS.

2.01 The City Council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, Chapter 475 and of Minnesota Laws 1974, Chapter 130, and of other applicable laws.

Section 3. REVENUES AND ACCOUNTS.

3.01 The City has created and maintains the airport construction fund to which there shall be credited all or a portion of the proceeds of the bonds, as provided by Council resolution, together with any additional funds which may be available and are appropriated for the Project or which may be advanced to such fund on condition that such amounts be reimbursed from bond proceeds.

3.02 The City Council may, by resolution or resolutions, establish such

further 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. TAX LEVY.

4.01 There shall be and is hereby 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 amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the City will also maintain a separate 2011 airport improvement bond debt service account within the debt service fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable, on the bonds issued hereunder and on any other bonds which have been or may be issued and made payable from said account. If the balance is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, 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 such debt service account when the balance therein is sufficient. All proceeds of said taxes are hereby appropriated and shall be paid when collected into such account. Said taxes shall be irrepealable until the bonds and interest are fully paid, except that if the City Council in any year shall make an irrevocable appropriation to said account of monies actually on hand, the City clerk shall certify to the county auditor of St. Louis county the fact and amount thereof, and the county auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared. After this ordinance has been published and becomes effective, the City Council shall by resolution fix the precise amounts of such tax levies to be placed upon the tax rolls for each of the respective years required to comply with the provisions of this ordinance.

Section 5. CERTIFICATE OF PROCEEDINGS.

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

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

Section 6. EFFECTIVE DATE.

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

Approved:

Department Director

Approved for presentation to council:

Chief Administrative Officer

Approved as to form:

Attorney

Approved:

Auditor

FINANCE RET:CW:rlb 09/01/2011

STATEMENT OF PURPOSE: This ordinance authorizes the issuance of general obligation bonds in an amount not to exceed $7,650,000 to provide the local match for state and federal grants for the new airport terminal project. Prior to the issuance of the bonds, the city and the Airport Authority will enter into an agreement under which the Authority will transfer revenues to the city, primarily from passenger facilities charges and customer facilities charges, to pay the debt service on the bonds.