

FINANCE COMMITTEE

12-0470R

RESOLUTION PROVIDING FOR THE DEFEASANCE OF BONDS AND
CANCELLATION OF CERTAIN TOURISM TAXES.

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, findings and authorization.

1.01 Laws of Minnesota 1980, Chapter 511, Section 1, Subdivision 2, as amended by Laws of Minnesota 1991, Chapter 291, Article 8, Section 22, Laws of Minnesota 1998, Chapter 389, Article 8, Section 25, and Laws of Minnesota 2003, First Special Session, Chapter 21, Article 8, Section 11, authorized the City to impose an additional one-half of one percent tax on certain sales of food and beverages, and Laws of Minnesota 1980, Chapter 511, Section 2, as amended by Laws of Minnesota 1998, Chapter 389, Article 8, Section 26 and Laws of Minnesota 2003, First Special Session, Chapter 21, Article 8, Section 12, authorized the City to impose an additional tax of one-half of one percent on certain sales of lodging (collectively, the "Additional $\frac{1}{2}$ % Tourism Taxes") to pay the debt service on (i) bonds in the principal amount of \$8,000,000 for improvements to the Duluth Entertainment and Convention Center, and (ii) bonds in the amount of \$4,970,000 to finance capital improvements to the Great Lakes Aquarium (collectively, the "Original Bonds"). Such statutes further provided that when the City Council determines that the Additional $\frac{1}{2}$ % Tourism Taxes have produced sufficient revenues to pay the principal of and interest on the Original Bonds, or bonds refunding of the Original Bonds, that the Additional $\frac{1}{2}$ % Tourism Taxes shall be cancelled and the tourism taxes authorized by such statutes shall be reduced to one percent.

1.02 The City issued the Original Bonds and have refunded the Original Bonds with a series of bonds, a portion of which remain outstanding, which include: (i) the City's \$1,765,000 General Obligation Refunding Bonds, Series 2005K, dated December 19, 2005 (the "2005 Bonds"); and (ii) the City's \$3,760,000

General Obligation DECC Improvement Refunding Bonds, Series 2007E, dated December 13, 2007 (the "2007 Bonds," and together with the 2005 Bonds, the "Bonds").

1.03 The City Council hereby determines that with the collection of the Additional ½% Tourism Taxes through October 31, 2012, the City will have sufficient revenues from such taxes to defease the Bonds. Therefore, the City Council hereby directs that no further Additional ½% Tourism Taxes be collected commencing on November 1, 2012, and the sales taxes imposed by the City pursuant to Laws of 1980, Chapter 511, Section 1, Subdivision 2 and Section 2, as amended, and Sections 42A-2(b) and 42-A-49 of the Duluth City Code on certain sales of food and beverages and lodging within the City commencing on November 1, 2012, shall be one percent.

1.04 The City Council hereby determines that it is necessary, expedient and in the best interest of the City's residents that the City defease the outstanding 2005 Bonds maturing on and after February 1, 2013, of which \$905,000 in principal amount is outstanding (the "2005 Refunded Bonds"), and to defease the outstanding 2007 Bonds maturing on and after February 1, 2013, of which \$1,370,000 in principal amount is outstanding (the "2007 Refunded Bonds"). The 2005 Refunded Bonds maturing on and after February 1, 2015, are subject to prepayment and redemption on February 1, 2014. (February 1, 2014 is herein referred to as the "Redemption Date.") The 2007 Bonds are not subject to prepayment and redemption but has a final maturity payable on February 1, 2014.

Section 2. Escrow Agreement; Escrow Agent.

2.01 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 Bonds.

2.02 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 3. Escrow Account.

(a) To the Escrow Account under the Escrow Agreement, there is hereby pledged and irrevocably appropriated and there shall be credited: (a) receipts from the Additional $\frac{1}{2}$ % Tourism Taxes or other funds of the City in an estimated amount of \$2,445,000 (the "Funds"); and (b) investment earnings on such monies referenced in clause (a), for the payment of (i) principal and interest due on the 2005 Refunded Bonds through February 1, 2014; (ii) the principal on the 2005 Refunded Bonds called for prepayment and redemption on the Redemption Date; (iii) the principal of and interest due on the 2007 Bonds through February 1, 2014; and (iv) for the payment of the costs for defeasance of the Bonds.

(b) (i) 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 Minnesota Statutes, Section 475 (the "Act"), the Escrow Agreement and this Section, in securities specified in Section 475.67, Subdivision 8(a) of the Act, which investments will provide sufficient funds together with any cash or other funds retained in the Escrow Account for the payment of principal and interest due on the 2005 Refunded Bonds through February 1, 2014, and the principal of the 2005 Refunded Bonds called for redemption and prepayment on the Redemption Date, and for the payment of principal and interest on the 2007 Refunded Bonds due through February 1, 2014.

(ii) From the Escrow Account there shall be paid: (a) principal and

interest due on the 2005 Refunded Bonds through February 1, 2014; (b) principal of the 2005 Refunded Bonds called for redemption and prepayment on the Redemption Date; and (c) principal and interest on the 2007 Refunded Bonds due through February 1, 2014.

(iii) The Escrow Account for the 2005 Refunded Bonds and the 2007 Refunded Bonds as set forth above is irrevocably appropriated to the payment of the principal of and interest due on the 2005 Refunded Bonds and the 2007 Refunded Bonds as set forth in clause (ii) above. The monies in the Escrow Account for the 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.

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

Section 4. Findings; redemption of Refunded Bonds.

4.01 It is hereby found and determined that the Funds available and appropriated to the Escrow Account for the 2005 Refunded Bonds and the 2007 Refunded Bonds as set forth in Section 3 will be sufficient (i) to pay the principal and interest due on the 2005 Refunded Bonds through February 1, 2014, and to prepay and redeem the 2005 Refunded Bonds maturing on and after February 1, 2015, by reason of redemption on the Redemption Date; and (ii) to pay the principal and interest due on the 2007 Refunded Bonds through February 1, 2014, the final maturity date of the 2007 Bonds.

4.02 The 2005 Refunded Bonds maturing on and after February 1, 2015, 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 Escrow Agent is hereby authorized and directed to send written notice of the call for redemption to the paying agent or bond registrar, as the case may be, and bond insurance company (if any), for

the 2005 Refunded Bonds in accordance with their terms and the Escrow Agreement.

4.03 The proper City officials are authorized and directed to cause to be provided a material event notice regarding the defeasance of the 2005 Refunded Bonds and the 2007 Bonds in accordance with the continuing disclosure certificates of the City dated December 19, 2005, and delivered in connection with the 2005 Bonds, and dated December 13, 2007, and delivered in connection with the 2007 Bonds.

Approved:



Department Director

Approved for presentation to council:



Chief Administrative Officer

Approved as to form:



Attorney

Approved:



Auditor

FINANCE RET: CW:rb 09/13/2012

STATEMENT OF PURPOSE: This Resolution provides for the defeasance of two bond issues which are being paid from the Additional ½% Tourism Taxes on certain sales of food and beverages and lodging within the City, and provides for the cancellation of the Additional ½% Tourism Taxes on November 1, 2012.

ESCROW AGREEMENT

between the

CITY OF DULUTH, MINNESOTA

and

**WELLS FARGO BANK, NATIONAL ASSOCIATION
Minneapolis, Minnesota**

as Escrow Agent

Dated as of _____, 2012

Relating to

the City of Duluth, Minnesota

**General Obligation Refunding Bonds, Series 2005K
dated December 19, 2005**

and

**General Obligation DECC Improvement Refunding Bonds, Series 2007E
dated December 13, 2007**

This Escrow Agreement, dated as of _____, 2012 (the “Escrow Agreement”), is between the CITY OF DULUTH, MINNESOTA, a home rule charter city and political subdivision of the State of Minnesota (the “Issuer”), and WELLS FARGO BANK, NATIONAL ASSOCIATION, in Minneapolis, Minnesota, a national banking association (the “Escrow Agent”).

BACKGROUND:

WHEREAS, the Issuer has heretofore issued its \$1,765,000 General Obligation Refunding Bonds, Series 2005K, dated December 19, 2005 (the “2005 Bonds”), of which \$905,000 in principal amount maturing on February 1 in the years 2013 through 2017 is outstanding (the “2005 Refunded Bonds”); and

WHEREAS, the Issuer has heretofore issued its \$3,760,000 General Obligation DECC Improvement Refunding Bonds, Series 2007E, dated December 13, 2007 (the “2007 Bonds”), of which \$1,370,000 in principal amount maturing on February 1 in the years 2013 and 2014 is outstanding (the “2007 Refunded Bonds”) (the 2005 Refunded Bonds and the 2007 Refunded Bonds are sometimes referred to as the “Refunded Obligations”); and

WHEREAS, the 2005 Refunded Bonds maturing on and after February 1, 2015, are subject to prepayment and redemption on February 1, 2014 (February 1, 2014, is herein referred to as the “Redemption Date”); and

WHEREAS, the 2007 Refunded Bonds are not subject to prepayment and redemption prior to maturity; and

WHEREAS, the Resolution adopted by the Issuer pursuant to which the 2005 Bonds were issued, a copy of which is attached as **Exhibit E** (the “2005 Bonds Resolution”), provide for the prepayment and redemption of (i) the 2005 Refunded Bonds maturing on and after February 1, 2015, on the Redemption Date, at a price equal to the principal amount plus accrued interest after notice of the call for redemption is given by mailing such notice to the registered owner of each bond to be redeemed not less than 30 days prior to the Redemption Date; and

WHEREAS, the Issuer has funds which will be used for the purpose of (i) paying the principal of and interest due on the 2005 Refunded Bonds through the Redemption Date and the prepayment and redemption of the 2005 Refunded Bonds maturing on and after February 1, 2015, on the Redemption Date; and

WHEREAS, the Resolution adopted by the Issuer pursuant to which the 2007 Bonds were issued, a copy of which is attached hereto as **Exhibit F** (the “2007 Bonds Resolution”) does not permit prepayment and redemption of the outstanding 2007 Bonds (the 2005 Bonds Resolution and the 2007 Bonds Resolution are collectively referred to as the “Refunded Obligations Resolutions”); and

WHEREAS, the Issuer has funds which will be used for the purpose of paying the principal of and interest due on the 2007 Refunded Bonds through February 1, 2014, the final maturity date of the 2007 Bonds; and

WHEREAS, the Issuer has adopted a Resolution on July 16, 2012 (the "Resolution"), authorizing the defeasance of the 2005 Refunded Bonds and the 2007 Refunded Bonds and this Escrow Agreement; and

WHEREAS, the Refunded Obligations are registered in the name of Cede & Co., as nominee for the Depository Trust Company, New York, New York; and

WHEREAS, moneys to be delivered to the Escrow Agent are to be used to purchase certain federal securities hereinafter specified, which together with an initial cash balance are to be held in escrow by the Escrow Agent and are to be set apart and irrevocably segregated in a special trust fund sufficient to ensure the payment of: (a) the principal and interest due on the 2005 Refunded Bonds through February 1, 2014; (b) the prepayment and redemption of the principal of the 2005 Refunded Bonds maturing on and after February 1, 2015, on the Redemption Date; and (c) the principal and interest due on the 2007 Refunded Bonds through February 1, 2014, the final maturity of the 2007 Bonds.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

Section 1. Authority. The Issuer has, in accordance with a resolution of its governing body, adopted on September 24, 2012 (the "Resolution"), provided for the funding of an escrow account pursuant to this Escrow Agreement (the "Escrow Account"), from which shall be paid (i) the principal of and interest to become due on the 2005 Refunded Bonds through February 1, 2014; (ii) the prepayment and redemption of the 2005 Refunded Bonds maturing on and after February 1, 2015, on the Redemption Date, and (iii) principal and interest due on the 2007 Refunded Bonds through February 1, 2014 (collectively, the "Escrow Payment Obligations") and has authorized the call for redemption of the Refunded Obligations.

Section 2. Directions to Escrow Agent.

A. In order to fund the Escrow Account, the Issuer directs the Escrow Agent that:

i. the Issuer's funds from the debt service account for the 2005 Bonds in the amount of \$ _____; plus

iv. the Issuer's funds from the debt service account for the 2007 Bonds in the amount of \$ _____ [the amounts set forth in the foregoing clauses (i) and (ii) are herein referred to as the "Funds"];

be applied by the Escrow Agent:

a. to the purchase of obligations of the United States of America described in **Exhibit B** (the "Federal Securities");

b. to establishing a beginning cash deposit in the Escrow Account (the "Cash Balance"), all as set forth on **Exhibit A**;

c. to the payment of costs of defeasance of the Refunded Obligations as listed on **Exhibit C**;

d. to payment of the principal of and interest due on the 2005 Refunded Bonds through February 1, 2014, as provided in Section 1;

e. to the prepayment and redemption of the 2005 Refunded Bonds maturing on and after February 1, 2015, on the Redemption Date in accordance with the notice of redemption shown on **Exhibit D**; and

f. to payment of the principal of and interest due on the 2007 Refunded Bonds through February 1, 2014, the final maturity date of the 2007 Bonds, as provided in Section 1.

B. The Issuer further directs that the Federal Securities and Cash Balance, together with interest to be earned thereon, shall be used to pay (i) the principal of and interest to become due on the 2005 Refunded Bonds through February 1, 2014; (ii) the prepayment and redemption of the 2005 Refunded Bonds maturing on and after February 1, 2015, on the Redemption Date, and (iii) the principal and interest due on the 2007 Refunded Bonds through February 1, 2014, and has authorized the call for the prepayment and redemption of the 2005 Refunded Bonds maturing on and after February 1, 2015.

C. The Issuer further directs the Escrow Agent to pay or cause to be paid from the Funds all expenses listed on **Exhibit C** to the persons and in the amounts therein set forth.

Section 3. Escrow Account.

A. The Escrow Agent acknowledges receipt of the Federal Securities and Cash Balance and agrees that it will hold such Federal Securities and Cash Balance in the Escrow Account, which shall be a special, segregated and irrevocable Escrow Account in the name of the Issuer.

B. The deposit made to the Escrow Account constitutes an irrevocable deposit for the benefit of the holders of the Refunded Obligations. The Federal Securities, together with any interest earned thereon and the Cash Balance in the Escrow Account shall be held in trust and shall be applied solely in accordance with the provisions hereof and of the Resolution.

C. The Escrow Account created hereby shall be unconditional and irrevocable (except with the written consent of the holders of all outstanding Refunded Obligations), and the holders of the Refunded Obligations shall have an express lien on the Federal Securities and Cash Balance in the Escrow Account until paid out, used and applied in accordance with this Escrow Agreement and the Resolution.

D. It is recognized that title to the Federal Securities and Cash Balance and other amounts held in the Escrow Account from time to time shall remain vested in the Issuer, but subject always to the prior charge and lien thereof of this Escrow Agreement and the use thereof required to be made by the provisions of this Escrow Agreement. The Escrow Agent shall hold all such Federal Securities, Cash Balance and other monies in a special trust fund separate and

apart from all other funds and securities of the Escrow Agent, and shall never commingle such Federal Securities or Cash Balance with any other monies.

E. Except as set forth herein, or as may be directed by the Issuer if accompanied by a legal opinion of nationally-recognized bond counsel in form and substance satisfactory to the Escrow Agent, the Escrow Agent shall have no power or duty to invest any monies held hereunder or to make substitutions of the Federal Securities held hereunder or to sell, transfer or otherwise dispose of the Federal Securities acquired hereunder, except to collect the principal thereof at maturity and the interest thereon as the same become due and payable. In the event the Escrow Account is reinvested, such reinvestment shall comply with the provisions of Minnesota Statutes, Section 475.67.

Section 4. Escrow Verification Report. The Issuer and the Escrow Agent acknowledge receipt of a report of _____ of _____, _____, certified public accountants, verifying that the Federal Securities, together with the interest to be earned thereon and the Cash Balance in the Escrow Account, will be sufficient to pay the Escrow Payment Obligations as provided for in Section 1.

Section 5. Issuer Covenants.

A. The Issuer covenants that it will not repeal or amend the Refunded Obligations Resolutions or the Resolution.

B. The Issuer covenants that upon receipt of notice from the Escrow Agent pursuant to Section 6.E. of this Agreement that monies on hand in the Escrow Account and available for payment of the Escrow Payment Obligations as provided for in Section 1, will not be sufficient to make any payment when due to the holders of any of the Refunded Obligations, the Issuer will forthwith deposit in the Escrow Account, but only from monies on hand and legally available for such purpose, such additional monies as may be required to pay fully the amount so to become due and payable, and the Issuer recognizes its obligation under Minnesota Statutes, Section 475.61, to levy ad valorem taxes on all taxable property over which the Issuer has jurisdiction to the extent required to produce the monies necessary for this purpose.

C. The Issuer covenants that any monies held in trust by the Escrow Agent for the payment and discharge of any of the 2005 Refunded Bonds which remain after the Redemption Date and any of the 2007 Refunded Bonds which remain after February 1, 2014, and are returned to the Issuer in accordance with this Agreement, will be utilized in accordance with the Resolution.

Section 6. Duties of the Escrow Agent.

A. The Escrow Agent agrees that it shall provide written notice of defeasance of the 2005 Refunded Bonds and the 2007 Refunded Bonds and notice of redemption to the holders of the 2005 Refunded Bonds as set forth in **Exhibit D**. The Notice of Defeasance shall be given within 10 days of the date hereof and the Notice of Redemption shall be given at least 30 days but not more than 60 days prior to the Redemption Date.

B. The Escrow Agent agrees with respect to payment of principal and interest coming due on the 2005 Refunded Bonds on and prior to the Redemption Date and the 2007 Refunded Bonds on and prior to February 1, 2014, that it shall remit from the Escrow Account directly to the holders of the Refunded Obligations the money required for payment of the principal of and interest due on the Refunded Obligations as set forth in Section 1.

C. The Escrow Agent agrees with respect to payment of the outstanding principal amount of the 2005 Refunded Bonds called for prepayment and redemption on the Redemption Date, that it shall remit from the Escrow Account directly to the holders of the 2005 Refunded Bonds, the principal amount of the 2005 Refunded Bonds called for prepayment and redemption on the Redemption Date; and

D. The Escrow Agent shall collect the matured principal of and interest on the Federal Securities as they become due and payable.

E. The Escrow Agent shall immediately notify the Issuer if at any time it shall appear to the Escrow Agent that the monies on hand in the Escrow Account and available for payment of the Escrow Payment Obligations will not be sufficient to make any payment when due to the holders of any of the Refunded Obligations.

F. The Escrow Agent shall return to the Issuer any monies held in trust for the payment and discharge of any of the 2005 Refunded Bonds and any of the 2007 Refunded Bonds which remain after February 1, 2014.

Section 7. Reliance by Escrow Agent. As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Escrow Agent shall be entitled to rely upon a certificate signed on behalf of the Issuer by the Mayor or the Clerk as sufficient evidence of the facts therein contained. The Escrow Agent may accept a certificate of the Clerk of the Issuer to the effect that a resolution in the form therein set forth has been adopted by the Issuer as conclusive evidence that such resolution has been duly adopted and is in full force and effect.

Section 8. Limitation of Escrow Agent Liability. It is understood and agreed that the responsibilities of the Escrow Agent under this Escrow Agreement are limited to: (a) the safekeeping and segregation of the Federal Securities, Cash Balance and other monies deposited in the Escrow Account; (b) the collection of and accounting for the principal and interest payable with respect thereto; (c) the application of money in the Escrow Account as herein provided; and (d) providing the Notices of Defeasance and the Notice of Redemption as required by Section 6.A. herein; provided, however, that no provision of this Escrow Agreement herein contained shall be construed to require the Escrow Agent to keep the identical monies, or any part thereof, received for the Escrow Account on hand, but monies of an equal amount (except to the extent such are represented by investments permitted under this Escrow Agreement) shall always be maintained on hand as funds held by the Escrow Agent as trustee, belonging to the Issuer and a special account shall at all times be maintained on the books of the Escrow Agent, together with such investments. In the event of the Escrow Agent's failure to account for any money or obligations held by it in the Escrow Account, such money and obligations shall be and remain the property of the Issuer, and if for any reason such money or obligations cannot be

identified, all other assets of the Escrow Agent shall be impressed with a trust for the amount thereof, and the Issuer shall be entitled to a preferred claim upon such assets.

Section 9. Fees of Escrow Agent. The Escrow Agent also acknowledges receipt of the sum of \$ _____ which shall be used for the payment of the fees and expenses of the Escrow Agent in connection with and for services rendered by it pursuant to this Escrow Agreement as also set forth on **Exhibit C**. The Escrow Agent shall have no lien whatsoever upon, and hereby expressly waives any such lien or any claim against, any of the Federal Securities and monies in the Escrow Account for the payment of said fees and expenses. If the fees or expenses are less than estimated, the Escrow Agent shall, as soon as reasonably practicable, return the unused monies to the Issuer.

Section 10. Concerning the Bondholders. This Escrow Agreement shall be binding upon and inure to the benefit of the Issuer and the Escrow Agent and their respective successors and assigns. In addition, this Escrow Agreement shall constitute a third-party beneficiary contract for the benefit of the holders of the Refunded Obligations. Such third-party beneficiaries shall be entitled to enforce performance and observance by the Issuer and the Escrow Agent of the respective agreements and covenants herein contained as fully and completely as if such third-party beneficiaries were parties hereto. Any bank into which the Escrow Agent may be merged or with which it may be consolidated or any bank resulting from any merger or consolidation to which it shall be a party or any bank to which it may sell or transfer all or substantially all of its corporate trust business shall be a successor escrow agent without the execution of any document or the performance of any further act.

Section 11. Term. This Escrow Agreement shall terminate when the Refunded Obligations have been paid in accordance with the provisions of this Escrow Agreement. If any Refunded Obligations are not presented to the bond registrar and paying agent for the Refunded Obligations for payment when due and payable, the nonpayment thereof shall not prevent the termination of this Escrow Agreement.

Section 12. Severability. If any one or more of the covenants or agreements provided in this Escrow Agreement on the part of the parties to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Escrow Agreement.

Section 13. Counterparts. This Escrow Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument. This Escrow Agreement shall be governed by the laws of the State of Minnesota.

Section 14. Capitalized Terms. Capitalized terms not otherwise defined herein have the meaning given in the Resolution.

Section 15. Notices. Unless otherwise provided by the respective parties, all notices to each of them shall be addressed as follows:

To the Issuer: City of Duluth, Minnesota
Attention: Chief Financial Officer
107 City Hall
411 West First Street
Duluth, MN 55802

To the Fiscal Consultant: Public Financial Management, Inc.
45 South Seventh Street, Suite 2800
Minneapolis, MN 55402

To Bond Counsel: Fryberger, Buchanan, Smith & Frederick, P.A.
Attention: Robert E. Toftey
302 West Superior Street, Suite 700
Duluth, MN 55802

To the Escrow Agent: Wells Fargo Bank, National Association
Corporate Trust and Escrow Services
625 Marquette Avenue, 11th Floor
MAC Code N9311-115
Minneapolis, MN 55479

To the Registrar and Paying Agent for the Refunded Obligations: Wells Fargo Bank, National Association
Corporate Trust and Escrow Services
625 Marquette Avenue, 11th Floor
MAC Code N9311-115
Minneapolis, MN 55479

Section 16. Exhibits. The Exhibits to this Escrow Agreement are as follows:

Exhibit A Sources and Uses of Funds
Exhibit B Federal Securities
Exhibit C Issuance Costs
Exhibit D Notices of Defeasance and Call for Redemption of Refunded Obligations
Exhibit E Series 2005 Bonds Resolution
Exhibit F Series 2007 Bonds Resolution

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IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be executed by their duly authorized officers as of the date first above written.

CITY OF DULUTH, MINNESOTA

By _____
Mayor

Attest:

City Clerk

WELLS FARGO BANK, NATIONAL
ASSOCIATION

By _____
Its _____

(Signature page to Escrow Agreement between the City of Duluth, Minnesota, and Wells Fargo Bank, National Association, as Escrow Agent)

EXHIBIT A

<i>SOURCES OF FUNDS</i>	
Issuer Funds – Debt Service Account – Series 2005 Bonds	
Issuer Funds – Debt Service Account – Series 2007 Bonds	
TOTAL	

<i>USES OF FUNDS</i>	
Federal Securities	
Cash Balance	
Costs of Defeasance	
TOTAL	

EXHIBIT B

**FEDERAL SECURITIES
(U.S. TREASURY)**

EXHIBIT C

ISSUANCE COSTS

Wells Fargo Bank, National Association (escrow agent fee)	
Public Financial Management, Inc. (financial advisor fee)	
Fryberger, Buchanan, Smith & Frederick, P.A. (bond counsel fee)	
_____ (escrow verification fee)	
Public Financial Management, Inc. (investment in SLGS)	
TOTAL	

EXHIBIT D

**NOTICE OF DEFEASANCE AND CALL FOR REDEMPTION
\$1,765,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2005K
OF THE CITY OF DULUTH, MINNESOTA**

NOTICE IS HEREBY GIVEN that, by order of the City Council of the City of Duluth, Minnesota (the "City"), the City has deposited with Wells Fargo Bank, National Association (the "Escrow Agent") pursuant to an Escrow Agreement dated as of _____, 2012, U.S. Government Obligations in an amount, together with interest thereon, which will be sufficient to pay the interest on all outstanding bonds of the maturities set forth below of the City designated as General Obligation Refunding Bonds, Series 2005K, dated December 19, 2005 (the "Bonds"), through February 1, 2014, and to prepay and redeem all of the Bonds maturing on and after February 1, 2015, on February 1, 2014 (the "Redemption Date"). The Bonds which are defeased and their CUSIP numbers are as follows:

Number	Maturity (February 1)	Principal Amount*	Interest Rate	CUSIP Number**
R-7	2013	\$165,000	4.00%	264438 FA 5
R-8	2014	170,000	4.00%	264438 FB 3
R-9	2015	180,000	4.00%	264438 FC 1
R-10	2016	190,000	4.00%	264438 FD 9
R-11	2017	200,000	4.00%	264438 FE 7

The Bonds being called for redemption and prepayment are being called at a price of par plus accrued interest to the Redemption Date on which date all interest on said Bonds will cease to accrue. Holders of the Bonds hereby called for redemption are requested to present their Bonds for payment at the office of Wells Fargo Bank, National Association, Corporate Trust Operations, P.O. Box 1517, Minneapolis, Minnesota 55480-1517, on or before the Redemption Date.

* Indicates full call of stated maturity.

** Neither the City nor the Escrow Agent shall be responsible for the selection of or use of the CUSIP number, and no representation is made as to its correctness indicated in the Notice of Defeasance and Call for Redemption. CUSIP numbers are included solely for the convenience of the Holders.

Dated: _____, 2012

BY ORDER OF THE CITY COUNCIL OF THE
CITY OF DULUTH, MINNESOTA

EXHIBIT D, continued

**NOTICE OF CALL FOR REDEMPTION
\$1,765,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2005K
OF THE CITY OF DULUTH, MINNESOTA**

NOTICE IS HEREBY GIVEN that, by order of the City Council of the City of Duluth, Minnesota (the "City"), there have been called for redemption and prepayment on

February 1, 2014,

all outstanding Bonds of the City designated as General Obligation Refunding Bonds, Series 2005K, dated December 19, 2005, having stated maturity dates of February 1 in the years 2015 through 2017, both inclusive, totaling \$570,000 in outstanding principal amount, and with the following CUSIP numbers:

Number	Maturity (February 1)	Principal Amount*	Interest Rate	CUSIP Number**
R-9	2015	180,000	4.00%	264438 FC 1
R-10	2016	190,000	4.00%	264438 FD 9
R-11	2017	200,000	4.00%	264438 FE 7

The Bonds are being called at a price of par plus accrued interest to February 1, 2014, on which date all interest on said Bonds will cease to accrue. Holders of the Bonds hereby called for redemption are requested to present their Bonds for payment at the office of Wells Fargo Bank, National Association, Corporate Trust Operations, P.O. Box 1517, Minneapolis, Minnesota 55480-1517, on or before February 1, 2014.

Important Notice: In compliance with the Economic Growth and Tax Relief Reconciliation Act of 2001, federal backup withholding tax will be withheld at the applicable backup withholding rate in effect at the time of payment by the redeeming institutions if they are not provided with your social security number or federal employer identification number, properly certified. This requirement is fulfilled by submitting a W-9 Form, which may be obtained at a bank or other financial institution.

* Indicates full call of stated maturity.

** Neither the City nor the escrow agent shall be responsible for the selection of or use of the CUSIP number, and no representation is made as to its correctness indicated in the Notice of Call for Redemption. CUSIP numbers are included solely for the convenience of the Holders.

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Escrow Agent for the City of
Duluth, Minnesota

EXHIBIT D, continued

**NOTICE OF DEFEASANCE
\$3,760,000 GENERAL OBLIGATION DECC IMPROVEMENT REFUNDING BONDS,
SERIES 2007E
OF THE CITY OF DULUTH, MINNESOTA**

NOTICE IS HEREBY GIVEN that, by order of the City Council of the City of Duluth, Minnesota (the "City"), the City has deposited with Wells Fargo Bank, National Association (the "Escrow Agent") pursuant to an Escrow Agreement dated as of _____, 2012, U.S. Government Obligations in an amount, together with interest thereon, which will be sufficient to pay the interest on all outstanding bonds of the maturities set forth below of the City designated as General Obligation DECC Improvement Refunding Bonds, Series 2007E, dated December 13, 2007 (the "Bonds"), through February 1, 2014. The Bonds which are defeased and their CUSIP numbers are as follows:

Number	Maturity (February 1)	Principal Amount*	Interest Rate	CUSIP Number**
R-5	2013	\$670,000	4.00%	264438 MV 1
R-6	2014	700,000	4.00%	264438 MW 9

The Bonds being called for redemption and prepayment are being called at a price of par plus accrued interest to the Redemption Date on which date all interest on said Bonds will cease to accrue. Holders of the Bonds hereby called for redemption are requested to present their Bonds for payment at the office of Wells Fargo Bank, National Association, Corporate Trust Operations, P.O. Box 1517, Minneapolis, Minnesota 55480-1517, on or before the Redemption Date.

* Indicates full call of stated maturity.

** Neither the City nor the Escrow Agent shall be responsible for the selection of or use of the CUSIP number, and no representation is made as to its correctness indicated in the Notice of Defeasance and Call for Redemption. CUSIP numbers are included solely for the convenience of the Holders.

Dated: _____, 2012

BY ORDER OF THE CITY COUNCIL OF THE
CITY OF DULUTH, MINNESOTA

EXHIBIT E

2005 BONDS RESOLUTION

EXHIBIT F

2007 BONDS RESOLUTION