

Exhibit B

ESCROW AGREEMENT

between

CITY OF DULUTH, MINNESOTA

and

**U.S. BANK NATIONAL ASSOCIATION
St. Paul, Minnesota**

as Escrow Agent

Dated as of October 9, 2019

Relating to

City of Duluth, Minnesota

**Taxable General Obligation Capital Improvement Bonds
(Build America Bonds – Direct Pay), Series 2009C
dated December 17, 2009**

Exhibit B

This Escrow Agreement, dated as of October 9, 2019 (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 U.S. BANK NATIONAL ASSOCIATION, in St. Paul, Minnesota, a national banking association (the “Escrow Agent”).

BACKGROUND:

WHEREAS, the Issuer has heretofore issued its \$11,905,000 Taxable General Obligation Capital Improvement Bonds (Build America Bonds – Direct Pay), Series 2009C, dated December 17, 2009 (the “2009C Bonds”), of which \$11,905,000 in principal amount maturing on February 1 in the years 2021 through 2029 and 2032 is outstanding (the “Refunded Bonds”); and

WHEREAS, the Resolution adopted by the Issuer pursuant to which the 2009C Bonds was issued, a copy of which is attached as **Exhibit D** (the “Refunded Bonds Resolution”), permits the prepayment and redemption of the Refunded Bonds on and after February 1, 2020, and 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, nor more than 60 days, prior to the redemption date; and

WHEREAS, the Issuer has provided for the payment of the interest due on the Refunded Bonds on February 1, 2020, and has called for the prepayment and redemption of the Refunded Bonds maturing on and after February 1, 2021, on February 1, 2020 (the “Redemption Date”); and

WHEREAS, the Issuer has determined to provide, by the issuance of its \$_____ General Obligation Capital Improvement Refunding Bonds, Series 2019C, dated October 9, 2019 (the “2019C Bonds”), funds which will be used, together with additional funds of the Issuer, for the purpose of payment of interest on the Refunded Bonds on February 1, 2020, and the prepayment and redemption of the principal on the Refunded Bonds on the Redemption Date; and

WHEREAS, the 2009C Bonds and the 2019C Bonds are each registered in the name of Cede & Co., as nominee for the Depository Trust Company, New York, New York (“DTC”); and

WHEREAS, proceeds of the 2019C Bonds along with certain other 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 the interest due on the Refunded Bonds on February 1, 2020, and the prepayment and redemption of the outstanding principal of the Refunded Bonds on the Redemption Date.

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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 the resolution of its governing body adopted on September 9, 2019, and the Certificate as to Terms of Bond Sale and Levy of Taxes dated September 25, 2019, by the Issuer's Chief Financial Officer (the "Resolution"), issued and sold the 2019C Bonds for the purpose of refunding the Refunded Bonds. The Issuer hereby funds an escrow account pursuant to this Escrow Agreement (the "Escrow Account"), from which the interest on the Refunded Bonds due on February 1, 2020, and the prepayment and redemption of the Refunded Bonds maturing on and after February 1, 2021, on the Redemption Date shall be paid (the "Escrow Payment Obligations").

Section 2. Directions to Escrow Agent.

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

- i. the proceeds of the 2019C Bonds in the amount of \$_____; and
- ii. the Issuer's funds from the debt service account for the 2009C Bonds in the amount of \$341,141.25;

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 the Escrow Payment Obligations described in Section 1 hereof;
- c. to pay the escrow agent fees pursuant to Section 8 hereof; and
- d. to transfer the additional proceeds as set forth on **Exhibit A** to the Issuer.

B. The Issuer further directs that the Federal Securities shall be used to pay the Escrow Payment Obligations on February 1, 2020, as set forth in Section 1 hereof.

C. The amount of the Federal Securities, investment income thereon and the Cash Balance is sufficient to pay the Escrow Payment Obligations when due.

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.

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B. The deposit made to the Escrow Account constitutes an irrevocable deposit for the benefit of the holders of the Refunded Bonds. The Federal Securities 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, and the holders of the Refunded Bonds 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.

Section 4. Issuer Covenants.

A. The Issuer covenants that it will not repeal or amend the Refunded Bonds Resolution or the Resolution authorizing the 2019C Bonds.

B. The Issuer covenants that upon receipt of notice from the Escrow Agent pursuant to Section 5.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 Bonds, 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 the Refunded Bonds which remain after the Redemption Date and are returned to the Issuer in accordance with this Agreement, will be utilized in accordance with the Resolution.

Section 5. Duties of the Escrow Agent.

A. The Escrow Agent agrees that it shall provide written notice of defeasance and call for redemption of the Refunded Bonds and notice of redemption to the holders of the Refunded Bonds as set forth in **Exhibit C-1** and **Exhibit C-2**. 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 interest coming due on the Refunded Bonds on February 1, 2020, that it shall remit from the Escrow Account directly to the

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holders of the Refunded Bonds the money required for payment of the interest due on the Refunded Bonds as set forth in Section 1.

C. The Escrow Agent agrees with respect to payment of the outstanding principal amount of the 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 Refunded Bonds the principal amount of the Refunded Bonds called for prepayment and redemption on the Redemption Date.

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 Bonds.

F. The Escrow Agent shall return to the Issuer any monies held in trust for the payment and discharge of any of the Refunded Bonds which remain after the Redemption Date.

Section 6. 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 7. 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 Notice of Defeasance and the Notice of Redemption as required by Section 5.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.

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Section 8. 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. 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 9. 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 Bonds. 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 10. Term. This Escrow Agreement shall terminate when the Refunded Bonds have been paid in accordance with the provisions of this Escrow Agreement. If any Refunded Bonds are not presented to the bond registrar and paying agent for the Refunded Bonds for payment when due and payable, the nonpayment thereof shall not prevent the termination of this Escrow Agreement.

Section 11. 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 12. 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 13. 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 120 City Hall 411 West First Street Duluth, MN 55802
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To the Municipal Advisor: Public Financial Management, Inc.
800 Nicollet Mall, Suite 2710
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: U.S. Bank National Association
Global Corporate Trust Services
60 Livingston Avenue
EP-MN-WS3C
St. Paul, MN 55107-2292

To the Registrar and
Paying Agent for the
Refunded Bonds: U.S. Bank National Association
Global Corporate Trust Services
60 Livingston Avenue
EP-MN-WS3C
St. Paul, MN 55107-2292

Section 14. Exhibits. The Exhibits to this Escrow Agreement are as follows:

Exhibit A Sources and Uses of Funds
Exhibit B Federal Securities
Exhibit C-1 Notice of Call for Redemption of Refunded Bonds
Exhibit C-2 Notice of Defeasance and Call for Redemption of Refunded Bonds
Exhibit D Refunded 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

By _____
City Clerk

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U.S. BANK NATIONAL ASSOCIATION

By _____
Its _____

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

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EXHIBIT A

<i>SOURCES OF FUNDS</i>	
Proceeds of the 2019C Bonds	
Issuer Funds – Debt Service Account for the 2009C Bonds	341,141.25
Accrued Interest	0.00
TOTAL	

<i>USES OF FUNDS</i>	
Federal Securities	
Cash Balance	
Escrow Agent Fees	
Balance of Costs of Issuance and Rounding Amount to Issuer	
TOTAL	

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FEDERAL SECURITIES
(U.S. TREASURY)

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EXHIBIT C-1

NOTICE OF CALL FOR REDEMPTION \$11,905,000 TAXABLE GENERAL OBLIGATION CAPITAL IMPROVEMENT BONDS (BUILD AMERICA BONDS – DIRECT PAY), SERIES 2009C 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, 2020,

all outstanding Bonds of the City designated as Taxable General Obligation Capital Improvement Bonds (Build America Bonds – Direct Pay), Series 2009C, dated December 17, 2009, having stated maturity dates of February 1 in the years 2021 through 2029, and 2032, totaling \$11,905,000 in outstanding principal amount, and with the following CUSIP numbers:

Number	Maturity	Principal Amount*	Interest Rate	CUSIP Number**
R-1	2021	\$ 785,000	5.00%	264438 SM5
R-2	2022	825,000	5.15%	264438 SN3
R-3	2023	855,000	5.30%	264438 SP8
R-4	2024	890,000	5.50%	264438 SQ6
R-5	2025	920,000	5.70%	264438 SR4
R-6	2026	960,000	5.80%	264438 SS2
R-7	2027	1,000,000	5.90%	264438 ST0
R-8	2028	1,040,000	5.90%	264438 SU7
R-9	2029	1,080,000	6.00%	264438 SV5
R-10	2032	3,550,000	6.00%	264438 SY9

The Bonds are being called at a price of par plus accrued interest to February 1, 2020, 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 U.S. Bank National Association, Global Corporate Trust Services, 60 Livingston Avenue, EP-MN-WS3C, St. Paul, Minnesota 55107, on or before February 1, 2020.

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.

U.S. BANK NATIONAL ASSOCIATION, as Escrow
Agent for the City of Duluth, Minnesota

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EXHIBIT C-2

NOTICE OF DEFEASANCE AND CALL FOR REDEMPTION \$11,905,000 TAXABLE GENERAL OBLIGATION CAPITAL IMPROVEMENT BONDS (BUILD AMERICA BONDS – DIRECT PAY), SERIES 2009C 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 U.S. Bank National Association (the “Escrow Agent”) pursuant to an Escrow Agreement dated as of October 9, 2019, U.S. Government Obligations and cash in an amount which will be sufficient to pay the interest on all outstanding bonds of the maturities set forth below of the City designated as Taxable General Obligation Capital Improvement Bonds (Build America Bonds – Direct Pay), Series 2009C, dated December 17, 2009 (the “Bonds”), on February 1, 2020, and to prepay and redeem all of the Bonds maturing on and after February 1, 2021, on February 1, 2020 (the “Redemption Date”). The Bonds which are defeased and their CUSIP numbers are as follows:

Number	Maturity	Principal Amount*	Interest Rate	CUSIP Number**
R-1	2021	\$ 785,000	5.00%	264438 SM5
R-2	2022	825,000	5.15%	264438 SN3
R-3	2023	855,000	5.30%	264438 SP8
R-4	2024	890,000	5.50%	264438 SQ6
R-5	2025	920,000	5.70%	264438 SR4
R-6	2026	960,000	5.80%	264438 SS2
R-7	2027	1,000,000	5.90%	264438 ST0
R-8	2028	1,040,000	5.90%	264438 SU7
R-9	2029	1,080,000	6.00%	264438 SV5
R-10	2032	3,550,000	6.00%	264438 SY9

The Bonds maturing on and after February 1, 2021 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 U.S. Bank National Association, Global Corporate Trust Services, 60 Livingston Avenue, EP-MN-WS3C, St. Paul, Minnesota 55107, 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: October 9, 2019

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

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EXHIBIT D

REFUNDED BONDS RESOLUTION