

**CITY OF MARYSVILLE AGENDA BILL**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: 4/14/14**

<b>AGENDA ITEM:</b> LID 71 Bond Ordinance	
<b>PREPARED BY:</b> Sandy Langdon, Finance Director/City Clerk <b>DEPARTMENT:</b> Finance	<b>DIRECTOR APPROVAL:</b>
<b>ATTACHMENTS:</b> Proposed Bond Ordinance	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>

**SUMMARY:**

The final stage of the Local Improvement District No. 71 is the issuance of the bond to finalize the funding. The proposed ordinance provides the details of the funding and its structure to allow for the City to act quickly to any market change regarding the refunding of the bonds.

<b>RECOMMENDED ACTION:</b>
Consider approval of the LID 71 Bond Ordinance authorizing the funding for the 156 <sup>th</sup> Street Overpass Local Improvement District No. 71 as prescribed.

CITY OF MARYSVILLE, WASHINGTON

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE of the City of Marysville, Washington, ~~relating to contracting indebtedness;~~ providing for the issuance of not to exceed \$~~\_\_\_\_\_~~8,254,825 aggregate principal amount of local improvement district bonds to provide a portion of the funds necessary to finance public improvements in Local Improvement District No. 71 ("LID No. 71"), make a deposit to the City's Local Improvement Guaranty Fund, and pay the costs of issuance of the Bonds; fixing or setting parameters with respect to certain terms and covenants of the bonds; appointing the City's designated representative to approve the final terms of the sale of the bonds; fixing the interest rate on assessments within LID No. 71; and providing for other related matters.

PASSED: [April 14], 2014

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*\*The cover page, table of contents and section headings of this ordinance are for convenience of reference only, and shall not be used to resolve any question of interpretation of this ordinance.*

CITY OF MARYSVILLE, WASHINGTON

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE of the City of Marysville, Washington, ~~relating to contracting indebtedness;~~ providing for the issuance of not to exceed \$~~\_\_\_\_\_~~18,254,825 aggregate principal amount of local improvement district bonds to provide a portion of the funds necessary to finance public improvements in Local Improvement District No. 71 (“LID No. 71”), make a deposit to the City’s Local Improvement Guaranty Fund, and pay the costs of issuance of the Bonds; fixing or setting parameters with respect to certain terms and covenants of the bonds; appointing the City’s designated representative to approve the final terms of the sale of the bonds; fixing the interest rate on assessments within LID No. 71; and providing for other related matters.

THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Findings and Determinations. The City makes the findings and determinations set forth below. Capitalized terms have the meanings given in Section 2.

(a) *Authority and Description of Project.* By Ordinance No. 2827, passed on September 19, 2010, the City created LID No. 71 for the purpose of carrying out the Project and authorized the issuance of local improvement district bonds to finance a portion of the costs of the Project by repaying interim financing, reimbursing the City for Project costs, making a deposit to the City’s Guaranty Fund, and paying the costs of issuance of the Bonds.

(b) *The Note.* Pending the issuance of the Bonds, the City issued the Note to the Bank for the purpose of providing interim financing to pay a portion of the costs of the Project. The Note matures on September 1, 2014, and the City reserved the right to the prepay at any time prior to its maturity the principal amount of the Note outstanding at par plus accrued interest to the date of prepayment.

(c) *Plan of Financing.* On February 24, 2014 ~~and March 24, 2014~~,2014, the City Council adopted Ordinance Nos. 2954 and ~~\_\_\_\_\_~~,2956, respectively, confirming the final assessment roll for LID No. 71 and authorizing the collection of the special assessments levied within LID No. 71. The notices of collection of assessments were first published on March 1, ~~2014~~ ~~2014~~, and March 29, 2014, respectively, and the last day for prepayment of assessments without penalties or interest is April 28, 2014. The total amount of Bonds to be issued will not exceed the balance of assessments unpaid after the expiration of the 30-day prepayment period, and the Bonds shall be repaid from the assessments to be paid in 20 equal annual installments of principal and interest.

(d) *The Bonds.* For the purpose of providing the funds necessary to repay the Note, reimburse the City for costs of the Project, make a deposit to the Guaranty Fund and pay the costs of issuance of the Bonds, the City Council finds that it is in the best interests of the City to issue

and sell the Bonds to the Purchaser, pursuant to the terms set forth in the Bond Purchase Contract as approved by the City's Designated Representative consistent with this ordinance.

Section 2. Definitions. As used in this ordinance, the following capitalized terms shall have the following meanings:

(a) "*Authorized Denomination*" means \$5,000 or any integral multiple thereof within an estimated redemption date within a Series, except that if the aggregate principal amount of the Series of the Bonds is not an integral multiple of \$5,000, then the first Bond of that Series shall be in such principal amount as the Designated Representative shall determine.

(b) "*Bank*" means Cashmere Valley Bank, the registered owner of the Note.

(c) "*Beneficial Owner*" means, with respect to a Bond, the owner of any beneficial interest in that Bond.

(d) "*Bond*" means each bond issued pursuant to and for the purposes provided in this ordinance.

(e) "*Bond Counsel*" means the firm of Foster Pepper PLLC, its successor, or any other attorney or firm of attorneys selected by the City with a nationally recognized standing as bond counsel in the field of municipal finance.

(f) "*Bond Purchase Contract*" means an offer to purchase a Series of the Bonds, setting forth certain terms and conditions of the issuance of that Series, ~~which offer that is authorized to be accepted by the Designated Representative on behalf of the City pursuant to this ordinance.~~

(g) "*Bond Register*" means the books or records maintained by the Bond Registrar for the purpose of identifying ownership of the each Bond.

(h) "*Bond Registrar*" means the Fiscal Agent, the Finance Officer or any successor bond registrar selected by the ~~City~~Designated Representative in accordance with Exhibit A(ix).

(i) "*City*" means the City of Marysville, Washington, a municipal corporation duly organized and existing under the laws of the State.

(j) "*City Council*" means the legislative authority of the City, as duly and regularly constituted from time to time.

(k) "*Code*" means the United States Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder.

(l) "*Designated Representative*" means the officer of the City appointed in Section 4 of this ordinance to serve as the City's designated representative in accordance with RCW 39.46.040(2).

(m) “*Designated Representative Certificate*” means the certificate executed by the Designated Representative on the sale date authorizing the Final Terms of each Series of the Bonds.

(n) “*DTC*” means The Depository Trust Company, New York, New York, or its nominee.

(o) “*Final Terms*” means the terms and conditions for the sale of a Series of the Bonds including, but not limited to, the amount, date or dates, denominations, interest rate or rates (or mechanism for determining interest rate or rates), payment dates, final maturity, redemption rights, price, and other terms or covenants.

(p) “*Finance Officer*” means the Finance Director or such other officer of the City who succeeds to substantially all of the responsibilities of that office.

(q) “*Fiscal Agent*” means the fiscal agent of the State, as the same may be designated by the State from time to time.

(r) “*Government Obligations*” has the meaning given in RCW 39.53.010, as now in effect or as may hereafter be amended.

(s) “*Guaranty Fund*” or “*Local Improvement Guaranty Fund*” means the Local Improvement Guaranty Fund of the City previously created pursuant to Marysville Municipal Code 3.16.010.

(t) “*Interest Payment Date*” means each annual date on which interest on a Bond is due and payable, as set forth in the Bond Purchase Contract.

(u) “*Issue Date*” means, with respect to a Bond, the date of initial issuance and delivery of that Bond to the Purchaser in exchange for the purchase price of that Bond.

(v) “*Letter of Representations*” means the Blanket Issuer Letter of Representations between the City and DTC, dated November 14, 1997, as it may be amended from time to time, or any successor or substitute letter relating to the operations procedures of the Securities Depository.

(w) “*LID Bond Fund*” means the Local Improvement Fund, District No. 71 of the City created for the payment of the principal of and interest on the Bonds.

(x) “*LID No. 71*” means Local Improvement District No. 71, established by Ordinance No. 2827 of the City, passed September 19, 2010, for the purpose of carrying out the Project.

(y) “*MSRB*” means the Municipal Securities Rulemaking Board.

(z) “*Note*” means the City’s outstanding Local Improvement District No. 71 Bond Anticipation Note, 2011 (Non-Revolving Line of Credit).

(aa) “*Owner*” means, without distinction, the Registered Owner and the Beneficial Owner.

(bb) “*Project*” means the construction of an Interstate 5 overpass at 156<sup>th</sup> Street NE. For purposes of this ordinance, costs of the Project include all costs of constructing the Project and all other costs permitted for inclusion under RCW 35.44.020 and related statutes, including without limitation, all costs for legal, financial, and appraisal services and any other expenses incurred by the City on behalf of or in the formation of LID No. 71, or in connection with such construction or improvement and in the financing thereof, including the costs of issuance of the Bonds and the cost of providing for increases in the Local Improvement Guaranty Fund.

(cc) “*Project Fund*” means the ~~{\_\_\_\_\_}~~ project fund of the City used for the purpose of carrying out the Project.

(dd) “*Purchaser*” means the person, bank, corporation, firm, association, partnership, trust, the City or other legal entity or group of entities selected by the Designated Representative to serve as underwriter or purchaser for a negotiated sale of a Series of the Bonds.

(ee) “*Rating Agency*” means each nationally recognized rating agency then maintaining a rating on the Bonds at the request of the City, if any.

(ff) “*Record Date*” means the Bond Registrar’s close of business on the 15<sup>th</sup> day of the month preceding an Interest Payment Date. With respect to redemption of a Bond prior to its maturity, the Record Date shall mean the Bond Registrar’s close of business on the date on which the Bond Registrar sends the notice of redemption in accordance with Section 9.

(gg) “*Registered Owner*” means, with respect to a Bond, the person in whose name that Bond is registered on the Bond Register. For so long as the City utilizes the book–entry system for the Bonds under the Letter of Representations, Registered Owner shall mean the Securities Depository.

(hh) “*Rule 15c2-12*” means Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934, as amended.

(ii) “*SEC*” means the United States Securities and Exchange Commission.

(jj) “*Securities Depository*” means DTC, any successor thereto, any substitute securities depository selected by the City that is qualified under applicable laws and regulations to provide the services proposed to be provided by it, or the nominee of any of the foregoing.

(kk) “*Series of the Bonds*” or “*Series*” means a series of the Bonds issued pursuant to this ordinance.

(ll) “*State*” means the State of Washington.

(mm) “*System of Registration*” means the system of registration for the City’s bonds and other obligations set forth in Ordinance No. 1405 of the City.

(nn) “*Tax-Exempt Bonds*” means any Bond, the interest on which is intended ~~to be~~ as of its Issue Date to be excluded from gross income for federal income tax purposes.

(oo) “*Undertaking*” means the undertaking to provide continuing disclosure entered into pursuant to Section 14 of this ordinance.

Section 3. Authorization of Bonds. The City is authorized to issue the Bonds to provide the funds necessary to pay or reimburse a portion of the costs of the Project, including without limitation repaying the Note, reimbursing the City for costs of the Project, making a deposit to the Guaranty Fund, and paying the costs of issuance of the Bonds. The cost of issuance of the Bond shall include, but not be limited to, the underwriter’s discount, the underwriter’s counsel fee, the bond counsel fee and the financial advisor fee. The Bonds shall evidence indebtedness in an amount not to exceed the total amount on the assessment roll for LID No. 71 remaining uncollected after the expiration of the 30 day prepayment period, and in any event shall not exceed the total amount of the assessment roll (~~8,254,825~~), as further described in Exhibit A attached to this ordinance and incorporated by this reference.

Section 4. Description of the Bonds; Appointment of Designated Representative. The Finance Officer is appointed as the Designated Representative of the City and is authorized and directed to conduct the sale of the Bonds, in one or more Series bearing the same Issue Date, in the manner and upon the terms deemed most advantageous to the City, and to approve the Final Terms of the Bonds, with such additional terms and covenants as the Designated Representative deems advisable, within the parameters set forth in Exhibit A.

Section 5. Bond Registrar; Registration and Transfer of Bonds.

(a) *Registration of Bonds.* Each Bond shall be issued only in registered form as to both principal and interest, and the ownership of each Bond shall be recorded on the Bond Register.

(b) *Bond Registrar; Duties.* The Designated Representative shall appoint the Bond Registrar for each Series of the Bonds in accordance with Exhibit A. The Bond Registrar shall keep, or cause to be kept, sufficient books for the registration and transfer of the Bonds, which shall be open to inspection by the City at all times. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of the Bonds and this ordinance, to serve as the City’s paying agent for the Bonds and to carry out all of the Bond Registrar’s powers and duties under this ordinance and the System of Registration. The Bond Registrar shall be responsible for its representations contained in the Bond Registrar’s Certificate of Authentication on each Bond. The Bond Registrar may become an Owner with the same rights it would have if it were not the Bond Registrar and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as members of, or in any other capacity with respect to, any committee formed to protect the rights of Owners.

(c) *Bond Register; Transfer and Exchange.* The Bond Register shall contain the name and mailing address of each Registered Owner and the principal amount and number of each Bond held by each Registered Owner. A Bond surrendered to the Bond Registrar may be exchanged for a Bond or Bonds of an equal aggregate principal amount and of the same Series, interest rate, estimated redemption date and maturity. A Bond may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any exchange or transfer shall be without cost to the Owner or transferee. The Bond Registrar shall not be obligated to exchange any



Bond or transfer registered ownership during the period between the applicable Record Date and the next upcoming interest payment or redemption date.

(d) *Securities Depository; Book-Entry Only Form.* The Designated Representative may determine whether each Series of the Bonds is to be issued in certificated or fully immobilized book-entry only form. If a Series of the Bonds is issued in book-entry form, DTC shall be appointed as initial Securities Depository. Each Bond of such Series initially shall be registered in the name of Cede & Co., as the nominee of DTC. Each Bond registered in the name of the Securities Depository shall be held in accordance with the provisions of the Letter of Representations. Registered ownership of any Bond registered in the name of the Securities Depository may not be transferred except: (i) to any successor Securities Depository; (ii) to any substitute Securities Depository appointed by the City; or (iii) to any person if the Series of the Bonds is no longer to be held in book-entry only form. Upon the resignation of the Securities Depository, or upon a termination of the services of the Securities Depository by the City, the City may appoint a substitute Securities Depository. If (i) the Securities Depository resigns and the City does not appoint a substitute Securities Depository, or (ii) the City terminates the services of the Securities Depository, the Series of the Bonds no longer shall be held in book-entry only form and the registered ownership of each Bond of such Series may be transferred to any person as provided in this ordinance. Neither the City nor the Bond Registrar shall have any obligation to participants of any Securities Depository or the persons for whom they act as nominees regarding accuracy of any records maintained by the Securities Depository or its participants. Neither the City nor the Bond Registrar shall be responsible for any notice that is permitted or required to be given to a Registered Owner except such notice as is required to be given by the Bond Registrar to the Securities Depository.

#### Section 6. Form and Execution of Bonds.

(a) *Form of Bonds; Signatures and Seal.* Each Bond shall be prepared in a form consistent with the provisions of this ordinance and State law. Each Bond shall be signed by the Mayor and the City Clerk, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon. If any officer whose manual or facsimile signature appears on a Bond ceases to be an officer of the City authorized to sign bonds before the Bond bearing his or her manual or facsimile signature is authenticated by the Bond Registrar, or issued or delivered by the City, that Bond nevertheless may be authenticated, issued and delivered and, when authenticated, issued and delivered, shall be as binding on the City as though that person had continued to be an officer of the City authorized to sign bonds. Any Bond also may be signed on behalf of the City by any person who, on the actual date of signing of the Bond, is an officer of the City authorized to sign bonds, although he or she did not hold the required office on its Issue Date.

(b) *Authentication.* Only a Bond bearing a Certificate of Authentication in substantially the following form, manually signed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance: "Certificate Of Authentication. This Bond is one of the fully registered City of Marysville, Washington, Local Improvement District No. 71 Bonds." The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this ordinance.

Section 7. Payment of Bonds. Principal of and interest on each Bond shall be payable in lawful money of the United States of America solely out of the LID Bond Fund or from the Local Improvement Guaranty Fund of the City. Principal of and interest on each Bond registered in the name of the Securities Depository is payable in the manner set forth in the Letter of Representations. Interest on each Bond not registered in the name of the Securities Depository is payable by electronic transfer on each Interest Payment Date, or by check or draft of the Bond Registrar mailed on such Interest Payment Date to the Registered Owner at the address appearing on the Bond Register on the Record Date. However, the City is not required to make electronic transfers except pursuant to a request by a Registered Owner in writing received at least ten days prior to the Record Date and at the sole expense of the Registered Owner. Principal of each Bond not registered in the name of the Securities Depository is payable upon presentation and surrender of the Bond by the Registered Owner to the Bond Registrar. The Bonds are not subject to acceleration under any circumstances.

Section 8. Funds and Accounts.

(a) *LID Bond Fund; Deposit of Assessments.* The LID Bond Fund has been previously created as a special fund of the City for the sole purpose of paying principal of and interest on the Bonds. All collections pertaining to payments of assessments on the assessment roll of LID No. 71, including prepayments, installment payments, and interest and penalties thereon, shall be deposited in the LID Bond Fund. Prior to the Issue Date, any money on hand in the LID Bond Fund may be used to pay or reimburse costs of the Project, may be transferred to the Guaranty Fund, or may be retained therein for the payment of principal of or interest on the Bonds, as determined by the Finance Officer. After the Issue Date, money on hand in the LID Bond Fund shall be used solely to pay interest on the Bonds, to redeem outstanding Bonds in accordance with Section 9, or to pay for costs of collecting delinquent assessments. Until needed for such purposes, the City may invest money in the LID Bond Fund temporarily in any legal investment, and the investment earnings shall be retained in the LID Bond Fund and used for the purposes of that fund.

(b) *Project Fund; Deposit of Bond Proceeds.* The principal proceeds received from the sale and delivery of each Series of the Bonds, which amounts are not needed to fund the Guaranty Fund deposit described below, shall be paid into or allocated to the Project Fund and used to repay the Note. Any proceeds thereafter remaining in the Project Fund may be allocated or transferred to such other funds, accounts, or subaccounts of the City as the Finance Officer may determine, in order to pay or reimburse the City for all or part of the costs of the Project and to pay the costs of issuance of the Bonds. Until needed for such purposes, the City may invest the principal proceeds of the Bonds temporarily in any legal investment, and the investment earnings shall be deposited in the LID Bond Fund. Earnings subject to a federal tax or rebate requirement may be withdrawn from any such fund or account and used for those tax or rebate purposes. Any proceeds of Bonds remaining in the Project Fund after paying or reimbursing the costs of the Project, the costs of issuing the Bonds, and for the purposes set forth in this section, or after the City Council has determined that the expenditure of such bond proceeds for those purposes is no longer necessary or appropriate, may be used to pay principal of and interest on the Bonds consistent with applicable law.

(c) *Guaranty Fund.* On the Issue Date, proceeds of each Series of the Bonds equal to not more than 10% of the issue price of such Series shall be deposited into the Guaranty Fund such

that the balance in the Guaranty Fund equals not less than the balance required to be maintained under this subsection. For so long as any of the Bonds remain outstanding, the City shall take such actions as may be necessary, consistent with chapter 35.54 RCW and other applicable state law, to maintain such balance in the Guaranty Fund as the ~~Finance Officer~~Designated Representative determines, in his or her sole discretion, is reasonable. The Designated Representative may accept, as a term or condition set forth in the Bond Purchase Agreement, minimum funding levels or other covenants with respect to the Guaranty Fund, consistent with state law, provided that no such requirement may specify a minimum balance in excess of 10% of the principal amount of bonds outstanding against the Guaranty Fund. Interest and earnings from the Local Improvement Guaranty Fund shall be retained within the Guaranty Fund. The Finance Officer may establish subaccounts within the Guaranty Fund, from time to time as the Finance Officer deems necessary or desirable for purposes of accounting for the investment of money therein. Money in the Guaranty Fund shall be used solely for the payment of bonds secured by such fund and as otherwise set forth in chapters 35.49 and 35.54 RCW and other applicable law.

Section 9. Maturity; Redemption Provisions and Purchase of Bonds.

(a) *Maturity.* All Bonds shall bear a maturity date and estimated redemption date approved by the Designated Representative in accordance with Section 4.

(b) *Redemption Provisions.* The City shall call Bonds for redemption in whole or in part in Authorized Denominations in the order of Series and, within each Series, in the order of an estimated redemption schedule ~~as set forth in the Designated Representative Certificate~~within each maturity, on each Interest Payment Date when there is money in the LID Bond Fund from assessment payments (including principal, interest, and penalties thereon) sufficient to pay the Bond (or portion thereof) so called over and above the amount required for the payment of the interest payable on all unpaid Bonds on that Interest Payment Date. The order of Series to be called and the estimated redemption schedule within each maturity of each Series shall be determined by the Designated Representative and set forth in the Designated Representative Certificate. Bonds shall be redeemed at a redemption price equal to the stated principal amount to be redeemed plus interest accrued thereon to the redemption date. {At the option of the City in its sole discretion, Bonds may be called and paid in whole or in part on an Interest Payment Date from other money of the City legally available therefor and deposited in the Bond Fund on or after the dates set forth in the Bond Purchase Contract. Nothing in the preceding sentence requires payment from any source other than the funds pledged in Section 10 hereof.}

(c) *Selection of Bonds for Redemption; Partial Redemption.* For so long as a Series of the Bonds is registered in the name of the Securities Depository, if less than all of the principal amount of Bonds with the same estimated redemption date ~~are~~is to be redeemed, the Securities Depository shall select the proportion of those Bonds to be redeemed in accordance with the Letter of Representations. If a Series of the Bonds is not registered in the name of the Securities Depository, the Bond Registrar shall select the proportion of those Bonds with the same estimated redemption date to be redeemed randomly in such manner as the Bond Registrar shall determine. All or a portion of the principal amount of any Bond that is to be redeemed may be redeemed in any Authorized Denomination. If less than all of the outstanding principal amount of any Bond is redeemed, upon surrender of that Bond to the Bond Registrar, there shall be issued to the

Registered Owner, without charge, a new Bond, bearing the same Series, estimated redemption date and interest rate, in the aggregate principal amount to remain outstanding.

(d) *Notice of Redemption.* Notice of redemption of each Bond registered in the name of the Securities Depository shall be given in accordance with the Letter of Representations. Notice of redemption of each other Bond, unless waived by the Registered Owner, shall be given by the Bond Registrar not less than 15 nor more than 45 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the Registered Owner at the address appearing on the Bond Register on the Record Date. The requirements of the preceding sentence shall be satisfied when notice has been mailed as so provided, whether or not it is actually received by an Owner. In addition, the redemption notice shall be mailed or sent electronically within the same period to the MSRB (if required under the Undertaking), to each Rating Agency, and to such other persons and with such additional information as the Finance Officer shall determine, but these additional mailings shall not be a condition precedent to the redemption of any Bond.

(e) *Rescission of Redemption Notice.* In the case of any redemption, the notice of redemption may state that the City retains the right to rescind the redemption notice by giving a notice of rescission to the affected Registered Owner(s) at any time on or prior to the date fixed for redemption. Any notice of redemption that is so rescinded shall be of no effect, and each Bond for which a notice of redemption has been rescinded shall remain outstanding.

(f) *Effect of Redemption.* Interest on the principal portion of each Bond called for redemption shall cease to accrue on the date fixed for redemption, unless the notice of redemption is rescinded as set forth above or payment is not made for the Bond called for redemption.

(g) *Purchase of Bonds.* The City reserves the right to purchase any or all of the Bonds at any time at any price acceptable to the City plus accrued interest to the date of purchase.

Section 10. Pledge of Assessment Payments. Assessments collected in LID No. 71, together with interest and penalties, if any, are pledged to the payment of the Bonds, which are payable solely out of the LID Bond Fund and the Local Improvement Guaranty Fund of the City, all in the manner provided by law. The Bonds are not general obligations of the City. The City covenants that it will diligently commence and pursue the collection of all delinquent assessments in LID No. 71.

Section 11. Tax Covenants.

(a) *Preservation of Tax Exemption for Interest on Tax-Exempt Bonds.* The City covenants that it will take all actions necessary to prevent interest on the Tax-Exempt Bonds from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of the Tax-Exempt Bonds or other funds of the City treated as proceeds of the Tax-Exempt Bonds that will cause interest on the Bonds to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirements of Section 148 of the Code are applicable to the Tax-Exempt Bonds, take all actions necessary to comply (or to be treated as having complied) with those requirements in connection with the Tax-Exempt Bonds.

(b) *Post-Issuance Compliance.* The Finance Officer is authorized and directed to review and update the City's written procedures to facilitate compliance by the City with the covenants in this ordinance and the applicable requirements of the Code that must be satisfied after the Issue Date to prevent interest on the Tax-Exempt Bonds from being included in gross income for federal tax purposes.

Section 12. Refunding or Defeasance of the Bonds. The City may issue refunding bonds pursuant to State law or use money available from any other lawful source to carry out a refunding or defeasance plan, which may include (a) paying when due the principal of and interest on any or all of the Bonds (the "defeased Bonds"); (b) redeeming the defeased Bonds prior to their maturity; and (c) paying the costs of the refunding or defeasance. If the City sets aside in a special trust fund or escrow account irrevocably pledged to that redemption or defeasance (the "trust account"), money and/or Government Obligations maturing at a time or times and bearing interest in amounts sufficient to redeem, refund or defease the defeased Bonds in accordance with their terms, then all right and interest of the Owners of the defeased Bonds in the covenants of this ordinance and in the funds and accounts obligated to the payment of the defeased Bonds shall cease and become void. Thereafter, the Owners of defeased Bonds shall have the right to receive payment of the principal of and interest on the defeased Bonds solely from the trust account and the defeased Bonds shall be deemed no longer outstanding. In that event, the City may apply money remaining in any fund or account (other than the trust account) established for the payment or redemption of the defeased Bonds to any lawful purpose.

Unless otherwise specified by the City in a refunding or defeasance plan, notice of refunding or defeasance shall be given, and selection of Bonds for any partial refunding or defeasance shall be conducted, in the manner prescribed in this ordinance for the redemption of Bonds.

Section 13. Sale and Delivery of the Bonds.

(a) *Manner of Sale of Bonds; Delivery of Bonds.* The Designated Representative is authorized to sell each Series of the Bonds to the Purchaser by negotiated sale based on the assessment of the Designated Representative of market conditions, in consultation with appropriate City officials and staff, Bond Counsel and other advisors.

(b) *Procedure for Negotiated Sale.* The Designated Representative shall select one or more Purchasers with whom to negotiate the sale of a Series of the Bonds. A Bond Purchase Contract shall set forth the Final Terms of the sale of each Series. The Designated Representative is authorized to execute the Bond Purchase Contract on behalf of the City, so long as the terms provided therein are consistent with the terms of this ordinance.

(c) *Preparation, Execution and Delivery of the Bonds.* The Bonds will be prepared at City expense and will be delivered to the Purchaser in accordance with the Bond Purchase Contract, together with the approving legal opinion of Bond Counsel regarding the Bonds.

Section 14. Official Statement; Continuing Disclosure.

(a) *Preliminary Official Statement Deemed Final.* The Designated Representative shall review the form of the preliminary official statement prepared in connection with the sale of

a Series of the Bonds to the public. For the sole purpose of the Purchaser's compliance with paragraph (b)(1) of Rule 15c2-12, the Designated Representative is authorized to deem that preliminary official statement final as of its date, except for the omission of information permitted to be omitted by Rule 15c2-12. The City approves the distribution to potential purchasers of the Bonds of a preliminary official statement that has been deemed final in accordance with this subsection.

(b) *Approval of Final Official Statement.* The City approves the preparation of a final official statement for any Series of the Bonds to be sold to the public in the form of the preliminary official statement, with such modifications and amendments as the Designated Representative deems necessary or desirable, and further authorizes the Designated Representative to execute and deliver such final official statement to the Purchaser. The City authorizes and approves the distribution by the Purchaser of that final official statement to purchasers and potential purchasers of such Bonds.

(c) *Undertaking to Provide Continuing Disclosure.* To meet the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a participating underwriter for a Series of the Bonds, the Designated Representative is authorized and directed to execute a written undertaking to provide continuing disclosure for the benefit of holders of such Series of the Bonds in substantially the form attached as Exhibit B.

Section 15. Supplemental and Amendatory Ordinances. The City may supplement or amend this ordinance for any one or more of the following purposes without the consent of any Owners of the Bonds:

(a) To add covenants and agreements that do not materially adversely affect the interests of Owners, or to surrender any right or power reserved to or conferred upon the City.

(b) To cure any ambiguities, or to cure, correct or supplement any defective provision contained in this ordinance in a manner that does not materially adversely affect the interest of the Beneficial Owners of the Bonds.

Section 16. Fixing Interest Rate on Assessments. The interest rate on the installment payments of the special assessments in LID No. 71 is fixed at a rate equal to ~~{0.5}~~% plus the all-in true interest cost of the Bonds, as set forth in the Bond Purchase Contract, carried out to two decimal places. If the Bonds are issued in more than one Series, the all-in true interest cost shall mean a blended rate of all Series of the Bonds.

Section 17. General Authorization and Ratification. The Designated Representative and other appropriate officers of the City are severally authorized to take such actions and to execute such documents as in their judgment may be necessary or desirable to carry out the transactions contemplated in connection with this ordinance, and to do everything necessary for the prompt delivery of the Bonds to the Purchaser and for the proper application, use and investment of the proceeds of the Bonds. All actions taken prior to the effective date of this ordinance in furtherance of the purposes described in this ordinance and not inconsistent with the terms of this ordinance are ratified and confirmed in all respects.

Section 18. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 19. Conflicts with Marysville Municipal Code. To the extent that anything contained in this ordinance is inconsistent with any provision set forth in the Marysville Municipal Code, this ordinance and state law shall be deemed to be the controlling law for the narrow and specific purpose of authorizing the Bonds described herein, and such provisions of the Marysville Municipal Code shall not apply.

Section 20. Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, at a regular meeting thereof, this {14<sup>th</sup> day of April}, 2014.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Bond Counsel

- Attachments:  
Exhibit A – Description of the Bonds  
Exhibit B – Form of Undertaking to Provide Continuing Disclosure

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**EXHIBIT A**  
**DESCRIPTION OF THE BONDS**

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- (i) **Principal Amount.** The Bonds may be issued in one or more Series and the aggregate principal amount of the Bonds shall not exceed the total amount on the assessment roll remaining uncollected after the expiration of the 30 day prepayment period, and in any event shall not exceed the total amount of the assessment roll (\$~~\_\_\_\_\_~~8,254,825). To facilitate delivery of the Bonds through the Securities Depository, the principal amount may be rounded down to the nearest dollar.
- (ii) **Date or Dates.** Each Bond shall be dated its Issue Date, which date may not be later than one year after the effective date of this ordinance and may not occur prior to 20 days after the expiration of the 30 day prepayment period for paying assessments. All Series of the Bonds shall bear the same Issue Date.
- (iii) **Denominations, Name, etc.** The Bonds shall be issued in Authorized Denominations, initially with one Bond corresponding to each estimated redemption date within a Series. The Bonds shall bear any name and additional designation as deemed necessary or appropriate by the Designated Representative or the Bond Registrar.
- (iv) **Interest Rate(s).** Each Bond shall bear interest at a fixed rate per annum (computed on the basis of a 360-day year of twelve 30-day months) from the Issue Date or from the most recent date for which interest has been paid or duly provided for, whichever is later. One or more rates of interest may be fixed for the Bonds. No rate of interest for any Bond may exceed ~~\_\_\_\_\_~~6.75%, and the all-in true interest cost to the City for each Series of the Bonds may not exceed ~~\_\_\_\_\_~~7.00%.
- (v) **Interest Payment Dates.** Interest shall be payable at fixed rates annually on such Interest Payment Dates as are acceptable to the Designated Representative, commencing no later than 6 months after the first assessment installment payment ~~date[s]~~dates following the Issue Date.
- (vi) **Final-Maturity Dates.** The Bonds shall mature on any Interest Payment Date acceptable to the Designated Representative, except that the final maturity date of the Bonds shall be on the Interest Payment Date next occurring after the date that is at least 2 years after the final assessment installment payment due date.



(vii) Redemption Rights.

The Bonds shall be subject to redemption on Interest Payment Dates, as set forth in Section 9 of this ordinance. The Designated Representative shall approve the order in which each Series will be redeemed and within each maturity of each Series an estimated redemption schedule setting forth the ~~expected~~estimated dates and amounts of such redemptions.

(viii) Price.

The purchase price for each Series of the Bonds shall be equal to the stated aggregate principal amount of that Series less a discount (including a Purchaser's discount and any original issue discount) of not to exceed ~~[ ] 1.00%~~ 2.50%

(ix) Other Terms & Conditions.

The Designated Representative may determine whether it is in the City's best interest to provide for bond insurance or other credit enhancement; may designate a Series of the Bonds as Tax-Exempt Bonds or as taxable Bonds; may appoint the Fiscal Agent or the Finance Officer as the initial Bond Registrar ~~or for~~ a Series of the Bonds; agree to a minimum Guaranty Fund balance requirement; and may accept such additional terms, conditions and covenants as he or she may determine are in the best interests of the City, consistent with this ordinance.

[Form of]  
**UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE**

**City of Marysville, Washington  
Local Improvement District No. 71 Bonds**

The City of Marysville, Washington (the “City”), makes the following written Undertaking for the benefit of holders of the above-referenced bonds (the “Bonds”), for the sole purpose of assisting the Purchaser in meeting the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a participating underwriter for the Bonds. Capitalized terms used but not defined below shall have the meanings given in Ordinance No. \_\_\_\_ of the City (the “Bond Ordinance”).

(a) Undertaking to Provide Annual Financial Information and Notice of Listed Events. The City undertakes to provide or cause to be provided, either directly or through a designated agent, to the MSRB, in an electronic format as prescribed by the MSRB, accompanied by identifying information as prescribed by the MSRB:

- (i) Annual financial information and operating data of the type included in the final official statement for the Bonds and described in paragraph (b) (“annual financial information”);
- (ii) Timely notice (not in excess of 10 business days after the occurrence of the event) of the occurrence of any of the following events with respect to the Bonds: (1) principal and interest payment delinquencies; (2) non-payment related defaults, if material; (3) unscheduled draws on debt service reserves reflecting financial difficulties; (4) unscheduled draws on credit enhancements reflecting financial difficulties; (5) substitution of credit or liquidity providers, or their failure to perform; (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notice of Proposed Issue (IRS Form 5701 – TEB) or other material notices or determinations with respect to the tax status of the Bonds; (7) modifications to rights of holders of the Bonds, if material; (8) bond calls (other than scheduled mandatory redemptions of Term Bonds), if material, and tender offers; (9) defeasances; (10) release, substitution, or sale of property securing repayment of the Bonds, if material; (11) rating changes; (12) bankruptcy, insolvency, receivership or similar event of the City or any obligated person, as such “obligated person” and “Bankruptcy Events” are defined in Rule 15c2-12; (13) the consummation of a merger, consolidation, or acquisition involving the City or an obligated person or the sale of all or substantially all of the assets of the City or an obligated person other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and (14) appointment of a successor or additional trustee or the change of name of a trustee, if material.
- (iii) Timely notice of a failure by the City to provide required annual financial information on or before the date specified in paragraph (b).

(b) Type of Annual Financial Information Undertaken to be Provided. The annual financial information that the City undertakes to provide in paragraph (a):

- (i) Shall consist of (1) annual financial statements prepared (except as noted in the financial statements) in accordance with applicable generally accepted accounting principles applicable to local governmental units of the State such as the City, as such principles may be changed from time to time, which statements may be unaudited, provided, that if and when audited financial statements are prepared and available they will be provided; (2) a statement of the outstanding balance of obligations secured by the Local Improvement Guaranty Fund; (3) the balance of cash and investments in the Local Improvement Guaranty Fund at fiscal year end; and (4) a statement of the amount of assessments that the City billed and collected in that fiscal year;
- (ii) Shall be provided not later than the last day of the ninth month after the end of each fiscal year of the City (currently, a fiscal year ending December 31), as such fiscal year may be changed as required or permitted by State law, commencing with the City's fiscal year ending December 31, 2013; and
- (iii) May be provided in a single or multiple documents, and may be incorporated by specific reference to documents available to the public on the Internet website of the MSRB or filed with the SEC.

(c) Amendment of Undertaking. This Undertaking is subject to amendment after the primary offering of the Bonds without the consent of any holder of any Bond, or of any broker, dealer, municipal securities dealer, participating underwriter, Rating Agency or the MSRB, under the circumstances and in the manner permitted by Rule 15c2-12. The City will give notice to the MSRB of the substance (or provide a copy) of any amendment to the Undertaking and a brief statement of the reasons for the amendment. If the amendment changes the type of annual financial information to be provided, the annual financial information containing the amended financial information will include a narrative explanation of the effect of that change on the type of information to be provided.

(d) Beneficiaries. This Undertaking shall inure to the benefit of the City and the holder of each Bond, and shall not inure to the benefit of or create any rights in any other person.

(e) Termination of Undertaking. The City's obligations under this Undertaking shall terminate upon the legal defeasance of all of the Bonds. In addition, the City's obligations under this Undertaking shall terminate if the provisions of Rule 15c2-12 that require the City to comply with this Undertaking become legally inapplicable in respect of the Bonds for any reason, as confirmed by an opinion of Bond Counsel delivered to the City, and the City provides timely notice of such termination to the MSRB.

(f) Remedy for Failure to Comply with Undertaking. As soon as practicable after the City learns of any failure to comply with this Undertaking, the City will proceed with due diligence to cause such noncompliance to be corrected. No failure by the City or other obligated person to comply with this Undertaking shall constitute a default in respect of the Bonds. The sole

remedy of any holder of a Bond shall be to take action to compel the City or other obligated person to comply with this Undertaking, including seeking an order of specific performance from an appropriate court.

(g) Designation of Official Responsible to Administer Undertaking. The Finance Officer or his or her designee is the person designated, in accordance with the Bond Ordinance, to carry out the Undertaking in accordance with Rule 15c2-12, including, without limitation, the following actions:

- (i) Preparing and filing the annual financial information undertaken to be provided;
- (ii) Determining whether any event specified in paragraph (a) has occurred, assessing its materiality, where necessary, with respect to the Bonds, and preparing and disseminating any required notice of its occurrence;
- (iii) Determining whether any person other than the City is an “obligated person” within the meaning of Rule 15c2-12 with respect to the Bonds, and obtaining from such person an undertaking to provide any annual financial information and notice of listed events for that person required under Rule 15c2-12;
- (iv) Selecting, engaging and compensating designated agents and consultants, including financial advisors and legal counsel, to assist and advise the City in carrying out this Undertaking; and
- (v) Effecting any necessary amendment of this Undertaking.

## CERTIFICATION

I, the undersigned, City Clerk of the City of Marysville, Washington (the "City"), hereby certify as follows:

1. The attached copy of Ordinance No. \_\_\_\_ (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on April 14, 2014, as that ordinance appears on the minute book of the City.

2. The Ordinance will be in full force and effect five days after publication in the City's official newspaper, which publication date [is/was] \_\_\_\_\_, 2014.

3. A quorum of the members of the City Council was present throughout the meeting and a majority of the members voted in the proper manner for the passage of the Ordinance.

Dated: April 14, 2014.

CITY OF MARYSVILLE, WASHINGTON

\_\_\_\_\_  
Deputy City Clerk

*April 9, 2014*

CITY OF MARYSVILLE, WASHINGTON

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE of the City of Marysville, Washington, providing for the issuance of not to exceed \$8,254,825 aggregate principal amount of local improvement district bonds to provide a portion of the funds necessary to finance public improvements in Local Improvement District No. 71 (“LID No. 71”), make a deposit to the City’s Local Improvement Guaranty Fund, and pay the costs of issuance of the Bonds; fixing or setting parameters with respect to certain terms and covenants of the bonds; appointing the City’s designated representative to approve the final terms of the sale of the bonds; fixing the interest rate on assessments within LID No. 71; and providing for other related matters.

PASSED: [April 14], 2014

*This document prepared by:*

*Foster Pepper PLLC  
1111 Third Avenue, Suite 3400  
Seattle, Washington 98101  
(206) 447-4400*

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*\*The cover page, table of contents and section headings of this ordinance are for convenience of reference only, and shall not be used to resolve any question of interpretation of this ordinance.*

CITY OF MARYSVILLE, WASHINGTON

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE of the City of Marysville, Washington, providing for the issuance of not to exceed \$8,254,825 aggregate principal amount of local improvement district bonds to provide a portion of the funds necessary to finance public improvements in Local Improvement District No. 71 (“LID No. 71”), make a deposit to the City’s Local Improvement Guaranty Fund, and pay the costs of issuance of the Bonds; fixing or setting parameters with respect to certain terms and covenants of the bonds; appointing the City’s designated representative to approve the final terms of the sale of the bonds; fixing the interest rate on assessments within LID No. 71; and providing for other related matters.

THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Findings and Determinations. The City makes the findings and determinations set forth below. Capitalized terms have the meanings given in Section 2.

(a) *Authority and Description of Project.* By Ordinance No. 2827, passed on September 19, 2010, the City created LID No. 71 for the purpose of carrying out the Project and authorized the issuance of local improvement district bonds to finance a portion of the costs of the Project by repaying interim financing, reimbursing the City for Project costs, making a deposit to the City’s Guaranty Fund, and paying the costs of issuance of the Bonds.

(b) *The Note.* Pending the issuance of the Bonds, the City issued the Note to the Bank for the purpose of providing interim financing to pay a portion of the costs of the Project. The Note matures on September 1, 2014, and the City reserved the right to the prepay at any time prior to its maturity the principal amount of the Note outstanding at par plus accrued interest to the date of prepayment.

(c) *Plan of Financing.* On February 24, 2014 and March 24, 2014, the City Council adopted Ordinance Nos. 2954 and 2956, respectively, confirming the final assessment roll for LID No. 71 and authorizing the collection of the special assessments levied within LID No. 71. The notices of collection of assessments were first published on March 1, 2014, and March 29, 2014, respectively, and the last day for prepayment of assessments without penalties or interest is April 28, 2014. The total amount of Bonds to be issued will not exceed the balance of assessments unpaid after the expiration of the 30-day prepayment period, and the Bonds shall be repaid from the assessments to be paid in 20 equal annual installments of principal and interest.

(d) *The Bonds.* For the purpose of providing the funds necessary to repay the Note, reimburse the City for costs of the Project, make a deposit to the Guaranty Fund and pay the costs of issuance of the Bonds, the City Council finds that it is in the best interests of the City to issue and sell the Bonds to the Purchaser, pursuant to the terms set forth in the Bond Purchase Contract as approved by the City’s Designated Representative consistent with this ordinance.



Section 2. Definitions. As used in this ordinance, the following capitalized terms shall have the following meanings:

(a) “*Authorized Denomination*” means \$5,000 or any integral multiple thereof within an estimated redemption date within a Series, except that if the aggregate principal amount of the Series of the Bonds is not an integral multiple of \$5,000, then the first Bond of that Series shall be in such principal amount as the Designated Representative shall determine.

(b) “*Bank*” means Cashmere Valley Bank, the registered owner of the Note.

(c) “*Beneficial Owner*” means, with respect to a Bond, the owner of any beneficial interest in that Bond.

(d) “*Bond*” means each bond issued pursuant to and for the purposes provided in this ordinance.

(e) “*Bond Counsel*” means the firm of Foster Pepper PLLC, its successor, or any other attorney or firm of attorneys selected by the City with a nationally recognized standing as bond counsel in the field of municipal finance.

(f) “*Bond Purchase Contract*” means an offer to purchase a Series of the Bonds, setting forth certain terms and conditions of the issuance of that Series that is accepted by the Designated Representative on behalf of the City pursuant to this ordinance.

(g) “*Bond Register*” means the books or records maintained by the Bond Registrar for the purpose of identifying ownership of the each Bond.

(h) “*Bond Registrar*” means the Fiscal Agent, the Finance Officer or any successor bond registrar selected by the Designated Representative in accordance with Exhibit A(ix).

(i) “*City*” means the City of Marysville, Washington, a municipal corporation duly organized and existing under the laws of the State.

(j) “*City Council*” means the legislative authority of the City, as duly and regularly constituted from time to time.

(k) “*Code*” means the United States Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder.

(l) “*Designated Representative*” means the officer of the City appointed in Section 4 of this ordinance to serve as the City’s designated representative in accordance with RCW 39.46.040(2).

(m) “*Designated Representative Certificate*” means the certificate executed by the Designated Representative on the sale date authorizing the Final Terms of each Series of the Bonds.

(n) “*DTC*” means The Depository Trust Company, New York, New York, or its nominee.

(o) “*Final Terms*” means the terms and conditions for the sale of a Series of the Bonds including, but not limited to, the amount, date or dates, denominations, interest rate or rates (or mechanism for determining interest rate or rates), payment dates, final maturity, redemption rights, price, and other terms or covenants.

(p) “*Finance Officer*” means the Finance Director or such other officer of the City who succeeds to substantially all of the responsibilities of that office.

(q) “*Fiscal Agent*” means the fiscal agent of the State, as the same may be designated by the State from time to time.

(r) “*Government Obligations*” has the meaning given in RCW 39.53.010, as now in effect or as may hereafter be amended.

(s) “*Guaranty Fund*” or “*Local Improvement Guaranty Fund*” means the Local Improvement Guaranty Fund of the City previously created pursuant to Marysville Municipal Code 3.16.010.

(t) “*Interest Payment Date*” means each annual date on which interest on a Bond is due and payable, as set forth in the Bond Purchase Contract.

(u) “*Issue Date*” means, with respect to a Bond, the date of initial issuance and delivery of that Bond to the Purchaser in exchange for the purchase price of that Bond.

(v) “*Letter of Representations*” means the Blanket Issuer Letter of Representations between the City and DTC, dated November 14, 1997, as it may be amended from time to time, or any successor or substitute letter relating to the operations procedures of the Securities Depository.

(w) “*LID Bond Fund*” means the Local Improvement Fund, District No. 71 of the City created for the payment of the principal of and interest on the Bonds.

(x) “*LID No. 71*” means Local Improvement District No. 71, established by Ordinance No. 2827 of the City, passed September 19, 2010, for the purpose of carrying out the Project.

(y) “*MSRB*” means the Municipal Securities Rulemaking Board.

(z) “*Note*” means the City’s outstanding Local Improvement District No. 71 Bond Anticipation Note, 2011 (Non-Revolving Line of Credit).

(aa) “*Owner*” means, without distinction, the Registered Owner and the Beneficial Owner.

(bb) “*Project*” means the construction of an Interstate 5 overpass at 156<sup>th</sup> Street NE. For purposes of this ordinance, costs of the Project include all costs of constructing the Project and all other costs permitted for inclusion under RCW 35.44.020 and related statutes, including without limitation, all costs for legal, financial, and appraisal services and any other expenses incurred by the City on behalf of or in the formation of LID No. 71, or in connection with such construction or improvement and in the financing thereof, including the costs of issuance of the Bonds and the cost of providing for increases in the Local Improvement Guaranty Fund.

(cc) “*Project Fund*” means the project fund of the City used for the purpose of carrying out the Project.

(dd) “*Purchaser*” means the person, bank, corporation, firm, association, partnership, trust, the City or other legal entity or group of entities selected by the Designated Representative to serve as underwriter or purchaser for a negotiated sale of a Series of the Bonds.

(ee) “*Rating Agency*” means each nationally recognized rating agency then maintaining a rating on the Bonds at the request of the City, if any.

(ff) “*Record Date*” means the Bond Registrar’s close of business on the 15<sup>th</sup> day of the month preceding an Interest Payment Date. With respect to redemption of a Bond prior to its maturity, the Record Date shall mean the Bond Registrar’s close of business on the date on which the Bond Registrar sends the notice of redemption in accordance with Section 9.

(gg) “*Registered Owner*” means, with respect to a Bond, the person in whose name that Bond is registered on the Bond Register. For so long as the City utilizes the book–entry system for the Bonds under the Letter of Representations, Registered Owner shall mean the Securities Depository.

(hh) “*Rule 15c2-12*” means Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934, as amended.

(ii) “*SEC*” means the United States Securities and Exchange Commission.

(jj) “*Securities Depository*” means DTC, any successor thereto, any substitute securities depository selected by the City that is qualified under applicable laws and regulations to provide the services proposed to be provided by it, or the nominee of any of the foregoing.

(kk) “*Series of the Bonds*” or “*Series*” means a series of the Bonds issued pursuant to this ordinance.

(ll) “*State*” means the State of Washington.

(mm) “*System of Registration*” means the system of registration for the City’s bonds and other obligations set forth in Ordinance No. 1405 of the City.

(nn) “*Tax-Exempt Bonds*” means any Bond, the interest on which is intended as of its Issue Date to be excluded from gross income for federal income tax purposes.

(oo) “*Undertaking*” means the undertaking to provide continuing disclosure entered into pursuant to Section 14 of this ordinance.

Section 3. Authorization of Bonds. The City is authorized to issue the Bonds to provide the funds necessary to pay or reimburse a portion of the costs of the Project, including without limitation repaying the Note, reimbursing the City for costs of the Project, making a deposit to the Guaranty Fund, and paying the costs of issuance of the Bonds. The costs of issuance of the Bond shall include, but not be limited to, the underwriter’s discount, the underwriter’s counsel fee, the bond counsel fee and the financial advisor fee. The Bonds shall evidence indebtedness in an amount not to exceed the total amount on the assessment roll for LID No. 71 remaining uncollected after the expiration of the 30 day prepayment period, and in any event shall not exceed the total amount of the assessment roll (\$8,254,825), as further described in Exhibit A attached to this ordinance and incorporated by this reference.

Section 4. Description of the Bonds; Appointment of Designated Representative. The Finance Officer is appointed as the Designated Representative of the City and is authorized and directed to conduct the sale of the Bonds, in one or more Series bearing the same Issue Date, in the manner and upon the terms deemed most advantageous to the City, and to approve the Final Terms of the Bonds, with such additional terms and covenants as the Designated Representative deems advisable, within the parameters set forth in Exhibit A.

Section 5. Bond Registrar; Registration and Transfer of Bonds.

(a) *Registration of Bonds.* Each Bond shall be issued only in registered form as to both principal and interest, and the ownership of each Bond shall be recorded on the Bond Register.

(b) *Bond Registrar; Duties.* The Designated Representative shall appoint the Bond Registrar for each Series of the Bonds in accordance with Exhibit A. The Bond Registrar shall keep, or cause to be kept, sufficient books for the registration and transfer of the Bonds, which shall be open to inspection by the City at all times. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of the Bonds and this ordinance, to serve as the City’s paying agent for the Bonds and to carry out all of the Bond Registrar’s powers and duties under this ordinance and the System of Registration. The Bond Registrar shall be responsible for its representations contained in the Bond Registrar’s Certificate of Authentication on each Bond. The Bond Registrar may become an Owner with the same rights it would have if it were not the Bond Registrar and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as members of, or in any other capacity with respect to, any committee formed to protect the rights of Owners.

(c) *Bond Register; Transfer and Exchange.* The Bond Register shall contain the name and mailing address of each Registered Owner and the principal amount and number of each Bond held by each Registered Owner. A Bond surrendered to the Bond Registrar may be exchanged for a Bond or Bonds of an equal aggregate principal amount and of the same Series, interest rate, estimated redemption date and maturity. A Bond may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any exchange

or transfer shall be without cost to the Owner or transferee. The Bond Registrar shall not be obligated to exchange any Bond or transfer registered ownership during the period between the applicable Record Date and the next upcoming interest payment or redemption date.

(d) *Securities Depository; Book-Entry Only Form.* The Designated Representative may determine whether each Series of the Bonds is to be issued in certificated or fully immobilized book-entry only form. If a Series of the Bonds is issued in book-entry form, DTC shall be appointed as initial Securities Depository. Each Bond of such Series initially shall be registered in the name of Cede & Co., as the nominee of DTC. Each Bond registered in the name of the Securities Depository shall be held in accordance with the provisions of the Letter of Representations. Registered ownership of any Bond registered in the name of the Securities Depository may not be transferred except: (i) to any successor Securities Depository; (ii) to any substitute Securities Depository appointed by the City; or (iii) to any person if the Series of the Bonds is no longer to be held in book-entry only form. Upon the resignation of the Securities Depository, or upon a termination of the services of the Securities Depository by the City, the City may appoint a substitute Securities Depository. If (i) the Securities Depository resigns and the City does not appoint a substitute Securities Depository, or (ii) the City terminates the services of the Securities Depository, the Series of the Bonds no longer shall be held in book-entry only form and the registered ownership of each Bond of such Series may be transferred to any person as provided in this ordinance. Neither the City nor the Bond Registrar shall have any obligation to participants of any Securities Depository or the persons for whom they act as nominees regarding accuracy of any records maintained by the Securities Depository or its participants. Neither the City nor the Bond Registrar shall be responsible for any notice that is permitted or required to be given to a Registered Owner except such notice as is required to be given by the Bond Registrar to the Securities Depository.

Section 6. Form and Execution of Bonds.

(a) *Form of Bonds; Signatures and Seal.* Each Bond shall be prepared in a form consistent with the provisions of this ordinance and State law. Each Bond shall be signed by the Mayor and the City Clerk, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon. If any officer whose manual or facsimile signature appears on a Bond ceases to be an officer of the City authorized to sign bonds before the Bond bearing his or her manual or facsimile signature is authenticated by the Bond Registrar, or issued or delivered by the City, that Bond nevertheless may be authenticated, issued and delivered and, when authenticated, issued and delivered, shall be as binding on the City as though that person had continued to be an officer of the City authorized to sign bonds. Any Bond also may be signed on behalf of the City by any person who, on the actual date of signing of the Bond, is an officer of the City authorized to sign bonds, although he or she did not hold the required office on its Issue Date.

(b) *Authentication.* Only a Bond bearing a Certificate of Authentication in substantially the following form, manually signed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance: "Certificate Of Authentication. This Bond is one of the fully registered City of Marysville, Washington, Local Improvement District No. 71 Bonds." The authorized signing of a Certificate of Authentication

shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this ordinance.

Section 7.     Payment of Bonds. Principal of and interest on each Bond shall be payable in lawful money of the United States of America solely out of the LID Bond Fund or from the Local Improvement Guaranty Fund of the City. Principal of and interest on each Bond registered in the name of the Securities Depository is payable in the manner set forth in the Letter of Representations. Interest on each Bond not registered in the name of the Securities Depository is payable by electronic transfer on each Interest Payment Date, or by check or draft of the Bond Registrar mailed on such Interest Payment Date to the Registered Owner at the address appearing on the Bond Register on the Record Date. However, the City is not required to make electronic transfers except pursuant to a request by a Registered Owner in writing received at least ten days prior to the Record Date and at the sole expense of the Registered Owner. Principal of each Bond not registered in the name of the Securities Depository is payable upon presentation and surrender of the Bond by the Registered Owner to the Bond Registrar. The Bonds are not subject to acceleration under any circumstances.

Section 8.     Funds and Accounts.

(a)     *LID Bond Fund; Deposit of Assessments.* The LID Bond Fund has been previously created as a special fund of the City for the sole purpose of paying principal of and interest on the Bonds. All collections pertaining to payments of assessments on the assessment roll of LID No. 71, including prepayments, installment payments, and interest and penalties thereon, shall be deposited in the LID Bond Fund. Prior to the Issue Date, any money on hand in the LID Bond Fund may be used to pay or reimburse costs of the Project, may be transferred to the Guaranty Fund, or may be retained therein for the payment of principal of or interest on the Bonds, as determined by the Finance Officer. After the Issue Date, money on hand in the LID Bond Fund shall be used solely to pay interest on the Bonds, to redeem outstanding Bonds in accordance with Section 9, or to pay for costs of collecting delinquent assessments. Until needed for such purposes, the City may invest money in the LID Bond Fund temporarily in any legal investment, and the investment earnings shall be retained in the LID Bond Fund and used for the purposes of that fund.

(b)     *Project Fund; Deposit of Bond Proceeds.* The principal proceeds received from the sale and delivery of each Series of the Bonds, which amounts are not needed to fund the Guaranty Fund deposit described below, shall be paid into or allocated to the Project Fund and used to repay the Note. Any proceeds thereafter remaining in the Project Fund may be allocated or transferred to such other funds, accounts, or subaccounts of the City as the Finance Officer may determine, in order to pay or reimburse the City for all or part of the costs of the Project and to pay the costs of issuance of the Bonds. Until needed for such purposes, the City may invest the principal proceeds of the Bonds temporarily in any legal investment, and the investment earnings shall be deposited in the LID Bond Fund. Earnings subject to a federal tax or rebate requirement may be withdrawn from any such fund or account and used for those tax or rebate purposes. Any proceeds of Bonds remaining in the Project Fund after paying or reimbursing the costs of the Project, the costs of issuing the Bonds, and for the purposes set forth in this section, or after the City Council has determined that the expenditure of such bond proceeds for those purposes is

no longer necessary or appropriate, may be used to pay principal of and interest on the Bonds consistent with applicable law.

(c) *Guaranty Fund.* On the Issue Date, proceeds of each Series of the Bonds equal to not more than 10% of the issue price of such Series shall be deposited into the Guaranty Fund such that the balance in the Guaranty Fund equals not less than the balance required to be maintained under this subsection. For so long as any of the Bonds remain outstanding, the City shall take such actions as may be necessary, consistent with chapter 35.54 RCW and other applicable state law, to maintain such balance in the Guaranty Fund as the Designated Representative determines, in his or her sole discretion, is reasonable. The Designated Representative may accept, as a term or condition set forth in the Bond Purchase Agreement, minimum funding levels or other covenants with respect to the Guaranty Fund, consistent with state law, provided that no such requirement may specify a minimum balance in excess of 10% of the principal amount of bonds outstanding against the Guaranty Fund. Interest and earnings from the Local Improvement Guaranty Fund shall be retained within the Guaranty Fund. The Finance Officer may establish subaccounts within the Guaranty Fund, from time to time as the Finance Officer deems necessary or desirable for purposes of accounting for the investment of money therein. Money in the Guaranty Fund shall be used solely for the payment of bonds secured by such fund and as otherwise set forth in chapters 35.49 and 35.54 RCW and other applicable law.

Section 9. Maturity; Redemption Provisions and Purchase of Bonds.

(a) *Maturity.* All Bonds shall bear a maturity date and estimated redemption date approved by the Designated Representative in accordance with Section 4.

(b) *Redemption Provisions.* The City shall call Bonds for redemption in whole or in part in Authorized Denominations in the order of Series and, within each Series, in the order of an estimated redemption schedule within each maturity, on each Interest Payment Date when there is money in the LID Bond Fund from assessment payments (including principal, interest, and penalties thereon) sufficient to pay the Bond (or portion thereof) so called over and above the amount required for the payment of the interest payable on all unpaid Bonds on that Interest Payment Date. The order of Series to be called and the estimated redemption schedule within each maturity of each Series shall be determined by the Designated Representative and set forth in the Designated Representative Certificate. Bonds shall be redeemed at a redemption price equal to the stated principal amount to be redeemed plus interest accrued thereon to the redemption date. At the option of the City in its sole discretion, Bonds may be called and paid in whole or in part on an Interest Payment Date from other money of the City legally available therefor and deposited in the Bond Fund on or after the dates set forth in the Bond Purchase Contract. Nothing in the preceding sentence requires payment from any source other than the funds pledged in Section 10 hereof.

(c) *Selection of Bonds for Redemption; Partial Redemption.* For so long as a Series of the Bonds is registered in the name of the Securities Depository, if less than all of the principal amount of Bonds with the same estimated redemption date is to be redeemed, the Securities Depository shall select the proportion of those Bonds to be redeemed in accordance with the Letter of Representations. If a Series of the Bonds is not registered in the name of the Securities

Depository, the Bond Registrar shall select the proportion of those Bonds with the same estimated redemption date to be redeemed randomly in such manner as the Bond Registrar shall determine. All or a portion of the principal amount of any Bond that is to be redeemed may be redeemed in any Authorized Denomination. If less than all of the outstanding principal amount of any Bond is redeemed, upon surrender of that Bond to the Bond Registrar, there shall be issued to the Registered Owner, without charge, a new Bond, bearing the same Series, estimated redemption date and interest rate, in the aggregate principal amount to remain outstanding.

(d) *Notice of Redemption.* Notice of redemption of each Bond registered in the name of the Securities Depository shall be given in accordance with the Letter of Representations. Notice of redemption of each other Bond, unless waived by the Registered Owner, shall be given by the Bond Registrar not less than 15 nor more than 45 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the Registered Owner at the address appearing on the Bond Register on the Record Date. The requirements of the preceding sentence shall be satisfied when notice has been mailed as so provided, whether or not it is actually received by an Owner. In addition, the redemption notice shall be mailed or sent electronically within the same period to the MSRB (if required under the Undertaking), to each Rating Agency, and to such other persons and with such additional information as the Finance Officer shall determine, but these additional mailings shall not be a condition precedent to the redemption of any Bond.

(e) *Rescission of Redemption Notice.* In the case of any redemption, the notice of redemption may state that the City retains the right to rescind the redemption notice by giving a notice of rescission to the affected Registered Owner(s) at any time on or prior to the date fixed for redemption. Any notice of redemption that is so rescinded shall be of no effect, and each Bond for which a notice of redemption has been rescinded shall remain outstanding.

(f) *Effect of Redemption.* Interest on the principal portion of each Bond called for redemption shall cease to accrue on the date fixed for redemption, unless the notice of redemption is rescinded as set forth above or payment is not made for the Bond called for redemption.

(g) *Purchase of Bonds.* The City reserves the right to purchase any or all of the Bonds at any time at any price acceptable to the City plus accrued interest to the date of purchase.

Section 10. Pledge of Assessment Payments. Assessments collected in LID No. 71, together with interest and penalties, if any, are pledged to the payment of the Bonds, which are payable solely out of the LID Bond Fund and the Local Improvement Guaranty Fund of the City, all in the manner provided by law. The Bonds are not general obligations of the City. The City covenants that it will diligently commence and pursue the collection of all delinquent assessments in LID No. 71.

Section 11. Tax Covenants.

(a) *Preservation of Tax Exemption for Interest on Tax-Exempt Bonds.* The City covenants that it will take all actions necessary to prevent interest on the Tax-Exempt Bonds from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of the Tax-Exempt Bonds or other funds of the



City treated as proceeds of the Tax-Exempt Bonds that will cause interest on the Bonds to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirements of Section 148 of the Code are applicable to the Tax-Exempt Bonds, take all actions necessary to comply (or to be treated as having complied) with those requirements in connection with the Tax-Exempt Bonds.

(b) *Post-Issuance Compliance.* The Finance Officer is authorized and directed to review and update the City's written procedures to facilitate compliance by the City with the covenants in this ordinance and the applicable requirements of the Code that must be satisfied after the Issue Date to prevent interest on the Tax-Exempt Bonds from being included in gross income for federal tax purposes.

Section 12. Refunding or Defeasance of the Bonds. The City may issue refunding bonds pursuant to State law or use money available from any other lawful source to carry out a refunding or defeasance plan, which may include (a) paying when due the principal of and interest on any or all of the Bonds (the "defeased Bonds"); (b) redeeming the defeased Bonds prior to their maturity; and (c) paying the costs of the refunding or defeasance. If the City sets aside in a special trust fund or escrow account irrevocably pledged to that redemption or defeasance (the "trust account"), money and/or Government Obligations maturing at a time or times and bearing interest in amounts sufficient to redeem, refund or defease the defeased Bonds in accordance with their terms, then all right and interest of the Owners of the defeased Bonds in the covenants of this ordinance and in the funds and accounts obligated to the payment of the defeased Bonds shall cease and become void. Thereafter, the Owners of defeased Bonds shall have the right to receive payment of the principal of and interest on the defeased Bonds solely from the trust account and the defeased Bonds shall be deemed no longer outstanding. In that event, the City may apply money remaining in any fund or account (other than the trust account) established for the payment or redemption of the defeased Bonds to any lawful purpose.

Unless otherwise specified by the City in a refunding or defeasance plan, notice of refunding or defeasance shall be given, and selection of Bonds for any partial refunding or defeasance shall be conducted, in the manner prescribed in this ordinance for the redemption of Bonds.

Section 13. Sale and Delivery of the Bonds.

(a) *Manner of Sale of Bonds; Delivery of Bonds.* The Designated Representative is authorized to sell each Series of the Bonds to the Purchaser by negotiated sale based on the assessment of the Designated Representative of market conditions, in consultation with appropriate City officials and staff, Bond Counsel and other advisors.

(b) *Procedure for Negotiated Sale.* The Designated Representative shall select one or more Purchasers with whom to negotiate the sale of a Series of the Bonds. A Bond Purchase Contract shall set forth the Final Terms of the sale of each Series. The Designated Representative is authorized to execute the Bond Purchase Contract on behalf of the City, so long as the terms provided therein are consistent with the terms of this ordinance.

(c) *Preparation, Execution and Delivery of the Bonds.* The Bonds will be prepared at City expense and will be delivered to the Purchaser in accordance with the Bond Purchase Contract, together with the approving legal opinion of Bond Counsel regarding the Bonds.

Section 14. Official Statement; Continuing Disclosure.

(a) *Preliminary Official Statement Deemed Final.* The Designated Representative shall review the form of the preliminary official statement prepared in connection with the sale of a Series of the Bonds to the public. For the sole purpose of the Purchaser's compliance with paragraph (b)(1) of Rule 15c2-12, the Designated Representative is authorized to deem that preliminary official statement final as of its date, except for the omission of information permitted to be omitted by Rule 15c2-12. The City approves the distribution to potential purchasers of the Bonds of a preliminary official statement that has been deemed final in accordance with this subsection.

(b) *Approval of Final Official Statement.* The City approves the preparation of a final official statement for any Series of the Bonds to be sold to the public in the form of the preliminary official statement, with such modifications and amendments as the Designated Representative deems necessary or desirable, and further authorizes the Designated Representative to execute and deliver such final official statement to the Purchaser. The City authorizes and approves the distribution by the Purchaser of that final official statement to purchasers and potential purchasers of such Bonds.

(c) *Undertaking to Provide Continuing Disclosure.* To meet the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a participating underwriter for a Series of the Bonds, the Designated Representative is authorized and directed to execute a written undertaking to provide continuing disclosure for the benefit of holders of such Series of the Bonds in substantially the form attached as Exhibit B.

Section 15. Supplemental and Amendatory Ordinances. The City may supplement or amend this ordinance for any one or more of the following purposes without the consent of any Owners of the Bonds:

(a) To add covenants and agreements that do not materially adversely affect the interests of Owners, or to surrender any right or power reserved to or conferred upon the City.

(b) To cure any ambiguities, or to cure, correct or supplement any defective provision contained in this ordinance in a manner that does not materially adversely affect the interest of the Beneficial Owners of the Bonds.

Section 16. Fixing Interest Rate on Assessments. The interest rate on the installment payments of the special assessments in LID No. 71 is fixed at a rate equal to 0.5% plus the all-in true interest cost of the Bonds, as set forth in the Bond Purchase Contract, carried out to two decimal places. If the Bonds are issued in more than one Series, the all-in true interest cost shall mean a blended rate of all Series of the Bonds.

Section 17. General Authorization and Ratification. The Designated Representative and other appropriate officers of the City are severally authorized to take such actions and to

execute such documents as in their judgment may be necessary or desirable to carry out the transactions contemplated in connection with this ordinance, and to do everything necessary for the prompt delivery of the Bonds to the Purchaser and for the proper application, use and investment of the proceeds of the Bonds. All actions taken prior to the effective date of this ordinance in furtherance of the purposes described in this ordinance and not inconsistent with the terms of this ordinance are ratified and confirmed in all respects.

Section 18. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 19. Conflicts with Marysville Municipal Code. To the extent that anything contained in this ordinance is inconsistent with any provision set forth in the Marysville Municipal Code, this ordinance and state law shall be deemed to be the controlling law for the narrow and specific purpose of authorizing the Bonds described herein, and such provisions of the Marysville Municipal Code shall not apply.

Section 20. Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, at a regular meeting thereof, this 14<sup>th</sup> day of April, 2014.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Bond Counsel

Attachments:

Exhibit A – Description of the Bonds

Exhibit B – Form of Undertaking to Provide Continuing Disclosure

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**EXHIBIT A**  
**DESCRIPTION OF THE BONDS**

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- (i) Principal Amount. The Bonds may be issued in one or more Series and the aggregate principal amount of the Bonds shall not exceed the total amount on the assessment roll remaining uncollected after the expiration of the 30 day prepayment period, and in any event shall not exceed the total amount of the assessment roll (\$8,254,825). To facilitate delivery of the Bonds through the Securities Depository, the principal amount may be rounded down to the nearest dollar.
- (ii) Date or Dates. Each Bond shall be dated its Issue Date, which date may not be later than one year after the effective date of this ordinance and may not occur prior to 20 days after the expiration of the 30 day prepayment period for paying assessments. All Series of the Bonds shall bear the same Issue Date.
- (iii) Denominations, Name, etc. The Bonds shall be issued in Authorized Denominations, initially with one Bond corresponding to each estimated redemption date within a Series. The Bonds shall bear any name and additional designation as deemed necessary or appropriate by the Designated Representative or the Bond Registrar.
- (iv) Interest Rate(s). Each Bond shall bear interest at a fixed rate per annum (computed on the basis of a 360-day year of twelve 30-day months) from the Issue Date or from the most recent date for which interest has been paid or duly provided for, whichever is later. One or more rates of interest may be fixed for the Bonds. No rate of interest for any Bond may exceed 6.75%, and the all-in true interest cost to the City for each Series of the Bonds may not exceed 7.00%.
- (v) Interest Payment Dates. Interest shall be payable at fixed rates annually on such Interest Payment Dates as are acceptable to the Designated Representative, commencing no later than 6 months after the first assessment installment payment dates following the Issue Date.

- (vi) Maturity Dates. The Bonds shall mature on any Interest Payment Date acceptable to the Designated Representative, except that the final maturity date of the Bonds shall be on the Interest Payment Date next occurring after the date that is at least 2 years after the final assessment installment payment due date.
- (vii) Redemption Rights. The Bonds shall be subject to redemption on Interest Payment Dates, as set forth in Section 9 of this ordinance. The Designated Representative shall approve the order in which each Series will be redeemed and within each maturity of each Series an estimated redemption schedule setting forth the estimated dates and amounts of such redemptions.
- (viii) Price. The purchase price for each Series of the Bonds shall be equal to the stated aggregate principal amount of that Series less a discount (including a Purchaser's discount and any original issue discount) of not to exceed 2.50%.
- (ix) Other Terms & Conditions. The Designated Representative may determine whether it is in the City's best interest to provide for bond insurance or other credit enhancement; may designate a Series of the Bonds as Tax-Exempt Bonds or as taxable Bonds; may appoint the Fiscal Agent or the Finance Officer as the initial Bond Registrar for a Series of the Bonds; agree to a minimum Guaranty Fund balance requirement; and may accept such additional terms, conditions and covenants as he or she may determine are in the best interests of the City, consistent with this ordinance.

[Form of]  
**UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE**

**City of Marysville, Washington  
Local Improvement District No. 71 Bonds**

The City of Marysville, Washington (the “City”), makes the following written Undertaking for the benefit of holders of the above-referenced bonds (the “Bonds”), for the sole purpose of assisting the Purchaser in meeting the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a participating underwriter for the Bonds. Capitalized terms used but not defined below shall have the meanings given in Ordinance No. \_\_\_\_ of the City (the “Bond Ordinance”).

(a) Undertaking to Provide Annual Financial Information and Notice of Listed Events. The City undertakes to provide or cause to be provided, either directly or through a designated agent, to the MSRB, in an electronic format as prescribed by the MSRB, accompanied by identifying information as prescribed by the MSRB:

- (i) Annual financial information and operating data of the type included in the final official statement for the Bonds and described in paragraph (b) (“annual financial information”);
- (ii) Timely notice (not in excess of 10 business days after the occurrence of the event) of the occurrence of any of the following events with respect to the Bonds: (1) principal and interest payment delinquencies; (2) non-payment related defaults, if material; (3) unscheduled draws on debt service reserves reflecting financial difficulties; (4) unscheduled draws on credit enhancements reflecting financial difficulties; (5) substitution of credit or liquidity providers, or their failure to perform; (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notice of Proposed Issue (IRS Form 5701 – TEB) or other material notices or determinations with respect to the tax status of the Bonds; (7) modifications to rights of holders of the Bonds, if material; (8) bond calls (other than scheduled mandatory redemptions of Term Bonds), if material, and tender offers; (9) defeasances; (10) release, substitution, or sale of property securing repayment of the Bonds, if material; (11) rating changes; (12) bankruptcy, insolvency, receivership or similar event of the City or any obligated person, as such “obligated person” and “Bankruptcy Events” are defined in Rule 15c2-12; (13) the consummation of a merger, consolidation, or acquisition involving the City or an obligated person or the sale of all or substantially all of the assets of the City or an obligated person other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and (14) appointment of a successor or additional trustee or the change of name of a trustee, if material.
- (iii) Timely notice of a failure by the City to provide required annual financial information on or before the date specified in paragraph (b).

(b) Type of Annual Financial Information Undertaken to be Provided. The annual financial information that the City undertakes to provide in paragraph (a):

- (i) Shall consist of (1) annual financial statements prepared (except as noted in the financial statements) in accordance with applicable generally accepted accounting principles applicable to local governmental units of the State such as the City, as such principles may be changed from time to time, which statements may be unaudited, provided, that if and when audited financial statements are prepared and available they will be provided; (2) a statement of the outstanding balance of obligations secured by the Local Improvement Guaranty Fund; (3) the balance of cash and investments in the Local Improvement Guaranty Fund at fiscal year end; and (4) a statement of the amount of assessments that the City billed and collected in that fiscal year;
- (ii) Shall be provided not later than the last day of the ninth month after the end of each fiscal year of the City (currently, a fiscal year ending December 31), as such fiscal year may be changed as required or permitted by State law, commencing with the City's fiscal year ending December 31, 2013; and
- (iii) May be provided in a single or multiple documents, and may be incorporated by specific reference to documents available to the public on the Internet website of the MSRB or filed with the SEC.

(c) Amendment of Undertaking. This Undertaking is subject to amendment after the primary offering of the Bonds without the consent of any holder of any Bond, or of any broker, dealer, municipal securities dealer, participating underwriter, Rating Agency or the MSRB, under the circumstances and in the manner permitted by Rule 15c2-12. The City will give notice to the MSRB of the substance (or provide a copy) of any amendment to the Undertaking and a brief statement of the reasons for the amendment. If the amendment changes the type of annual financial information to be provided, the annual financial information containing the amended financial information will include a narrative explanation of the effect of that change on the type of information to be provided.

(d) Beneficiaries. This Undertaking shall inure to the benefit of the City and the holder of each Bond, and shall not inure to the benefit of or create any rights in any other person.

(e) Termination of Undertaking. The City's obligations under this Undertaking shall terminate upon the legal defeasance of all of the Bonds. In addition, the City's obligations under this Undertaking shall terminate if the provisions of Rule 15c2-12 that require the City to comply with this Undertaking become legally inapplicable in respect of the Bonds for any reason, as confirmed by an opinion of Bond Counsel delivered to the City, and the City provides timely notice of such termination to the MSRB.

(f) Remedy for Failure to Comply with Undertaking. As soon as practicable after the City learns of any failure to comply with this Undertaking, the City will proceed with due diligence to cause such noncompliance to be corrected. No failure by the City or other obligated person to comply with this Undertaking shall constitute a default in respect of the Bonds. The



sole remedy of any holder of a Bond shall be to take action to compel the City or other obligated person to comply with this Undertaking, including seeking an order of specific performance from an appropriate court.

(g) Designation of Official Responsible to Administer Undertaking. The Finance Officer or his or her designee is the person designated, in accordance with the Bond Ordinance, to carry out the Undertaking in accordance with Rule 15c2-12, including, without limitation, the following actions:

- (i) Preparing and filing the annual financial information undertaken to be provided;
- (ii) Determining whether any event specified in paragraph (a) has occurred, assessing its materiality, where necessary, with respect to the Bonds, and preparing and disseminating any required notice of its occurrence;
- (iii) Determining whether any person other than the City is an “obligated person” within the meaning of Rule 15c2-12 with respect to the Bonds, and obtaining from such person an undertaking to provide any annual financial information and notice of listed events for that person required under Rule 15c2-12;
- (iv) Selecting, engaging and compensating designated agents and consultants, including financial advisors and legal counsel, to assist and advise the City in carrying out this Undertaking; and
- (v) Effecting any necessary amendment of this Undertaking.

## CERTIFICATION

I, the undersigned, City Clerk of the City of Marysville, Washington (the "City"), hereby certify as follows:

1. The attached copy of Ordinance No. \_\_\_\_ (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on April 14, 2014, as that ordinance appears on the minute book of the City.

2. The Ordinance will be in full force and effect five days after publication in the City's official newspaper, which publication date [is/was] \_\_\_\_\_, 2014.

3. A quorum of the members of the City Council was present throughout the meeting and a majority of the members voted in the proper manner for the passage of the Ordinance.

Dated: April 14, 2014.

CITY OF MARYSVILLE, WASHINGTON

\_\_\_\_\_  
Deputy City Clerk

CITY OF MARYSVILLE, WASHINGTON

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE of the City of Marysville, Washington, relating to contracting indebtedness; providing for the issuance of not to exceed \$[\_\_\_\_\_] aggregate principal amount of local improvement district bonds to provide a portion of the funds necessary to finance public improvements in Local Improvement District No. 71 (“LID No. 71”), make a deposit to the City’s Local Improvement Guaranty Fund, and pay the costs of issuance of the Bonds; fixing or setting parameters with respect to certain terms and covenants of the bonds; appointing the City’s designated representative to approve the final terms of the sale of the bonds; fixing the interest rate on assessments within LID No. 71; and providing for other related matters.

PASSED: [April 14], 2014

*This document prepared by:*

*Foster Pepper PLLC  
1111 Third Avenue, Suite 3400  
Seattle, Washington 98101  
(206) 447-4400*

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*\*The cover page, table of contents and section headings of this ordinance are for convenience of reference only, and shall not be used to resolve any question of interpretation of this ordinance.*

CITY OF MARYSVILLE, WASHINGTON

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE of the City of Marysville, Washington, relating to contracting indebtedness; providing for the issuance of not to exceed \$[\_\_\_\_\_] aggregate principal amount of local improvement district bonds to provide a portion of the funds necessary to finance public improvements in Local Improvement District No. 71 (“LID No. 71”), make a deposit to the City’s Local Improvement Guaranty Fund, and pay the costs of issuance of the Bonds; fixing or setting parameters with respect to certain terms and covenants of the bonds; appointing the City’s designated representative to approve the final terms of the sale of the bonds; fixing the interest rate on assessments within LID No. 71; and providing for other related matters.

THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Findings and Determinations. The City makes the findings and determinations set forth below. Capitalized terms have the meanings given in Section 2.

(a) *Authority and Description of Project.* By Ordinance No. 2827, passed on September 19, 2010, the City created LID No. 71 for the purpose of carrying out the Project and authorized the issuance of local improvement district bonds to finance a portion of the costs of the Project by repaying interim financing, reimbursing the City for Project costs, making a deposit to the City’s Guaranty Fund, and paying the costs of issuance of the Bonds.

(b) *The Note.* Pending the issuance of the Bonds, the City issued the Note to the Bank for the purpose of providing interim financing to pay a portion of the costs of the Project. The Note matures on September 1, 2014, and the City reserved the right to the prepay at any time prior to its maturity the principal amount of the Note outstanding at par plus accrued interest to the date of prepayment.

(c) *Plan of Financing.* On February 24, 2014[and March 24, 2014], the City Council adopted Ordinance Nos. 2954 and [\_\_\_\_], respectively, confirming the final assessment roll for LID No. 71 and authorizing the collection of the special assessments levied within LID No. 71. The notices of collection of assessments were first published on March 1, 2014 [and March 29, 2014, respectively], and the last day for prepayment of assessments without penalties or interest is April 28, 2014. The total amount of Bonds to be issued will not exceed the balance of assessments unpaid after the expiration of the 30 day prepayment period, and the Bonds shall be repaid from the assessments to be paid in 20 equal annual installments of principal and interest. [To be revised if City decides to remove appealed properties from the Bond issue].

(d) *The Bonds.* For the purpose of providing the funds necessary to repay the Note, reimburse the City for the costs of the Project, make a deposit to the Guaranty Fund and pay the costs of issuance of the Bonds, the City Council finds that it is in the best interests of the City to

issue and sell the Bonds to the Purchaser, pursuant to the terms set forth in the Bond Purchase Contract as approved by the City's Designated Representative consistent with this ordinance.

Section 2. Definitions. As used in this ordinance, the following capitalized terms shall have the following meanings:

(a) "*Authorized Denomination*" means \$5,000 or any integral multiple thereof within an estimated redemption date within a Series, except that if the aggregate principal amount of the Series of the Bonds is not an integral multiple of \$5,000, then the first Bond of that Series shall be in such principal amount as the Designated Representative shall determine.

(b) "*Bank*" means Cashmere Valley Bank, the registered owner of the Note.

(c) "*Beneficial Owner*" means, with respect to a Bond, the owner of any beneficial interest in that Bond.

(d) "*Bond*" means each bond issued pursuant to and for the purposes provided in this ordinance.

(e) "*Bond Counsel*" means the firm of Foster Pepper PLLC, its successor, or any other attorney or firm of attorneys selected by the City with a nationally recognized standing as bond counsel in the field of municipal finance.

(f) "*Bond Purchase Contract*" means an offer to purchase a Series of the Bonds, setting forth certain terms and conditions of the issuance of that Series, which offer is authorized to be accepted by the Designated Representative on behalf of the City, if consistent with this ordinance.

(g) "*Bond Register*" means the books or records maintained by the Bond Registrar for the purpose of identifying ownership of the each Bond.

(h) "*Bond Registrar*" means the Fiscal Agent, or any successor bond registrar selected by the City.

(i) "*City*" means the City of Marysville, Washington, a municipal corporation duly organized and existing under the laws of the State.

(j) "*City Council*" means the legislative authority of the City, as duly and regularly constituted from time to time.

(k) "*Code*" means the United States Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder.

(l) "*Designated Representative*" means the officer of the City appointed in Section 4 of this ordinance to serve as the City's designated representative in accordance with RCW 39.46.040(2).

(m) “*DTC*” means The Depository Trust Company, New York, New York, or its nominee.

(n) “*Final Terms*” means the terms and conditions for the sale of a Series of the Bonds including, but not limited to, the amount, date or dates, denominations, interest rate or rates (or mechanism for determining interest rate or rates), payment dates, final maturity, redemption rights, price, and other terms or covenants.

(o) “*Finance Officer*” means the Finance Director or such other officer of the City who succeeds to substantially all of the responsibilities of that office.

(p) “*Fiscal Agent*” means the fiscal agent of the State, as the same may be designated by the State from time to time.

(q) “*Government Obligations*” has the meaning given in RCW 39.53.010, as now in effect or as may hereafter be amended.

(r) “*Guaranty Fund*” or “*Local Improvement Guaranty Fund*” means the Local Improvement Guaranty Fund of the City previously created pursuant to Marysville Municipal Code 3.16.010.

(s) “*Interest Payment Date*” means each annual date on which interest on a Bond is due and payable, as set forth in the Bond Purchase Contract.

(t) “*Issue Date*” means, with respect to a Bond, the date of initial issuance and delivery of that Bond to the Purchaser in exchange for the purchase price of that Bond.

(u) “*Letter of Representations*” means the Blanket Issuer Letter of Representations between the City and DTC, dated November 14, 1997, as it may be amended from time to time, or any successor or substitute letter relating to the operations procedures of the Securities Depository.

(v) “*LID Bond Fund*” means the Local Improvement Fund, District No. 71 of the City created for the payment of the principal of and interest on the Bonds.

(w) “*LID No. 71*” means Local Improvement District No. 71, established by Ordinance No. 2827 of the City, passed September 19, 2010, for the purpose of carrying out the Project.

(x) “*MSRB*” means the Municipal Securities Rulemaking Board.

(y) “*Note*” means the City’s outstanding Local Improvement District No. 71 Bond Anticipation Note, 2011 (Non-Revolving Line of Credit).

(z) “*Owner*” means, without distinction, the Registered Owner and the Beneficial Owner.

(aa) “*Project*” means the construction of an Interstate 5 overpass at 156<sup>th</sup> Street NE. For purposes of this ordinance, costs of the Project include all costs of constructing the Project and all other costs permitted for inclusion under RCW 35.44.020 and related statutes, including without limitation, all costs for legal, financial, and appraisal services and any other expenses incurred by the City on behalf of or in the formation of LID No. 71, or in connection with such construction or improvement and in the financing thereof, including the costs of issuance of the Bonds and the cost of providing for increases in the Local Improvement Guaranty Fund.

(bb) “*Project Fund*” means the [\_\_\_\_\_] of the City used for the purpose of carrying out the Project.

(cc) “*Purchaser*” means the person, bank, corporation, firm, association, partnership, trust, or other legal entity or group of entities selected by the Designated Representative to serve as underwriter or purchaser for a negotiated sale of a Series of the Bonds.

(dd) “*Rating Agency*” means any nationally recognized rating agency then maintaining a rating on the Bonds at the request of the City, if any.

(ee) “*Record Date*” means the Bond Registrar’s close of business on the 15<sup>th</sup> day of the month preceding an Interest Payment Date. With respect to redemption of a Bond prior to its maturity, the Record Date shall mean the Bond Registrar’s close of business on the date on which the Bond Registrar sends the notice of redemption in accordance with Section 9.

(ff) “*Registered Owner*” means, with respect to a Bond, the person in whose name that Bond is registered on the Bond Register. For so long as the City utilizes the book–entry system for the Bonds under the Letter of Representations, Registered Owner shall mean the Securities Depository.

(gg) “*Rule 15c2-12*” means Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934, as amended.

(hh) “*SEC*” means the United States Securities and Exchange Commission.

(ii) “*Securities Depository*” means DTC, any successor thereto, any substitute securities depository selected by the City that is qualified under applicable laws and regulations to provide the services proposed to be provided by it, or the nominee of any of the foregoing.

(jj) “*Series of the Bonds*” or “*Series*” means a series of the Bonds issued pursuant to this ordinance.

(kk) “*State*” means the State of Washington.

(ll) “*System of Registration*” means the system of registration for the City’s bonds and other obligations set forth in Ordinance No. 1405 of the City.

(mm) “*Undertaking*” means the undertaking to provide continuing disclosure entered into pursuant to Section 14 of this ordinance.



Section 3. Authorization of Bonds. The City is authorized to issue the Bonds to provide the funds necessary to pay or reimburse a portion of the costs of the Project, including without limitation repaying the Note, reimbursing the City for costs of the Project, making a deposit to the Guaranty Fund, and paying the costs of issuance of the Bonds. The Bonds shall evidence indebtedness in an amount of not to exceed the lesser of (a) the amount of the confirmed assessment roll for LID No. 71 (\$[\_\_\_\_\_]), or (b) the balance of such assessment roll remaining unpaid at the expiration of the 30-day prepayment period.

Section 4. Description of the Bonds; Appointment of Designated Representative. The Finance Officer is appointed as the Designated Representative of the City and is authorized and directed to conduct the sale of the Bonds, in one or more Series bearing the same Issue Date, in the manner and upon the terms deemed most advantageous to the City, and to approve the Final Terms of the Bonds, with such additional terms and covenants as the Designated Representative deems advisable, within the parameters set forth in Exhibit A, which is attached to this ordinance and incorporated by this reference.

Section 5. Bond Registrar; Registration and Transfer of Bonds.

(a) *Registration of Bonds.* Each Bond shall be issued only in registered form as to both principal and interest and the ownership of each Bond shall be recorded on the Bond Register.

(b) *Bond Registrar; Duties.* The Fiscal Agent is appointed as initial Bond Registrar. The Bond Registrar shall keep, or cause to be kept, sufficient books for the registration and transfer of the Bonds, which shall be open to inspection by the City at all times. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of the Bonds and this ordinance, to serve as the City's paying agent for the Bonds and to carry out all of the Bond Registrar's powers and duties under this ordinance and the System of Registration. The Bond Registrar shall be responsible for its representations contained in the Bond Registrar's Certificate of Authentication on each Bond. The Bond Registrar may become an Owner with the same rights it would have if it were not the Bond Registrar and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as members of, or in any other capacity with respect to, any committee formed to protect the rights of Owners.

(c) *Bond Register; Transfer and Exchange.* The Bond Register shall contain the name and mailing address of each Registered Owner and the principal amount and number of each Bond held by each Registered Owner. A Bond surrendered to the Bond Registrar may be exchanged for a Bond or Bonds of an equal aggregate principal amount and of the same Series, interest rate, estimated redemption date and maturity. A Bond may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any exchange or transfer shall be without cost to the Owner or transferee. The Bond Registrar shall not be obligated to exchange any Bond or transfer registered ownership during the period between the applicable Record Date and the next upcoming interest payment or redemption date.

(d) *Securities Depository; Book-Entry Only Form.* The Designated Representative may determine whether the Bonds are to be issued in certificated or fully immobilized

book-entry only form. If the Bonds are issued in book-entry form, DTC shall be appointed as initial Securities Depository. Each Bond initially shall be registered in the name of Cede & Co., as the nominee of DTC. Each Bond registered in the name of the Securities Depository shall be held in accordance with the provisions of the Letter of Representations. Registered ownership of any Bond registered in the name of the Securities Depository may not be transferred except: (i) to any successor Securities Depository; (ii) to any substitute Securities Depository appointed by the City; or (iii) to any person if the Bond is no longer to be held in book-entry only form. Upon the resignation of the Securities Depository, or upon a termination of the services of the Securities Depository by the City, the City may appoint a substitute Securities Depository. If (i) the Securities Depository resigns and the City does not appoint a substitute Securities Depository, or (ii) the City terminates the services of the Securities Depository, the Bonds no longer shall be held in book-entry only form and the registered ownership of each Bond may be transferred to any person as provided in this ordinance. Neither the City nor the Bond Registrar shall have any obligation to participants of any Securities Depository or the persons for whom they act as nominees regarding accuracy of any records maintained by the Securities Depository or its participants. Neither the City nor the Bond Registrar shall be responsible for any notice that is permitted or required to be given to a Registered Owner except such notice as is required to be given by the Bond Registrar to the Securities Depository.

Section 6. Form and Execution of Bonds.

(a) *Form of Bonds; Signatures and Seal.* Each Bond shall be prepared in a form consistent with the provisions of this ordinance and State law. Each Bond shall be signed by the Mayor and the City Clerk, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon. If any officer whose manual or facsimile signature appears on a Bond ceases to be an officer of the City authorized to sign bonds before the Bond bearing his or her manual or facsimile signature is authenticated by the Bond Registrar, or issued or delivered by the City, that Bond nevertheless may be authenticated, issued and delivered and, when authenticated, issued and delivered, shall be as binding on the City as though that person had continued to be an officer of the City authorized to sign bonds. Any Bond also may be signed on behalf of the City by any person who, on the actual date of signing of the Bond, is an officer of the City authorized to sign bonds, although he or she did not hold the required office on its Issue Date.

(b) *Authentication.* Only a Bond bearing a Certificate of Authentication in substantially the following form, manually signed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance: "Certificate Of Authentication. This Bond is one of the fully registered City of Marysville, Washington, Local Improvement District No. 71 Bonds." The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this ordinance.

Section 7. Payment of Bonds. Principal of and interest on each Bond shall be payable in lawful money of the United States of America solely out of the LID Bond Fund or from the Local Improvement Guaranty Fund of the City. Principal of and interest on each Bond registered in the name of the Securities Depository is payable in the manner set forth in the Letter of Representations. Interest on each Bond not registered in the name of the Securities Depository is

payable by electronic transfer on each Interest Payment Date, or by check or draft of the Bond Registrar mailed on such Interest Payment Date to the Registered Owner at the address appearing on the Bond Register on the Record Date. However, the City is not required to make electronic transfers except pursuant to a request by a Registered Owner in writing received at least ten days prior to the Record Date and at the sole expense of the Registered Owner. Principal of each Bond not registered in the name of the Securities Depository is payable upon presentation and surrender of the Bond by the Registered Owner to the Bond Registrar. The Bonds are not subject to acceleration under any circumstances.

Section 8. Funds and Accounts.

(a) *LID Bond Fund; Deposit of Assessments.* The LID Bond Fund has been previously created as a special fund of the City for the sole purpose of paying principal of and interest on the Bonds. All collections pertaining to payments of assessments on the assessment roll of LID No. 71, including prepayments, installment payments, and interest and penalties thereon, shall be deposited in the LID Bond Fund. Prior to the Issue Date, any money on hand in the LID Bond Fund may be used to pay or reimburse costs of the Project, may be transferred to the Guaranty Fund, or may be retained therein for the payment of principal of or interest on the Bonds, as determined by the Finance Officer. After the Issue Date, money on hand in the LID Bond Fund shall be used solely to pay interest on the Bonds, to redeem outstanding Bonds in accordance with Section 9, or to pay for costs of collecting delinquent assessments. Until needed for such purposes, the City may invest money in the LID Bond Fund temporarily in any legal investment, and the investment earnings shall be retained in the LID Bond Fund and used for the purposes of that fund.

(b) *Project Fund; Deposit of Bond Proceeds.* The principal proceeds received from the sale and delivery of each Series of the Bonds, which amounts are not needed to fund the Guaranty Fund deposit described below, shall be paid into or allocated to the Project Fund and used to repay the Note. Any proceeds thereafter remaining in the Project Fund may be allocated or transferred such other funds, accounts, or subaccounts of the City as the Finance Officer may determine, in order to pay or reimburse the City for all or part of the costs of the Project and to pay the costs of issuance of the Bonds. Until needed for such purposes, the City may invest the principal proceeds of the Bonds temporarily in any legal investment, and the investment earnings shall be deposited in the LID Bond Fund. Earnings subject to a federal tax or rebate requirement may be withdrawn from any such fund or account and used for those tax or rebate purposes. Any proceeds of Bonds remaining in the Project Fund after paying or reimbursing the costs of the Project, the costs of issuing the Bonds, and for the purposes set forth in this section, or after the City Council has determined that the expenditure of such bond proceeds for those purposes is no longer necessary or appropriate, may be used to pay principal of and interest on the Bonds consistent with applicable law.

(c) *Guaranty Fund.* On the Issue Date, proceeds of each Series of Bonds equal to not more than 10% of the issue price of such Series shall be deposited into the Guaranty Fund such that the balance in the Guaranty Fund equals not less than the balance required to be maintained under this subsection. For so long as any of the Bonds remain outstanding, the City shall take such actions as may be necessary, consistent with chapter 35.54 RCW and other applicable state law, to maintain such balance in the Guaranty Fund as the Finance Officer determines, in her

sole discretion, is reasonable. Interest and earnings from the Local Improvement Guaranty Fund shall be retained within the Guaranty Fund. The Finance Officer may establish subaccounts within the Guaranty Fund, from time to time as the Finance Officer deems necessary or desirable for purposes of accounting for the investment of money therein. Money in the Guaranty Fund shall be used solely for the payment of bonds secured by such fund and as otherwise set forth in chapters 35.49 and 35.54 RCW and other applicable law.

Section 9. Maturity; Redemption Provisions and Purchase of Bonds.

(a) *Maturity.* All Bonds shall bear a maturity date and estimated redemption date approved by the Designated Representative in accordance with Section 4.

(b) *Redemption Provisions.* The City shall call Bonds for redemption in whole or in part in Authorized Denominations in the order set forth on the estimated redemption schedule (which shall be set forth in the Bond Purchase Contract) on each Interest Payment Date when there is money in the LID Bond Fund from assessment payments (including principal, interest, and penalties thereon) sufficient to pay the Bond (or portion thereof) so called over and above the amount required for the payment of the interest payable on all unpaid Bonds on that Interest Payment Date. Bonds shall be redeemed at a redemption price equal to the stated principal amount to be redeemed plus interest accrued thereon to the redemption date. [At the option of the City in its sole discretion, Bonds may be called and paid in whole or in part on an Interest Payment Date from other money of the City legally available therefor and deposited in the Bond Fund on or after the dates set forth in the Bond Purchase Contract. Nothing in the preceding sentence requires payment for any source other than the funds pledged in Section 10 hereof.]

(c) *Selection of Bonds for Redemption; Partial Redemption.* For so long as a Bond is registered in the name of the Securities Depository, if less than all of the principal amount of that Bond is to be redeemed, the Securities Depository shall select the proportion of that Bond to be redeemed in accordance with the Letter of Representations. If a Bond is not registered in the name of the Securities Depository, the Bond Registrar shall select the proportion of that Bond to be redeemed randomly in such manner as the Bond Registrar shall determine. All or a portion of the principal amount of any Bond that is to be redeemed may be redeemed in any Authorized Denomination. If less than all of the outstanding principal amount of any Bond is redeemed, upon surrender of that Bond to the Bond Registrar, there shall be issued to the Registered Owner, without charge, a new Bond, bearing the same Series, estimated redemption date and interest rate, in the aggregate principal amount to remain outstanding.

(d) *Notice of Redemption.* Notice of redemption of each Bond registered in the name of the Securities Depository shall be given in accordance with the Letter of Representations. Notice of redemption of each other Bond, unless waived by the Registered Owner, shall be given by the Bond Registrar not less than 15 nor more than 45 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the Registered Owner at the address appearing on the Bond Register on the Record Date. The requirements of the preceding sentence shall be satisfied when notice has been mailed as so provided, whether or not it is actually received by an Owner. In addition, the redemption notice shall be mailed or sent electronically within the same period to the MSRB (if required under the Undertaking), to each Rating Agency, and to such

other persons and with such additional information as the Finance Officer shall determine, but these additional mailings shall not be a condition precedent to the redemption of any Bond.

(e) *Rescission of Redemption Notice.* In the case of any redemption, the notice of redemption may state that the City retains the right to rescind the redemption notice by giving a notice of rescission to the affected Registered Owner(s) at any time on or prior to the date fixed for redemption. Any notice of redemption that is so rescinded shall be of no effect, and each Bond for which a notice of redemption has been rescinded shall remain outstanding.

(f) *Effect of Redemption.* Interest on the principal portion of each Bond called for redemption shall cease to accrue on the date fixed for redemption, unless the notice of redemption is rescinded as set forth above.

(g) *Purchase of Bonds.* The City reserves the right to purchase any or all of the Bonds at any time at any price acceptable to the City plus accrued interest to the date of purchase.

Section 10. Pledge of Assessment Payments. Assessments collected in LID No. 71, together with interest and penalties, if any, are pledged to the payment of the Bonds which are payable solely out of the LID Bond Fund and the Local Improvement Guaranty Fund of the City, all in the manner provided by law. The Bonds are not general obligations of the City. The City covenants that it will diligently commence and pursue the collection of all delinquent assessments in LID No. 71.

Section 11. Tax Covenants.

(a) *Preservation of Tax Exemption for Interest on Bonds.* The City covenants that it will take all actions necessary to prevent interest on the Bonds from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of the Bonds or other funds of the City treated as proceeds of the Bonds that will cause interest on the Bonds to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirements of Section 148 of the Code are applicable to the Bonds, take all actions necessary to comply (or to be treated as having complied) with those requirements in connection with the Bonds.

(b) *Post-Issuance Compliance.* The Finance Officer is authorized and directed to review and update the City's written procedures to facilitate compliance by the City with the covenants in this ordinance and the applicable requirements of the Code that must be satisfied after the Issue Date to prevent interest on the Bonds from being included in gross income for federal tax purposes.

Section 12. Refunding or Defeasance of the Bonds. The City may issue refunding bonds pursuant to State law or use money available from any other lawful source to carry out a refunding or defeasance plan, which may include (a) paying when due the principal of and interest on any or all of the Bonds (the "defeased Bonds"); (b) redeeming the defeased Bonds prior to their maturity; and (c) paying the costs of the refunding or defeasance. If the City sets aside in a special trust fund or escrow account irrevocably pledged to that redemption or defeasance (the "trust account"), money and/or Government Obligations maturing at a time or times and bearing interest in amounts sufficient to redeem, refund or defease the defeased Bonds

in accordance with their terms, then all right and interest of the Owners of the defeased Bonds in the covenants of this ordinance and in the funds and accounts obligated to the payment of the defeased Bonds shall cease and become void. Thereafter, the Owners of defeased Bonds shall have the right to receive payment of the principal of and interest on the defeased Bonds solely from the trust account and the defeased Bonds shall be deemed no longer outstanding. In that event, the City may apply money remaining in any fund or account (other than the trust account) established for the payment or redemption of the defeased Bonds to any lawful purpose.

Unless otherwise specified by the City in a refunding or defeasance plan, notice of refunding or defeasance shall be given, and selection of Bonds for any partial refunding or defeasance shall be conducted, in the manner prescribed in this ordinance for the redemption of Bonds.

Section 13. Sale and Delivery of the Bonds.

(a) *Manner of Sale of Bonds; Delivery of Bonds.* The Designated Representative is authorized to sell each Series of the Bonds by negotiated sale based on the assessment of the Designated Representative of market conditions, in consultation with appropriate City officials and staff, Bond Counsel and other advisors.

(b) *Procedure for Negotiated Sale.* The Designated Representative shall select one or more Purchasers with whom to negotiate the sale of a Series of the Bonds. A Bond Purchase Contract shall set forth the Final Terms of the sale of each Series. The Designated Representative is authorized to execute the Bond Purchase Contract on behalf of the City, so long as the terms provided therein are consistent with the terms of this ordinance.

(c) *Preparation, Execution and Delivery of the Bonds.* The Bonds will be prepared at City expense and will be delivered to the Purchaser in accordance with the Bond Purchase Contract, together with the approving legal opinion of Bond Counsel regarding the Bonds.

Section 14. Official Statement; Continuing Disclosure [to be revised if Bonds are to be sold to a Bank].

(a) *Preliminary Official Statement Deemed Final.* The Designated Representative shall review the form of the preliminary official statement prepared in connection with the sale of each Series of the Bonds to the public. For the sole purpose of the Purchaser's compliance with paragraph (b)(1) of Rule 15c2-12, the Designated Representative is authorized to deem that preliminary official statement final as of its date, except for the omission of information permitted to be omitted by Rule 15c2-12. The City approves the distribution to potential purchasers of the Bonds of a preliminary official statement that has been deemed final in accordance with this subsection.

(b) *Approval of Final Official Statement.* The City approves the preparation of a final official statement for each Series of the Bonds to be sold to the public in the form of the preliminary official statement, with such modifications and amendments as the Designated Representative deems necessary or desirable, and further authorizes the Designated Representative to execute and deliver such final official statement to the Purchaser. The City

authorizes and approves the distribution by the Purchaser of that final official statement to purchasers and potential purchasers of the Bonds.

(c) *Undertaking to Provide Continuing Disclosure.* To meet the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a participating underwriter for the Bonds, the Designated Representative is authorized and directed to execute a written undertaking to provide continuing disclosure for the benefit of holders of the Bonds in substantially the form attached as Exhibit B.

Section 15. Supplemental and Amendatory Ordinances. The City may supplement or amend this ordinance for any one or more of the following purposes without the consent of any Owners of the Bonds:

(a) To add covenants and agreements that do not materially adversely affect the interests of Owners, or to surrender any right or power reserved to or conferred upon the City.

(b) To cure any ambiguities, or to cure, correct or supplement any defective provision contained in this ordinance in a manner that does not materially adversely affect the interest of the Beneficial Owners of the Bonds.

Section 16. Fixing Interest Rate on Assessments. The interest rate on the installment payments of the special assessments in LID No. 71 is fixed at a rate equal to [0.5]% plus the all-in true interest cost of the Bonds, as set forth in the Bond Purchase Contract, carried out to two decimal places. If the Bonds are issued in more than one Series, the all-in true interest cost shall mean a blended rate of all Series of the Bonds.

Section 17. General Authorization and Ratification. The Designated Representative and other appropriate officers of the City are severally authorized to take such actions and to execute such documents as in their judgment may be necessary or desirable to carry out the transactions contemplated in connection with this ordinance, and to do everything necessary for the prompt delivery of the Bonds to the Purchaser and for the proper application, use and investment of the proceeds of the Bonds. All actions taken prior to the effective date of this ordinance in furtherance of the purposes described in this ordinance and not inconsistent with the terms of this ordinance are ratified and confirmed in all respects.

Section 18. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 19. Conflicts with Marysville Municipal Code. To the extent that anything contained in this ordinance is inconsistent with any provision set forth in the Marysville Municipal Code, this ordinance and state law shall be deemed to be the controlling law for the

narrow and specific purpose of authorizing the Bonds described herein, and such provisions of the Marysville Municipal Code shall not apply.

Section 20. Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, at a Regular Meeting thereof, this [14<sup>th</sup> day of April], 2014.

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Mayor

ATTEST:

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Deputy City Clerk

APPROVED AS TO FORM:

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Bond Counsel

Attachments:

Exhibit A – Description of the Bonds

Exhibit B – Form of Undertaking to Provide Continuing Disclosure



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**EXHIBIT A**  
**DESCRIPTION OF THE BONDS**

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- (i) Principal Amount. The Bonds may be issued in one or more Series and the aggregate principal amount of the Bonds shall not exceed the total amount on the assessment roll remaining uncollected after the expiration of the 30 day prepayment period, and in any event shall not exceed the total amount of the assessment roll (\$[\_\_\_\_]). To facilitate delivery of the Bonds through the Securities Depository, the principal amount may be rounded down to the nearest \$100.
- (ii) Date or Dates. Each Bond shall be dated its Issue Date, which date may not be later than one year after the effective date of this ordinance and may not occur prior to 20 days after the expiration of the 30 day prepayment period for paying assessments. All Series of Bonds shall bear the same Issue Date.
- (iii) Denominations, Name, etc. The Bonds shall be issued in Authorized Denominations, with one Bond corresponding to each estimated redemption date within a Series. The Bonds of each Series shall be numbered consecutively in the order of the estimated redemption schedule, and shall bear any name and additional designation as deemed necessary or appropriate by the Designated Representative.
- (iv) Interest Rate(s). Each Bond shall bear interest at a fixed rate per annum (computed on the basis of a 360-day year of twelve 30-day months) from the Issue Date or from the most recent date for which interest has been paid or duly provided for, whichever is later. One or more rates of interest may be fixed for the Bonds. No rate of interest for any Bond may exceed [\_\_\_\_]%, and the all-in true interest cost to the City for each Series of the Bonds may not exceed [\_\_\_\_]%.
- (v) Payment Dates. Interest shall be payable at fixed rates annually on such Interest Payment Dates as are acceptable to the Designated Representative, commencing no later than 6 months after the first assessment installment payment date[s] following the Issue Date.
- (vi) Final Maturity. The Bonds shall mature on the Interest Payment Date next occurring after the date that is at least 2 years after the final assessment installment payment due date.

(vii) Redemption Rights.

The Bonds shall be subject to redemption on Interest Payment Dates, as set forth in Section 9 of this ordinance. The Designated Representative shall approve an estimated redemption schedule, which shall set forth the expected dates and amounts of such redemptions and which shall determine the order in which Bonds shall be called for such redemption.

(viii) Price.

The purchase price for each Series of the Bonds shall be equal to the stated aggregate principal amount of that Series.

(ix) Other Terms & Conditions.

The Designated Representative may determine whether it is in the City's best interest to provide for bond insurance or other credit enhancement and may accept such additional terms, conditions and covenants as he or she may determine are in the best interests of the City, consistent with this ordinance.

[Form of]  
**UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE**

**City of Marysville, Washington  
Local Improvement District No. 71 Bonds**

The City of Marysville, Washington (the “City”), makes the following written Undertaking for the benefit of holders of the above-referenced bonds (the “Bonds”), for the sole purpose of assisting the Purchaser in meeting the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a participating underwriter for the Bonds. Capitalized terms used but not defined below shall have the meanings given in Ordinance No. \_\_\_\_ of the City (the “Bond Ordinance”).

(a) Undertaking to Provide Annual Financial Information and Notice of Listed Events. The City undertakes to provide or cause to be provided, either directly or through a designated agent, to the MSRB, in an electronic format as prescribed by the MSRB, accompanied by identifying information as prescribed by the MSRB:

- (i) Annual financial information and operating data of the type included in the final official statement for the Bonds and described in paragraph (b) (“annual financial information”);
- (ii) Timely notice (not in excess of 10 business days after the occurrence of the event) of the occurrence of any of the following events with respect to the Bonds: (1) principal and interest payment delinquencies; (2) non-payment related defaults, if material; (3) unscheduled draws on debt service reserves reflecting financial difficulties; (4) unscheduled draws on credit enhancements reflecting financial difficulties; (5) substitution of credit or liquidity providers, or their failure to perform; (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notice of Proposed Issue (IRS Form 5701 – TEB) or other material notices or determinations with respect to the tax status of the Bonds; (7) modifications to rights of holders of the Bonds, if material; (8) bond calls (other than scheduled mandatory redemptions of Term Bonds), if material, and tender offers; (9) defeasances; (10) release, substitution, or sale of property securing repayment of the Bonds, if material; (11) rating changes; (12) bankruptcy, insolvency, receivership or similar event of the City, as such “Bankruptcy Events” are defined in Rule 15c2-12; (13) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and (14) appointment of a successor or additional trustee or the change of name of a trustee, if material.
- (iii) Timely notice of a failure by the City to provide required annual financial information on or before the date specified in paragraph (b).

(b) Type of Annual Financial Information Undertaken to be Provided. The annual financial information that the City undertakes to provide in paragraph (a):

- (i) Shall consist of (1) annual financial statements prepared (except as noted in the financial statements) in accordance with applicable generally accepted accounting principles applicable to local governmental units of the State such as the City, as such principles may be changed from time to time, which statements may be unaudited, provided, that if and when audited financial statements are prepared and available they will be provided; (2) a statement of the outstanding balance of obligations secured by the Local Improvement Guaranty Fund; (3) the balance of cash and investments in the Local Improvement Guaranty Fund at fiscal year end; and (4) a statement of the amount of assessments that the City billed and collected in that fiscal year;
- (ii) Shall be provided not later than the last day of the ninth month after the end of each fiscal year of the City (currently, a fiscal year ending December 31), as such fiscal year may be changed as required or permitted by State law, commencing with the City's fiscal year ending December 31, 2013; and
- (iii) May be provided in a single or multiple documents, and may be incorporated by specific reference to documents available to the public on the Internet website of the MSRB or filed with the SEC.

(c) Amendment of Undertaking. This Undertaking is subject to amendment after the primary offering of the Bonds without the consent of any holder of any Bond, or of any broker, dealer, municipal securities dealer, participating underwriter, Rating Agency or the MSRB, under the circumstances and in the manner permitted by Rule 15c2-12. The City will give notice to the MSRB of the substance (or provide a copy) of any amendment to the Undertaking and a brief statement of the reasons for the amendment. If the amendment changes the type of annual financial information to be provided, the annual financial information containing the amended financial information will include a narrative explanation of the effect of that change on the type of information to be provided.

(d) Beneficiaries. This Undertaking shall inure to the benefit of the City and the holder of each Bond, and shall not inure to the benefit of or create any rights in any other person.

(e) Termination of Undertaking. The City's obligations under this Undertaking shall terminate upon the legal defeasance of all of the Bonds. In addition, the City's obligations under this Undertaking shall terminate if the provisions of Rule 15c2-12 that require the City to comply with this Undertaking become legally inapplicable in respect of the Bonds for any reason, as confirmed by an opinion of Bond Counsel delivered to the City, and the City provides timely notice of such termination to the MSRB.

(f) Remedy for Failure to Comply with Undertaking. As soon as practicable after the City learns of any failure to comply with this Undertaking, the City will proceed with due diligence to cause such noncompliance to be corrected. No failure by the City or other obligated person to comply with this Undertaking shall constitute a default in respect of the Bonds. The

sole remedy of any holder of a Bond shall be to take action to compel the City or other obligated person to comply with this Undertaking, including seeking an order of specific performance from an appropriate court.

(g) Designation of Official Responsible to Administer Undertaking. The Finance Officer or his or her designee is the person designated, in accordance with the Bond Ordinance, to carry out the Undertaking in accordance with Rule 15c2-12, including, without limitation, the following actions:

- (i) Preparing and filing the annual financial information undertaken to be provided;
- (ii) Determining whether any event specified in paragraph (a) has occurred, assessing its materiality, where necessary, with respect to the Bonds, and preparing and disseminating any required notice of its occurrence;
- (iii) Determining whether any person other than the City is an “obligated person” within the meaning of Rule 15c2-12 with respect to the Bonds, and obtaining from such person an undertaking to provide any annual financial information and notice of listed events for that person required under Rule 15c2-12;
- (iv) Selecting, engaging and compensating designated agents and consultants, including financial advisors and legal counsel, to assist and advise the City in carrying out this Undertaking; and
- (v) Effecting any necessary amendment of this Undertaking.

## CERTIFICATION

I, the undersigned, City Clerk of the City of Marysville, Washington (the "City"), hereby certify as follows:

1. The attached copy of Ordinance No. \_\_\_\_ (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on April 14, 2014, as that ordinance appears on the minute book of the City.

2. The Ordinance will be in full force and effect five days after publication in the City's official newspaper, which publication date [is/was] \_\_\_\_\_, 2014.

3. A quorum of the members of the City Council was present throughout the meeting and a majority of the members voted in the proper manner for the passage of the Ordinance.

Dated: April 14, 2014.

CITY OF MARYSVILLE, WASHINGTON

\_\_\_\_\_  
Deputy City Clerk