

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: 7/28/14

AGENDA ITEM: AN ORDINANCE of the City of Marysville, Washington, relating to contracting indebtedness; amending provisions of Ordinance No. 2957 that authorized the issuance, sale and delivery of not to exceed \$8,254,825 aggregate principal amount of local improvement district bonds; and providing for other matters properly related thereto, all as more particularly set forth herein.	
PREPARED BY: Sandy Langdon, Finance Director	DIRECTOR APPROVAL:
DEPARTMENT: Finance	
ATTACHMENTS: Amending Ordinance	
BUDGET CODE:	AMOUNT:
SUMMARY:	

The City has been preparing for the issuance of bonds regarding the 156th Street Overpass known as LID 71. During the preparation of the issuance discussion with the City’s financing team as to the specific characteristics of the LID and in consideration of current market conditions have concluded certain changes to the original bond ordinance is recommended.

These recommendations, in summary, include amending the Guaranty Fund from no more than 10% of the issue price to a minimum balance equal to 10% of the principal amount of bonds outstanding. The second recommendation would be to add the acknowledgement and establish the process of the existing state law regarding LID’s, RCW 35.54.060, that provides for the levy of a sum sufficient to maintain the minimum balance of the Guaranty Fund.

These amendments would assist with establishing a good foundation for the bond to be brought to market.

RECOMMENDED ACTION: City staff recommends the Council adopt the amendment to Ordinance No. 2957 regarding LID No. 71.

CITY OF MARYSVILLE, WASHINGTON

ORDINANCE NO. [____]

AN ORDINANCE of the City of Marysville, Washington, relating to contracting indebtedness; amending provisions of Ordinance No. 2957 that authorized the issuance, sale and delivery of not to exceed \$8,254,825 aggregate principal amount of local improvement district bonds; and providing for other matters properly related thereto, all as more particularly set forth herein.

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 Ordinance No. 2957, passed on April 14, 2014 (the “Bond Ordinance”).

(a) *Bond Ordinance.* The City authorized the issuance and sale 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 LID No. 71, make a deposit to the City’s Guaranty Fund, and pay the costs of issuance of the Bonds, all pursuant to the Bond Ordinance.

(b) *Guaranty Fund.* The City’s Guaranty Fund has been established pursuant to Section 3.16.010 of the Marysville Municipal Code for the purpose of guaranteeing the payment of the City’s local improvement district bonds, including the Bonds. The City has covenanted in the Bond Ordinance that, 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 Bond Ordinance authorizes the Designated Representative to 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.

(b) *Guaranty Fund Levy.* RCW 35.54.060 provides that for the purpose of maintaining the Guaranty Fund, the City shall, at the time of making its annual budget and tax levy, provide for the levy of a sum sufficient, with other sources of the fund, to pay the warrants issued against the Guaranty Fund during the preceding fiscal year and to establish a balance therein (the “Guaranty Fund Levy”). The statute further provides that the Guaranty Fund Levy in any one year may not exceed the greater of: (1) 12% of the outstanding obligations guaranteed by the Guaranty Fund or (2) the total amount of delinquent assessments and interest accumulated on the delinquent assessments before the levy as of September 1.

(c) *Purpose of Amendment.* In consideration of current market conditions and the specific characteristics of LID No. 71, the City Council has determined that it is in the best interest of property owners within LID No. 71 and the City to amend the Bond Ordinance to

expressly agree to the additional covenant set forth in Section 2 of this amendatory ordinance. Except as expressly amended in this ordinance, the provisions of the Bond Ordinance are ratified and confirmed, and shall remain in full force and effect.

Section 2. Amendments. The Bond Ordinance is amended as follows (added text is double underlined, deleted text is shown using ~~strikethrough~~):

(a) Section 8 (c) of the Bond Ordinance is amended to read as follows:

(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 chapters 35.45 and 35.54 RCW and other applicable state law, to maintain ~~such a~~ minimum balance in the Guaranty Fund ~~as the Designated Representative determines, in his or her sole discretion, is reasonable~~ equal to 10% of the principal amount of bonds outstanding against the Guaranty Fund, provided for purposes of this calculation, the principal amount of the bonds shall be reduced by the amount then on deposit in the respective bond debt service funds held for payment and redemption of all outstanding obligations guaranteed by the Guaranty Fund. 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.

Annually, in connection with the City's annual budget preparation, the Finance Officer shall review the amount on deposit in the Guaranty Fund, the amount of delinquent installment payments (including interest thereon) of local improvement district assessments secured by the Guaranty Fund, and the respective amounts reasonably expected to be recovered from foreclosure proceedings pursuant to chapter 35.50 RCW or other applicable law. Based on that review, the City shall, pursuant to RCW 35.54.060 and subject to applicable statutory and constitutional limitations, provide for the levy of a sum sufficient, with other sources of the Guaranty Fund, to maintain the minimum balance described in the preceding paragraph, and to provide for all payments reasonably expected to be made out of the Guaranty Fund.

Amounts on deposit in the Guaranty Fund shall be invested in any legally permitted investment, and the City shall restrict the yield on such investments as may be required under the Code. Interest and earnings from the 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 3. General Authorization and Ratification of Prior Acts. The Finance Officer and other appropriate officers of the City are severally authorized and directed to take any actions and to execute agreements, certificates and documents as in their judgment may be necessary or desirable to carry out the terms of, and complete the transactions contemplated by, this resolution. Any action taken consistent with the authority and prior to the effective date of this resolution is hereby ratified, approved and confirmed.

[Remainder of page intentionally left blank.]

Section 4. Effective Date. 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 28th day of July, 2014.

Mayor

ATTEST:

Deputy City Clerk

APPROVED AS TO FORM:

Bond Counsel

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 July 28, 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 August 2, 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: July 28, 2014.

CITY OF MARYSVILLE, WASHINGTON

Deputy City Clerk