

CITY OF DEER PARK, WASHINGTON

ORDINANCE NO. 2014-939

AN ORDINANCE of the City of Deer Park, Washington, relating to contracting indebtedness; providing for the issuance, sale and delivery of not to exceed \$1,400,000 aggregate principal amount of limited tax general obligation bonds to provide funds to finance a portion of the costs of certain infrastructure improvements within the City and to pay the costs of issuance and sale 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; and providing for other related matters.

Passed January 22, 2014

*This document prepared by:*

*Foster Pepper PLLC  
422 West Riverside Avenue, Suite 1310  
Spokane, Washington 99201  
(509) 777-1600*

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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.*

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THE CITY COUNCIL OF THE CITY OF DEER PARK, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. 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 a maturity of the Bonds.

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

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

(d) "*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.

(e) "*Bond Fund*" means the Limited Tax General Obligation Bond Fund, 2014, of the City created for the payment of the principal of and interest on the Bonds.

(f) "*Bond Purchase Agreement*" means an offer to purchase the Bonds, setting forth certain terms and conditions of the issuance, sale and delivery of the Bonds, 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 each Bond.

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

(i) “City” means the City of Deer Park, 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) “Clerk” means the de facto or de jure Clerk of the City, or other officer of the City who is the custodian of the seal of the City and of the records of the proceedings of the Council, and her successors in functions, if any.

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

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

(n) “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).

(o) “Final Terms” means the terms and conditions for the sale of the Bonds including 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) “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) “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.

(s) “Letter of Representations” means the Blanket Issuer Letter of Representations between the City and DTC, dated May 16, 2001, as it may be amended from time to time, and any successor or substitute letter relating to the operational procedures of the Securities Depository.

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

(u) “Mayor” means the de facto or de jure Mayor of the City (including the Mayor pro tempore in the Mayor’s absence), or any presiding officer or titular head of the City and his successors in functions, if any.

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

(w) “*Project*” means the design and construction of infrastructure improvements, including water, sewer and sewer force main, street lighting, storm water, sidewalks and road construction improvements on 6<sup>th</sup> Street and the new Cedar Road (commonly referred to as the “LID Improvement Project”), as more particularly described in the plans and specifications prepared by J-U-B Engineers, consulting engineers to the City, and now on file in the office of the Clerk, and other capital purposes, as deemed necessary and advisable by the City. Incidental costs incurred in connection with carrying out and accomplishing the Project, consistent with RCW 39.46.070, may be included as costs of the Project.

(x) “*Project Fund*” means the Local Improvement District No. 2013-01 Fund of the City created by Ordinance No. 2013-934 for the purpose of paying costs of the Project.

(y) “*Purchaser*” means D.A. Davidson & Co., Seattle, Washington, or such other corporation, firm, association, partnership, trust, or other legal entity or group of entities selected by the Designated Representative to purchase the Bonds.

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

(aa) “*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.

(bb) “*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 only system for the Bonds under the Letter of Representations, Registered Owner shall mean the Securities Depository.

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

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

(ee) “*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.

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

(gg) “*Term Bond*” means each Bond designated as a Term Bond and subject to mandatory redemption in the years and amounts set forth in the Bond Purchase Agreement.

(hh) “*Undertaking*” means the undertaking to provide continuing disclosure entered into pursuant to Section 15 of this ordinance.

Section 2. Findings and Determinations. The City Council takes note of the following facts and makes the following findings and determinations:

(a) Owners of certain real property within the City presented the City Council with an “Agreement to Donate Land and/or Easements for City Right-of-Way” and “Unanimous Request for Formation of Local Improvement District, City of Deer Park, WA.” Subsequently, the City formed Local Improvement District No. 2013-01.

(b) The total costs of the Project are estimated to be \$3,600,000. The City has been awarded a \$1,811,000 grant from the U.S. Economic Development Administration and a \$500,000 grant from the Washington State Transportation Improvement Board for the Project. The City Council finds that it is in the best interests of the City and its taxpayers to issue and sell the Bonds to provide a portion of the funds necessary to carry out the Project and to pay the costs of issuance and sale of the Bonds.

(c) The City is authorized by the laws of the State of Washington, including RCW 35.22.280(7), 35.68.010 and 35A.11.030, to alter, widen, extend, grade, pave and otherwise improve streets, curbs, gutters and adjacent sidewalks, and to install safety equipment and fixtures (including traffic signals, signage and street lighting) with respect to such streets. The City is also authorized by the laws of the State of Washington, including RCW 35A.11.030 and chapters 35.67 and 35.92 RCW, to make improvements to its water, sewer and stormwater sewer systems. The City is further authorized by the laws of the State of Washington, including RCW 35A.40.010, 35.37.050 and 35.67.065, to borrow money for strictly municipal purposes, including the funding of street and associated utility improvements, on the City’s credit and issue general obligation bonds for such purposes.

(d) The maximum amount of indebtedness authorized by this ordinance is \$1,400,000. Based on the following facts, this amount is to be issued within the amount permitted to be issued by the City without voter approval: (1) the assessed valuation of the taxable property within the City as ascertained by the last preceding assessment for City purposes for collection in the calendar year 2014 is \$247,824,922; and (2) as of January 15, 2014, the City has no outstanding voter-approved indebtedness or non-voted general obligation indebtedness (consisting of bonds, capital leases and/or conditional sales contracts).

Section 3. Authorization of Bonds. The City is authorized to borrow money on the credit of the City and issue negotiable limited tax general obligation bonds evidencing indebtedness in the amount of not to exceed \$1,400,000 to provide funds necessary to carry out the Project and to pay the costs of issuance and sale of the Bonds. The proceeds of the Bonds allocated to paying the cost of the Project shall be deposited as set forth in Section 8 of this ordinance and shall be used to carry out the Project, or a portion of the Project, in such order of time as the City determines is advisable and practicable.

Section 4. Description of the Bonds; Appointment of Designated Representative. The Mayor is appointed as the Designated Representative of the City and is authorized and directed to conduct the sale of the Bonds 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. 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 in any Authorized Denomination of an equal aggregate principal amount and of the same interest rate 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.* DTC is 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 fully immobilized in book-entry only form by the Securities Depository 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 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 Deer Park, Washington, Limited Tax General Obligation Bonds, 2014." 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. 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 the interest payment date, or by check or draft of the Bond Registrar mailed on the 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 on or 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; Deposit of Proceeds.

(a) *Bond Fund.* The Bond Fund is hereby created as a special fund of the City for the sole purpose of paying principal of and interest (and any redemption premium) on the Bonds. Accrued interest on the Bonds, if any, shall be deposited into the Bond Fund. All amounts allocated to the payment of the principal of and interest on the Bonds shall be deposited in the Bond Fund as necessary for the timely payment of amounts due with respect to the Bonds. The principal of and interest on the Bonds shall be paid out of the Bond Fund. Until needed for that

purpose, the City may invest money in the Bond Fund temporarily in any legal investment, and the investment earnings shall be retained in the Bond Fund and used for the purposes of that fund.

(b) *Project Fund.* The Project Fund has been previously created for the purpose of paying the costs of the Project. Proceeds received from the sale and delivery of the Bonds shall be deposited into the Project Fund and used to pay the costs of the Project and costs of issuance of the Bonds. Until needed to pay such costs, the City may invest those proceeds temporarily in any legal investment, and the investment earnings shall be retained in the Project Fund and used for the purposes of that fund, except that earnings subject to a federal tax or rebate requirement (if applicable) may be withdrawn from the Project Fund and used for those tax or rebate purposes.

Section 9. Redemption Provisions and Purchase of Bonds.

(a) *Optional Redemption.* The Bonds shall be subject to redemption at the option of the City on terms acceptable to the Designated Representative, as set forth in the Bond Purchase Agreement, consistent with the parameters set forth in Exhibit A.

(b) *Mandatory Redemption.* Each Bond that is designated as a Term Bond in the Bond Purchase Agreement, consistent with the parameters set forth in Exhibit A and except as set forth below, shall be called for redemption at a price equal to the stated principal amount to be redeemed, plus accrued interest, on the dates and in the amounts as set forth in the Bond Purchase Agreement. If a Term Bond is redeemed under the optional redemption provisions, defeased or purchased by the City and surrendered for cancellation, the principal amount of the Term Bond so redeemed, defeased or purchased (irrespective of its actual redemption or purchase price) shall be credited against one or more scheduled mandatory redemption installments for that Term Bond. The City shall determine the manner in which the credit is to be allocated and shall notify the Bond Registrar in writing of its allocation prior to the earliest mandatory redemption date for that Term Bond for which notice of redemption has not already been given.

(c) *Selection of Bonds for Redemption; Partial Redemption.* If fewer than all of the outstanding Bonds are to be redeemed at the option of the City, the City shall select the maturities to be redeemed. If fewer than all of the outstanding Bonds of a maturity are to be redeemed, the Securities Depository shall select Bonds registered in the name of the Securities Depository to be redeemed in accordance with the Letter of Representations, and the Bond Registrar shall select all other Bonds 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 (or Bonds, at the option of the Registered Owner) of the same maturity and interest rate in any Authorized Denomination 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 20 nor more than 60 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 by the Undertaking), to each Rating Agency, and to such other persons and with such additional information as the Clerk shall determine, but these additional mailings shall not be a condition precedent to the redemption of any Bond.

(e) *Rescission of Optional Redemption Notice.* In the case of an optional redemption, the notice of redemption may state that the City retains the right to rescind the redemption notice and the redemption by giving a notice of rescission to the affected Registered Owners at any time on or prior to the date fixed for redemption. Any notice of optional 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 each Bond called for redemption shall cease to accrue on the date fixed for redemption, unless either the notice of optional redemption is rescinded as set forth above, or money sufficient to effect such redemption is not on deposit in the Bond Fund or in a trust account established to refund or defease the Bond.

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

Section 10. Failure to Pay Bonds. If the principal of any Bond is not paid when the Bond is properly presented at its maturity date or date fixed for redemption, the City shall be obligated to pay interest on that Bond at the same rate provided in the Bond from and after its maturity or date fixed for redemption until that Bond, both principal and interest, is paid in full or until sufficient money for its payment in full is on deposit in the Bond Fund, or in a trust account established to refund or defease the Bond, and the Bond has been called for payment by giving notice of that call to the Registered Owner.

Section 11. Pledge of Taxes. The Bonds constitute a general indebtedness of the City and are payable from tax revenues of the City and such other money as is lawfully available and pledged by the City for the payment of principal of and interest on the Bonds. For as long as any of the Bonds are outstanding, the City irrevocably pledges that it shall, in the manner provided by law within the constitutional and statutory limitations provided by law without the assent of the voters, include in its annual property tax levy amounts sufficient, together with other money that is lawfully available, to pay principal of and interest on the Bonds as the same become due. The full faith, credit and resources of the City are pledged irrevocably for the prompt payment of the principal of and interest on the Bonds and such pledge shall be enforceable in mandamus against the City. Notwithstanding the foregoing, assessments received by the City on account of Local Improvement District No. 2013-01 are not pledged to the payment of the Bonds.

Section 12. Tax Covenants; Designation of Bonds as “Qualified Tax-Exempt Obligations.”

(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.

(b) *Post-Issuance Compliance.* The City hereby adopts the Post-Issuance Compliance Policies attached hereto as Exhibit C.

(c) *Designation of Bonds as “Qualified Tax-Exempt Obligations.”* The Bonds are designated as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3) of the Code. In making such designation, the City Council finds and determines that: (1) the Bonds will not be “private activity bonds” within the meaning of Section 141 of the Code; (2) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds and other obligations not required to be included in such calculation) that the City and any entity subordinate to the City (including any entity that the City controls, that derives its authority to issue tax-exempt obligations from the City, or that issues tax-exempt obligations on behalf of the City) will issue during the calendar year in which the Bonds are issued (*i.e.* 2014) will not exceed \$10,000,000; and (3) the amount of tax-exempt obligations, including the Bonds, designated by the City as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3) of the Code during the calendar year in which the Bonds are issued will not exceed \$10,000,000.

Section 13. 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 give, 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 14. Sale and Delivery of the Bonds.

(a) *Manner of Sale of Bonds; Delivery of Bonds.* The Designated Representative is authorized to sell the Bonds by negotiated sale based on the assessment of the Designated Representative of market conditions, in consultation with appropriate City officials, staff and Bond Counsel. In determining whether to accept the Final Terms, the Designated Representative shall take into account those factors that, in the judgment of the Designated Representative, may be expected to result in the lowest borrowing costs to the City. The Bond Purchase Agreement shall set forth the Final Terms. The Designated Representative is authorized to execute the Bond Purchase Agreement on behalf of the City, so long as the terms provided therein are consistent with the terms of this ordinance.

(b) *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 Agreement, together with the approving legal opinion of Bond Counsel regarding the Bonds.

Section 15. 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 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 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 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 16. 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 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.

*[ Remainder of page intentionally left blank ]*

Section 19. 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 and APPROVED by the Mayor of the City of Deer Park, Washington, at an open public meeting thereof, this 22<sup>nd</sup> day of January, 2014.

CITY OF DEER PARK, WASHINGTON

  
Mayor

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
Bond Counsel

PASSED: 1-22-, 2014  
PUBLISHED: 1-23-, 2014  
VALID: 1-31-, 2014

## Exhibit A

### PARAMETERS FOR FINAL TERMS

- (a) Principal Amount. The Bonds may be issued in an aggregate principal amount that does not exceed \$1,400,000.
- (b) Date or Dates. Each Bond shall be dated the Issue Date, which date may not be later than one year after the effective date of this ordinance.
- (c) Denominations, Name, etc. The Bonds shall be issued in Authorized Denominations and shall be numbered separately in the manner and shall bear any name and additional designation as deemed necessary or appropriate by the Designated Representative.
- (d) 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% *per annum*.
- (e) Payment Dates. Interest shall be payable on June 1 and December 1, commencing on December 1, 2014. Principal payments shall commence on a date acceptable to the Designated Representative and shall be payable periodically, at maturity and/or in mandatory redemption installments on dates acceptable to the Designated Representative.
- (f) Final Maturity. The Bonds shall mature no later than the date that is twenty-five years after the Issue Date.
- (g) Redemption Rights. The Designated Representative may approve in the Bond Purchase Agreement provisions for the optional and mandatory redemption of Bonds, subject to the following:
- (1) Optional Redemption. Any Bond may be designated as being (A) subject to redemption at the option of the City prior to its maturity date on the dates and at the prices set forth in the Bond Purchase Agreement; or (B) not subject to redemption prior to its maturity date. If a Bond is subject to optional redemption prior to its maturity, it must be subject to such redemption on one or more dates occurring not more than 10½ years after the Issue Date.

(2) Mandatory Redemption. Any Bond may be designated as a Term Bond, subject to mandatory redemption prior to its maturity on the dates and in the amounts set forth in the Bond Purchase Agreement.

(h) Price.

The purchase price for the Bonds may not be less than 95% or more than 107% of the stated principal amount of the Bonds.

(i) Other Terms and Conditions.

(1) The Bonds may not be issued if it would cause the indebtedness of the City to exceed the City's legal debt capacity on the Issue Date.

(2) 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.

## Exhibit B

### Form of UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE

#### City of Deer Park, Washington Limited Tax General Obligation Bonds, 2014

The City of Deer Park, 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. 2014-939 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) principal amount of general obligation bonds outstanding at the end of the applicable fiscal year; (3) assessed valuation for that fiscal year; (4) property tax levy amounts and rates for that fiscal year; and (5) a statement of revenues for that fiscal year from any other revenue sources pledged to the Bonds;
- (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 City Clerk-Treasurer 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.

Dated: \_\_\_\_\_, 2014.

CITY OF DEER PARK, WASHINGTON

\_\_\_\_\_  
Mayor

## Exhibit C

### **POST-ISSUANCE COMPLIANCE POLICIES AND PROCEDURES FOR TAX-EXEMPT BONDS**

1. Purpose. The City of Deer Park, Washington (the “Issuer”) is a duly organized and validly municipal corporation under the laws of the State of Washington. The purpose of these post-issuance compliance policies and procedures (“Compliance Procedures”) for tax-exempt bonds and other obligations (sometimes collectively referred to herein as “bonds” or “tax-exempt bonds”) for which federal tax exemption is provided by the Internal Revenue Code of 1986, as amended (the “Code”), is to facilitate compliance by the Issuer with the applicable requirements of the Code that must be satisfied after the issue date of the bonds to maintain the tax exemption for the bonds after the issue date. The Internal Revenue Service has announced that in certain circumstances issuers that adopt and follow post-issuance compliance policies such as this one are eligible for more favorable settlements, if a settlement is required to maintain the tax-exempt status of such issuer’s bonds. It is the policy of the Issuer continually to monitor post-issuance compliance in order to identify and promptly correct compliance issues. In addition, at least once each year the Issuer will undertake a formal compliance review, as described in Section 7 of these Compliance Procedures.

2. Responsibility for Monitoring Post-Issuance Tax Compliance. The City Council of the Issuer has the overall, final responsibility for monitoring whether the Issuer is in compliance with post-issuance federal tax requirements for the Issuer’s tax-exempt bonds. However, the City Council has delegated the primary operating responsibility to monitor the Issuer’s compliance with post-issuance federal tax requirements for the Issuer’s bonds to the City Clerk-Treasurer of the Issuer. The City Council also has authorized and directed the City Clerk-Treasurer of the Issuer to implement on behalf of the Issuer these Compliance Procedures.

3. Arbitrage Yield Restriction and Rebate Requirements. The City Clerk-Treasurer shall maintain or cause to be maintained records of:

(a) purchases and sales of investments made with bond proceeds (including amounts treated as “gross proceeds” of bonds under section 148 of the Code) and receipts of earnings on those investments;

(b) expenditures made with bond proceeds (including investment earnings on bond proceeds) in a timely and diligent manner for the governmental purposes of the bonds, such as for the costs of purchasing, constructing and/or renovating property and facilities;

(c) information showing, where applicable for a particular calendar year, that the Issuer was eligible to be treated as a “qualified small issuer” for purposes of Section 265(b)(3) of the Code in respect of bonds issued in that calendar year because the Issuer did not reasonably expect to issue more than \$10,000,000 of tax-exempt bonds in that calendar year;

(d) calculations that will be sufficient to demonstrate to the Internal Revenue Service (“IRS”) upon an audit of a bond issue that, where applicable, the Issuer has complied with an available spending exception to the arbitrage rebate requirement in respect of that bond issue;

(e) calculations that will be sufficient to demonstrate to the IRS upon an audit of a bond issue for which no exception to the arbitrage rebate requirement was applicable, that the rebate amount, if any, that was payable to the United States of America in respect of investments made with gross proceeds of that bond issue was calculated and timely paid with Form 8038-T timely filed with the IRS; and

(f) information and records showing that investments held in yield-restricted advance refunding or defeasance escrows for bonds, and investments made with unspent bond proceeds after the expiration of the applicable temporary period, were not invested in higher-yielding investments.

4. Restrictions on Private Business Use and Private Loans. This portion of the Compliance Procedures applies to tax-exempt bonds issued for a governmental purpose, and which are not private activity bonds (as further described in 5 below). The City Clerk-Treasurer will adopt procedures that are calculated to educate and inform the principal operating officials of those departments of the Issuer (the “users”) for which land, buildings, facilities and equipment (“property”) are financed with proceeds of tax-exempt bonds about the restrictions on private business use that apply to that property after the bonds have been issued, and of the restriction on the use of proceeds of tax-exempt bonds to make or finance any loan to any person other than a state or local government unit.

In particular, following the issuance of bonds for the financing of property, the City Clerk-Treasurer shall provide to the users of the property a copy of this Compliance Procedures and other appropriate written guidance advising that:

(a) “private business use” means use by any person other than a state or local government unit, including business corporations, partnerships, limited liability companies, associations, nonprofit corporations, natural persons engaged in trade or business activity, and the United States of America and any federal agency, as a result of ownership of the property or use of the property under a lease, management or service contract (except for certain “qualified” management or service contracts), output contract for the purchase of electricity or water, privately sponsored research contract (except for certain “qualified” research contracts), “naming rights” contract, “public-private partnership” arrangement, or any similar use arrangement that provides special legal entitlements for the use of the bond-financed property;

(b) under section 141 of the Code, no more than 10% of the proceeds of any tax-exempt bond issue (including the property financed with the bonds) may be used for private business use, of which no more than 5% of the proceeds of the tax-exempt bond issue (including the property financed with the bonds) may be used for any “unrelated” private business use—that is, generally, a private business use that is not functionally related to the governmental purposes of the bonds; and no more than *the lesser* of \$5,000,000 or 5% of the proceeds of a tax-exempt bond issue may be used to make or finance a loan to any person other than a state or local government unit;

(c) before entering into any special use arrangement with a nongovernmental person that involves the use of bond-financed property, the user must consult with the City Clerk-Treasurer, provide the City Clerk-Treasurer with a description of the proposed nongovernmental

use arrangement, and determine whether that use arrangement, if put into effect, will be consistent with the restrictions on private business use of the bond-financed property;

(d) in connection with the evaluation of any proposed nongovernmental use arrangement, the City Clerk-Treasurer should consult with nationally recognized bond counsel to the Issuer as may be necessary to obtain federal tax advice on whether that use arrangement, if put into effect, will be consistent with the restrictions on private business use of the bond-financed property, and, if not, whether any “remedial action” permitted under section 141 of the Code may be taken by the Issuer as a means of enabling that use arrangement to be put into effect without adversely affecting the tax-exempt status of the bonds that financed the property; and

(e) the City Clerk-Treasurer and the user of the property shall maintain records of such nongovernmental uses, if any, of bond-financed property, including copies of the pertinent leases, contracts or other documentation, and the related determination that those nongovernmental uses are not inconsistent with the tax-exempt status of the bonds that financed the property.

5. Special Compliance Policies and Procedures for Private Activity Bonds. This portion of the Compliance Procedures applies to tax-exempt facility bonds issued as “conduit bonds” to finance projects for nongovernmental entities under section 142 of the Code (“private activity bonds”). The City Clerk-Treasurer shall adopt procedures that are calculated to educate and inform the borrowers of the proceeds of these types of private activity bonds, which are the “users” of the bond-financed “property” (each as defined above), about the applicable requirements and restrictions that apply to the operation and used of the bond-financed property after the bonds have been issued. These requirements and restrictions are generally set forth in covenants made by the borrower in the loan agreement with the Issuer and in representations of the borrower in the tax certificate supporting issuance of the bonds to finance the property. In particular, following the issuance of private activity bonds for the financing of property, the City Clerk-Treasurer shall provide to the conduit borrower or users of the property a copy of appropriate written guidance advising that no more than 5% of the proceeds of the private activity bonds (including the property financed with the bonds) may be used for a private business use other than as required or specifically permitted by the governing documents with respect to such issue of private activity bonds.

6. Records to be Maintained for Tax-Exempt Bonds. It is the policy of the Issuer that, unless otherwise permitted by future IRS regulations or other guidance, written records (which may be in electronic form) will be maintained with respect to each bond issue for as long as those bonds remain outstanding, plus three years. For this purpose, the bonds include refunding bonds that refund the original bonds and thereby refinance the property that was financed by the original bonds. The records to be maintained (or which the Issuer will cause to be maintained) are to include:

- (a) the official Transcript of Proceedings for the original issuance of the bonds;
- (b) records showing how the bond proceeds were invested, as described in 3(a) above;

(c) records showing how the bond proceeds were spent, as described in 3(b) above, including purchase contracts, construction contracts, progress payment requests, invoices, cancelled checks, payment of bond issuance costs, and records of “allocations” of bond proceeds to make reimbursement for project expenditures made before the bonds were actually issued;

(d) information, records and calculations showing that, with respect to each bond issue, the Issuer was eligible for one of the spending exceptions to the arbitrage rebate requirement or, if not, that the rebate amount, if any, that was payable to the United States of America in respect of investments made with gross proceeds of that bond issue was calculated and timely paid with Form 8038-T timely filed with the IRS, as described in 3(c), (d) and (e) above;

(e) with respect to bonds described in 4 above, records showing that special use arrangements, if any, affecting bond-financed property made by the Issuer with nongovernmental persons, if any, are consistent with applicable restrictions on private business use of property financed with proceeds of tax-exempt bonds and restrictions on the use of proceeds of tax-exempt bonds to make or finance loans to any person other than a state or local government unit, as described in 4 above; and

(f) with respect to bonds described in 5 above, records showing that special use arrangements, if any, affected bond-financed property, are consistent with applicable restrictions on private business use of property financed with proceeds of tax-exempt bonds.

The basic purpose of the foregoing record retention policy for the Issuer’s tax-exempt bonds is to enable the Issuer to readily demonstrate to the IRS upon an audit of any tax-exempt bond issue that the Issuer has fully complied with all federal tax requirements that must be satisfied after the issue date of the bonds so that those bonds continue to be eligible for the tax-exemption under the Code. The Issuer will retain the records for each bond issue as described in this Section 6 until a date that is no earlier than three years after the later of (i) the date of the final maturity of such bond issue or (ii) the date of the final maturity of any bonds issued to refund such bond issue.

#### 7. Identification and Remediation of Potential Violations of Federal Tax Requirements for Tax-Exempt Bonds.

(a) So long as any of the Issuer’s tax-exempt bond issues remain outstanding, the City Clerk-Treasurer will monitor post-issuance compliance with federal tax requirements on a regular, ongoing basis in order to identify and correct compliance issues that occur after the issuance of tax-exempt bonds. In addition, no less frequently than annually, the Issuer will conduct a formal post-issuance compliance review by consulting with the users of the Issuer’s bond-financed property (or the borrowers of the proceeds of conduit bonds issued by the Issuer) to review and determine whether current use arrangements involving that property continue to comply with applicable federal tax requirements as described in these Compliance Procedures. A review may be accomplished, for example, by meeting with users or conduit borrowers, as applicable, providing questionnaires to users about current use arrangements, or adopting other protocols reasonably calculated to ensure compliance with applicable federal tax requirements on a continuing basis. A review may be scheduled, for example, at or before the times that the Issuer

and/or conduit borrower is required to file with the Municipal Securities Rulemaking Board the annual financial information and operating data pursuant to the undertaking to provide continuing disclosure with respect to outstanding bond issues.

(b) If at any time during the life of an issue of tax-exempt bonds, the Issuer discovers that a violation of federal tax requirements applicable to that issue may have occurred, the City Clerk-Treasurer will promptly consult with bond counsel to determine whether any such violation actually has occurred and, if so, take prompt action to accomplish an available remedial action under applicable Internal Revenue Service regulations or to enter into a closing agreement with the Internal Revenue Service under the Voluntary Closing Agreement Program described under Notice 2008-31 or other future published guidance. The Issuer recognizes that certain remedial actions require that the Issuer take action within 90 days of the date of an act that results in bonds losing their tax-exempt status, and it is the policy of the Issuer to take prompt action whenever a violation of the federal tax requirements applicable to a bond has been identified.

8. Education Policy With Respect to Federal Tax Requirements for Tax-Exempt Bonds. It is the policy of the Issuer that the City Clerk-Treasurer and his or her staff, as well as the principal operating officials of those departments of the Issuer for which property is financed with proceeds of tax-exempt bonds should be provided education and training on federal tax requirements applicable to tax-exempt bonds. The Issuer recognizes that such education and training is vital as a means of helping to ensure that the Issuer remains in compliance with those federal tax requirements in respect of its bonds. The Issuer therefore will enable and encourage those personnel to attend and participate in appropriate educational and training programs with regard to the federal tax requirements applicable to tax-exempt bonds, such as training provided by bond counsel and training sessions available at local or web-based conferences, which may include sessions at the Washington Finance Officers Association and other seminars.

## CERTIFICATION

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

1. The attached copy of Ordinance No. 2014-939 (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 January 22, 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.

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: January 22, 2014.

CITY OF DEER PARK, WASHINGTON



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Debra L. Cragun, City Clerk