

CITY OF BAINBRIDGE ISLAND, WASHINGTON

ORDINANCE NO. 2013-14

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to contracting indebtedness; providing for the issuance, sale and delivery of not to exceed \$5,900,000 aggregate principal amount of unlimited tax general obligation refunding bonds to provide funds necessary to carry out the refunding of certain outstanding unlimited tax general obligation bonds of 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 to take certain other actions with respect to carrying out the refundings and issuance of the bonds; and providing for other related matters.

Passed June 26, 2013

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.*

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THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON,
DO ORDAIN AS FOLLOWS:

Section 1. Definitions. As used in this ordinance, the following capitalized terms shall have the following meanings:

(a) "2002 Bond Ordinance" means Ordinance No. 2002-40 authorizing the issuance of the 2002 Bonds.

(b) "2002 Bonds" means the Unlimited Tax General Obligation Bonds, 2002, issued by the City pursuant to the 2002 Bond Ordinance.

(c) "2002 Refunded Bonds" means the 2002 Refunding Candidates selected by the Designated Representative to be Refunded Bonds.

(d) "2002 Refunding Candidates" means the outstanding 2002 Bonds maturing in the years 2013 through 2022, inclusive, the refunding of which has been provided for by this ordinance.

(e) "2004 Bond Ordinance" means Ordinance No. 2004-15 authorizing the issuance of the 2004 Bonds.

(f) "2004 Bonds" means the Unlimited Tax General Obligation Bonds, 2004, issued by the City pursuant to the 2004 Bond Ordinance.

(g) "2004 Refunded Bonds" means the 2004 Refunding Candidates selected by the Designated Representative to be Refunded Bonds.

(h) "2004 Refunding Candidates" means the outstanding 2004 Bonds maturing in the years 2015 through 2023, inclusive, the refunding of which has been provided for by this ordinance.

(i) “*Acquired Obligations*” means those Government Obligations (as defined in the applicable ordinance authorizing the Refunded Bonds) purchased to carry out the Refunding Plan.

(j) “*Authorized Denomination*” means \$5,000 or any integral multiple thereof within a maturity of a Series.

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

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

(m) “*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.

(n) “*Bond Fund*” means the Unlimited Tax General Obligation Refunding Bond Fund, 2013, of the City created for the payment of the principal of and interest on the Bonds.

(o) “*Bond Purchase Agreement*” means an offer to purchase a Series of the Bonds, setting forth certain terms and conditions of the issuance, sale and delivery of those Bonds, which offer is authorized to be accepted by the Designated Representative on behalf of the City, if consistent with this ordinance.

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

(q) “*Bond Registrar*” means the Fiscal Agent, or any successor bond registrar selected by the City.

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

(s) “*City Contribution*” means legally available money of the City, in addition to proceeds of the Bonds, necessary or advisable to accomplish the Refunding Plan, as determined by the Designated Representative.

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

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

(v) “*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).

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

(x) “*Final Terms*” means the terms and conditions for the sale of a Series 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, including minimum savings for refunding bonds (if the refunding bonds are issued for savings purposes).

(y) “*Financial Advisor*” means D.A. Davidson & Co., of Seattle, Washington, or any other Financial Advisor then appointed and acting as financial advisor to the City.

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

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

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

(cc) “*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.

(dd) “*Letter of Representations*” means the Blanket Issuer Letter of Representations between the City and DTC, dated December 10, 1998.

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

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

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

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

(ii) “*Record Date*” means the Bond Registrar’s close of business on the 15th 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.

(jj) “*Redemption Date*” means, with respect to the 2002 Refunded Bonds, a date selected by the Designated Representative that is not less than 30 days or more than 60 days after the Issue Date, and with respect to the 2004 Refunded Bonds, December 1, 2014.

(kk) “*Refunded Bonds*” means all or a portion of the Refunding Candidates selected by the Designated Representative to be refunded with the proceeds of a Series of the Bonds.

(ll) “*Refunded Bond Ordinances*” means, together, the 2002 Bond Ordinance and the 2004 Bond Ordinance.

(mm) “*Refunding Candidates*” means, together, the 2002 Refunding Candidates and the 2004 Refunding Candidates.

(nn) “*Refunding Plan*” means (as further described in the applicable Refunding Trust Agreement):

(i) the deposit with the Refunding Trustee of an amount of proceeds of a Series of the Bonds sufficient (together with the City Contribution, if necessary) to acquire the Acquired Obligations to be held by the Refunding Trustee with cash, if necessary;

(ii) the application of the principal of and interest on the Acquired Obligations (and any other cash balance) to the payment of interest on the Refunded Bonds when due and the call, payment and redemption of the specified Refunded Bonds on the applicable Redemption Date at a price of par plus any accrued interest; and

(iii) the payment of costs of issuing the Series of the Bonds and the costs of carrying out the foregoing elements of the Refunding Plan.

(oo) “*Refunding Trust Agreement*” means a refunding trust or escrow agreement between the City and the Refunding Trustee, dated as of the Issue Date of each Series of the Bonds, providing for the safekeeping of bond proceeds and the refunding certain Refunded Bonds.

(pp) “*Refunding Trustee*” means U.S. Bank National Association serving as Refunding Trustee or any successor thereto.

(qq) “*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.

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

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

(tt) “*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.

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

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

(ww) “*System of Registration*” means the system of registration for the City’s bonds and other obligations set forth in Ordinance No. 83-10 of the City.

(xx) “*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.

(yy) “*Undertaking*” means the undertaking to provide continuing disclosure entered into pursuant to Section 16 of this ordinance.

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

(a) *Issuance of the 2002 Bonds.* Pursuant to the 2002 Bond Ordinance, the City issued the 2002 Bonds for the purpose of acquiring forested areas, open space, wildlife habitat, farms and agricultural lands and to create new trails and passive parks, and reserved the right to redeem the 2002 Bonds maturing on and after December 1, 2013, prior to their maturity on or after December 1, 2012, at a price equal to the stated principal amount outstanding plus accrued interest to the date fixed for redemption. There are presently outstanding \$3,285,000 principal amount of 2002 Bonds maturing on December 1 of each of the years 2013 through 2022, inclusive, and bearing various interest rates from 4.00% to 4.70%.

(b) *Issuance of the 2004 Bonds.* Pursuant to the 2004 Bond Ordinance, the City issued the 2004 Bonds for the purpose of acquiring forested areas, open space, wildlife habitat, farms and agricultural lands and to create new trails and passive parks, and reserved the right to redeem the 2004 Bonds maturing on and after December 1, 2015, prior to their maturity on or after December 1, 2014, at a price equal to the stated principal amount outstanding plus accrued interest to the date fixed for redemption. There are presently outstanding \$2,145,000 principal amount of 2004 Bonds maturing on December 1 of each of the years 2015 through 2023, inclusive, and bearing various interest rates from 4.00% to 4.65%.

(c) *The Refundings.* After due consideration, it appears to the City Council that all or a portion of the Refunding Candidates may be refunded by the issuance and sale of the unlimited tax general obligation refunding bonds authorized herein so that a savings will be effected by the difference between the principal and interest cost over the life of the applicable Series of the Bonds and the principal and interest cost over the life of the applicable Refunded Bonds but for such refunding, which refunding will be effected by carrying out the Refunding Plan.

(d) *The Bonds.* For the purpose of providing the funds necessary to carry out the Refunding Plan and to pay the costs of issuance and sale of the Bonds, the City Council finds that it is in the best interests of the City and its taxpayers to issue and sell the Bonds to the Purchaser, pursuant to the terms set forth in the Bond Purchase Agreement as approved by the City’s Designated Representative consistent with this ordinance.

Section 3. Authorization of Bonds. The City is authorized to borrow money on the credit of the City and issue negotiable unlimited tax general obligation refunding bonds

evidencing indebtedness in the amount of not to exceed \$5,900,000 to provide funds necessary to carry out the Refunding Plan and to pay the costs of issuance and sale of the Bonds.

Section 4. Description of the Bonds; Appointment of Designated Representative.

The City Manager and the Finance Officer are each appointed as the Designated Representative, both with the individual authority 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.

To the extent the principal amount of any Series of the Bonds exceeds the principal amount of the Refunded Bonds being refunded within the parameters set forth in Exhibit A, such excess shall constitute nonvoted general obligation debt of the City for purposes of calculating debt capacity and shall be allocated, by the Designated Representative, to the earliest maturing principal of the Bonds of such Series. The Designated Representative shall allocate the Series of the Bonds to the corresponding Refunded Bonds in such manner as will comply with applicable requirements of the Code, meet restrictions of State law concerning such refunding, and effectuate any other allocation deemed necessary or advisable for accounting and debt administration.

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 in any Authorized Denomination of an equal aggregate principal amount and of the same Series, 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 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 Bainbridge Island, Washington, Unlimited Tax General Obligation Refunding Bonds, 2013." 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 other 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 other 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. Bond Fund. The Bond Fund is created as a special fund of the City for the sole purpose of paying principal of and interest on the Bonds. Any Bond proceeds in excess of the amounts needed to pay the costs of the Refunding Plan and the costs of issuance of the Bonds, 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.

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, if not previously redeemed under any optional redemption provisions or purchased and surrendered for cancellation under the provisions 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 prices) 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 Series and maturities to be redeemed. If fewer than all of the outstanding Bonds of a maturity of a Series 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 Series, 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 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 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 without limitation as to rate or amount, 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.

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. 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 adopt and implement 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 maintain the tax treatment of the Bonds and the receipt of interest thereon.

(c) *Designation of Bonds as “Qualified Tax-Exempt Obligations.”* The Designated Representative may designate the Bonds as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3) of the Code, if the following conditions are met:

(i) the Bonds are not “private activity bonds” within the meaning of Section 141 of the Code;

(ii) 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 will not exceed \$10,000,000; and

(iii) 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 does 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. Deposit of Bond Proceeds; Refunding of the Refunded Bonds.

(a) *Appointment of the Refunding Trustee.* Pursuant to RCW 39.53.070, the Refunding Trustee is hereby appointed to serve as trustee to oversee the safekeeping and application of the Bond proceeds delivered to it.

(b) *Selection of Refunded Bonds and Redemption Date.* The Designated Representative is authorized to select the Refunding Candidates to be refunded by each Series of the Bonds. The Designated Representative may choose to refund fewer than all of the Refunding Candidates. The Designated Representative shall select the Redemption Date for the 2002 Refunded Bonds. The Refunded Bonds and the Redemption Date for the 2002 Refunded Bonds, as selected by the Designated Representative, shall be identified in the applicable Bond Purchase Agreement and/or the applicable Refunding Trust Agreement.

(c) *Deposit of Bond Proceeds; Purchase of Acquired Obligations.* Proceeds from the sale of each Series of the Bonds in the amount sufficient to carrying out the applicable Refunding Plan shall be deposited immediately upon the receipt thereof with the Refunding Trustee and used to discharge the obligations of the City relating to the applicable Refunded Bonds under the Refunded Bond Ordinances by providing for the payment of the amounts required to be paid by the Refunding Plan. The Designated Representative is authorized for each Series of Bonds to direct the Refunding Trustee to discharge such obligations by holding proceeds from the sale of each Series of Bonds uninvested, or by the Refunding Trustee's simultaneous purchase of Acquired Obligations, bearing such interest and maturing as to principal and interest in such amounts and at such times so as to provide, together with a beginning cash balance, if necessary, for the payment of the amounts required to be paid by the Refunding Plan. The Acquired Obligations shall be listed and more particularly described in the Refunding Trust Agreement, but are subject to substitution as set forth below. The Designated Representative is authorized and directed to approve the Acquired Obligations to be purchased. The Finance Officer is authorized to cause the City to transfer to the Refunding Trustee the City Contribution, if any, immediately preceding the Issue Date. Any Bond proceeds or other money deposited with the

Refunding Trustee not needed to carry out the Refunding Plan and pay the costs of issuing and selling the Bonds shall be returned to the City as soon as reasonably practicable following the Issue Date. Any Bond proceeds not needed to carry out the Refunding Plan and pay the costs of issuance of the Bonds shall be deposited in the Bond Fund and used to pay interest on the applicable Series of the Bonds on the first interest payment date.

(d) *Substitution of Acquired Obligations.* Prior to the purchase of any Acquired Obligations, the City reserves the right to substitute other noncallable, nonprepayable direct obligations of the United States of America ("Substitute Obligations") for any of such Acquired Obligations if, (i) in the opinion of Bond Counsel the interest on the Bonds and the Refunded Bonds will remain excluded from gross income for federal income tax purposes under Sections 103, 148 and 149(d) of the Code, and (ii) such substitution will not impair the timely payment of the amounts required to be paid by the Refunding Plan, as verified by a nationally recognized independent certified public accounting firm. The City may use any savings created by the foregoing substitution to pay interest on the Bonds on the first interest payment date.

After the purchase of Acquired Obligations by the Refunding Trustee, the City reserves the right to substitute therefor money and/or Substitute Obligations subject to the conditions that such money or Substitute Obligations held by the Refunding Trustee will be sufficient to carry out the Refunding Plan, that such substitution will not cause the Bonds and the Refunded Bonds to be arbitrage bonds within the meaning of Section 148 of the Code and regulations thereunder in effect on the date of such substitution and applicable to obligations issued on the Issue Date, and that the City obtains, at its expense: (i) a verification by a nationally recognized independent certified public accounting firm confirming that the payments of principal of and interest on the Substitute Obligations, if paid when due, and any other money held by the Refunding Trustee will be sufficient to carry out the Refunding Plan; and (ii) an opinion from Bond Counsel to the effect that the disposition and substitution or purchase of such Substitute Obligations, under the statutes, rules and regulations then in force and applicable to the Bonds or the Refunded Bonds, will not cause the interest on the Bonds or the Refunded Bonds to be included in gross income for federal income tax purposes and that such disposition and substitution or purchase is in compliance with the statutes and regulations applicable to the Bonds or the Refunded Bonds. Any surplus money resulting from the sale, transfer, other disposition or redemption of the Acquired Obligations and the substitutions therefor shall be released from the trust estate and transferred to the City to be used to pay debt service on the Bonds.

(e) *Administration of Refunding Plan.* The Refunding Trustee is authorized and directed to purchase the Acquired Obligations (or Substitute Obligations) and to make the payments required to be made pursuant to the Refunding Plan from the Acquired Obligations (or Substitute Obligations) and money deposited with the Refunding Trustee pursuant to this ordinance and the Refunding Plan. All Acquired Obligations (or Substitute Obligations) and money deposited with the Refunding Trustee and any income therefrom shall be held irrevocably, invested and applied in accordance with the provisions of the Refunded Bond Ordinances, this ordinance, chapter 39.53 RCW and other applicable laws of the State and the Refunding Trust Agreement. All necessary and proper fees, compensation and expenses of the Refunding Trustee and all other costs incidental to the setting up of the escrow to accomplish the Refunding Plan and costs related to the issuance, sale and delivery of the Bonds, including bond

printing, rating service fees, verification fees, Bond Counsel's fees and other related expenses, shall be paid out of the proceeds of the Bonds.

(f) *Authorization for Refunding Trust Agreement.* To carry out the Refunding Plan, the Designated Representative is authorized and directed to execute and deliver to the Refunding Trustee the Refunding Trust Agreement setting forth the duties, obligations and responsibilities of the Refunding Trustee in connection with the payment, redemption and retirement of the Refunded Bonds as provided herein and stating that the provisions for payment of the fees, compensation and expenses of the Refunding Trustee set forth therein are satisfactory to it.

(g) *Call for Redemption of the Refunded Bonds.* Effective upon the Issue Date, the City calls for redemption all of the Refunded Bonds on the applicable Redemption Date, at a price equal to the stated principal amount outstanding plus interest accrued to the Redemption Date. The call for redemption shall be irrevocable after the delivery of the Bonds to the Purchaser. The date on which the 2002 Refunded Bonds are herein called for redemption shall be the first date after the Issue Date, as determined by the Designated Representative, on which it is practicable to redeem the Refunded Bonds pursuant to the 2002 Bond Ordinance. The date on which the 2004 Refunded Bonds are herein called for redemption is the first date on which the Refunded Bonds may be called. The Refunding Trustee is authorized and directed to give or cause to be given such notices as required, at the times and in the manner required, pursuant to the Refunded Bond Ordinances and the Refunding Trust Agreement in order to effect the redemption of the Refunded Bonds prior to their stated maturity dates.

(h) *Additional Findings.* Prior to the execution of any Bond Purchase Agreement, the Designated Representative must determine, on behalf of the City, that the issuance, sale and delivery of that particular Series of the Bonds will effect a net present value savings to the City and its taxpayers as set forth in paragraph (i)(3) of Appendix A attached hereto. The City Council finds and determines that such net present value savings is a substantial savings and that achieving such net present value savings by issuing Bonds is in the best interest of the City and in the public interest. In making the finding and determination that the issuance, sale and delivery of a Series of the Bonds will effect the foregoing net present value savings, the Designated Representative shall give consideration to the fixed maturities of the Bonds of that Series and the Refunded Bonds to be refunded by such Series, the costs related to the issuance, sale and delivery of such Series and the known earned income from the investment of the proceeds of the issuance and sale of such Series and the City Contribution, if any, used in the Refunding Plan pending payment and redemption of the Refunded Bonds to be redeemed.

The Designated Representative further must find and determine that the money to be deposited with the Refunding Trustee to carry out the Refunding Plan will discharge and satisfy the obligations of the City under the Refunded Bond Ordinances with respect to the Refunded Bonds, and the pledges, charges, trusts, covenants and agreements of the City therein made or provided for as to the Refunded Bonds, and that the Refunded Bonds shall no longer be deemed to be outstanding under the Refunded Bond Ordinances immediately upon the deposit of such money with the Refunding Trustee.

Section 15. Sale and Delivery of the Bonds.

(a) *Sale of Bonds.* The Designated Representative shall negotiate the sale of the Bonds pursuant to a Bond Purchase Agreement for each Series of the Bonds setting 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 16. 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 each 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 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 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 17. 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 18. 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 19. 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.

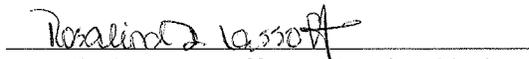
Section 20. Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Bainbridge Island, Washington, at an open public meeting thereof, this 26th day of June, 2013.



Steven Bonkowski, Mayor

ATTEST:


Rosalind D. Lassoff, CMC, City Clerk

APPROVED AS TO FORM:


Bond Counsel

PARAMETERS FOR FINAL TERMS OF THE BONDS

- (a) Principal Amount. The Bonds may be issued in one or more Series and shall not exceed the aggregate principal amount of \$5,900,000. The principal amount of any Series of the Bonds (i) may exceed the principal amount of the Refunded Bonds being refunded by an amount deemed reasonably required to effect the Refunding Plan pertaining to such Series of the Bonds, or (ii) may be equal to or less than the principal amount of the Refunded Bonds being refunded, so long as the proceeds of any Series of the Bonds (together with the City Contribution, if any) are sufficient to effect the Refunding Plan pertaining to such Series of the Bonds.
- (b) Date or Dates. Each Bond shall be dated the Issue Date, which date may not be later than December 31, 2014.
- (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 Rates. 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 5.50%, and the true interest cost to the City for each Series of the Bonds may not exceed 2.75%.
- (e) Payment Dates. Interest shall be payable at fixed rates semiannually on dates acceptable to the Designated Representative, commencing no later than one year following the Issue Date. Principal payments shall commence on a date acceptable to the Designated Representative and shall be payable at maturity or in mandatory redemption installments on dates acceptable to the Designated Representative.
- (f) Final Maturity. The Bonds allocated to refunding the 2002 Refunded Bonds shall mature no later than December 1, 2022 and the Bonds allocated to refunding the 2004 Refunded Bonds shall mature no later than December 1, 2023.

(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 each Series of the Bonds may not be less than 98% or more than 125% of the stated principal amount of that Series.

(i) Annual Debt Service

The aggregate annual principal and interest payments on each Series of the Bonds shall not exceed the respective annual principal and interest requirements of the applicable Refunded Bonds in a manner that is not consistent with RCW 39.53.090.

(i) Other Terms and Conditions.

(1) A Series of 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.

(3) Each Series of the Bonds shall produce a minimum net present value savings to the City and its taxpayers of 5.0% (as a percentage of the Refunded Bonds refunded by such Series). Net present value savings means the aggregate difference between (i) annual debt service on the Refunded Bonds to be refunded, less (ii) annual debt service on the corresponding Series of the Bonds

(including expenses related to costs of issuance of that Series of the Bonds) discounted to the Issue Date using the yield on that Series of the Bonds as the discount rate, plus (iii) excess cash, if any, distributed to the City on the Issue Date, and less (iv) the amount of the City Contribution, if any, made on such Issue Date.

[Form of]
UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE

**City of Bainbridge Island, Washington
Unlimited Tax General Obligation Refunding Bonds, 2013**

To meet the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a participating underwriter for the above-referenced bonds (the “Bonds”), the City makes the following written Undertaking for the benefit of holders of the Bonds:

(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 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 indebtedness outstanding at the end of the applicable fiscal year; (3) assessed valuation for that fiscal year; and (4) *ad valorem* property tax levy amounts and rates for 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 authorized to take such further actions as may be necessary, appropriate or convenient to carry out this Undertaking in accordance with Rule 15c2-12, including 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 Bainbridge Island, Washington (the "City"), hereby certify as follows:

1. The attached copy of Ordinance No. 2013-14 (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 June 26, 2013, 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 June 28, 2013.

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: June 26, 2013.

CITY OF BAINBRIDGE ISLAND,
WASHINGTON



Rosalind D. Lassoff, City Clerk