



ORDINANCE NO. 374

AN ORDINANCE CONCERNING COSTS AND EXPENSES OF LOCAL IMPROVEMENT DISTRICT IMPROVEMENTS, CONFIRMING THE CREATION AND ESTABLISHMENT OF LOCAL LATERAL SEWERAGE IMPROVEMENT DISTRICT NO. 4 FOR REXBURG, IDAHO, FOR THE CONSTRUCTION AND INSTALLATION OF SANITARY PAYMENT IN INSTALLMENTS OF THE COSTS AND EXPENSES OF THE IMPROVEMENTS MADE IN SAID DISTRICT: PROVIDING FOR THE ISSUE OF REGISTERED WARRANTS: ASSESSING THE COST OF SUCH IMPROVEMENTS UPON ALL PROPERTY IN SAID DISTRICT IN PROPORTION TO THE NUMBER OF SQUARE FEET OF LANDS AND LOTS ABUTTING, ADJOINING, CONTIGUOUS AND ADJACENT THERETO INCLUDED IN SAID DISTRICT AND IN PROPORTION TO THE BENEFITS DERIVED BY SUCH PROPERTY BY SAID IMPROVEMENTS: AND PRESCRIBING THE MANNER FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENTS: PROVIDING WHEN THIS ORDINANCE SHALL BE IN EFFECT.

WHEREAS, the City of Rexburg, Idaho, has enacted Ordinance No. 372, passed and approved the 28th day of July, 1950, creating "Local Lateral Sewerage Improvement District No.4 for Rexburg, Idaho," and providing for the construction and installation of sanitary sewer laterals therein, and

WHEREAS, The said ordinance set forth the boundaries of the district, provided that such improvements should be made and that the cost and expenses thereof should be taxed and assessed upon all property in said district, which cost and expenses should be assessed in proportion to the number of square feet of such lands and lots abutting, adjoining, contiguous and adjacent thereto included in the improvement district formed and in proportion to the benefits derived to such property by said improvements, and that the cost and expense of all intersections be borne by, apportioned to and assessed against the property within said district in proportion to the benefits derived from such improvement, and

WHEREAS, the Committee on Streets, together with the City Engineer, has heretofore in strict conformity with the law and ordinances of said City made out and certified to the City Council an assessment roll in and for said Local Lateral Sewerage Improvement District No. 4 for Rexburg, Idaho, fixing the total costs of the improvements in said district including incidental expenses at \$26,025.59 which amount is to be paid by assessing the amount against all property in said district in proportion to the number of square feet of lands and lots abutting, adjoining, contiguous and adjacent thereto included in said district and in proportion to the benefits derived to said property by such improvements, which assessment roll was and in all respects duly and lawfully made and was heretofore on the 6th day of September, 1950, certified to the City Council of the City of Rexburg, and filed in the office of the City Clerk of said City and was thereafter duly revised, corrected, accepted, ratified, approved and confirmed by the City Council on the 20th day of September, 1950, and

WHEREAS, upon the certification and filing of said assessment roll, the City Clerk of the City of Rexburg gave notice by one publication on the 7th day of September, 1950, in the Rexburg Journal, weekly newspaper of general circulation, published in Madison County, Idaho, that said assessment roll was on file in her office, giving the date of filing the same and stating that the City Council would hear and consider objections to said assessment roll by the parties affected by said assessments on the 20th day of September, 1950, which said notice was duly given in all respects, according to law; and

WHEREAS, at the time appointed for hearing said objections to such assessments objections were made which were duly considered by the City Council and said City Council revised and corrected said assessment roll by deleting property subject to assessment from said roll; and

WHEREAS, neither prior to nor at the time appointed for hearing objections to such assessments were any other objections made to the assessments so levied, and no other persons appeared to protest said assessments or assessment roll or any other matter in relation thereto; and

WHEREAS, notice was duly given to the property owners to be assessed that they might pay their assessments in full up to and including the 10th day of November, 1950 in response to which notice payments have been made in the total sum of \$8,513.96 to the date of this ordinance; and

WHEREAS, pursuant to proceeding duly had and taken, the City of Rexburg proceeded to do said work or make said improvement as provided by law at a total cost of \$26,025.59, and

WHEREAS, it is the opinion of the City Council that the costs and improvements made in said Local Lateral Sewerage Improvement District Rexburg, Idaho, which is chargeable as heretofore set forth, should be paid in installments instead of levying the entire special assessments for costs at one time, and

WHEREAS, the City Council of the City of Rexburg desires to issue Registered Warrants of Local Lateral Sewerage Improvement District No.4, payable in eight substantially equal annual installments, the last falling due April 15, 1959, numbered consecutively from one up, and shall be of such denominations, not exceeding five Hundred Dollars (\$500.00) as may be required for payment of all costs and expenses incurred in the making of improvements.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF REXBURG, IDAHO:

SECTION I: That all of the proceedings, matters and things heretofore taken, had and done in connection with the creation and establishment of Local Lateral Sewerage Improvement District No.4 for Rexburg, Idaho, and in connection with causing the construction and installation of sanitary sewer laterals, complete with manholes, wyes, and all other necessary appurtenances and the restoration of street surface wherever necessitated by reason of the construction and installation of said sanitary sewer laterals, and the' apportionment of the costs and expenses of said improvements against the abutting, adjoining, contiguous and adjacent lots, and lands in said district as set forth in the assessment roll, as revised and confirmed, be and the same hereby are in all respects fully approved, ratified and confirmed.

SECTION II: That the unpaid costs and expenses of said improvements within the boundaries of said Local Lateral Sewerage Improvement District No. 4 for Rexburg, Idaho which are chargeable to the abutting, adjoining, contiguous and adjacent lots and lands within said City and as hereinbefore set forth, shall be paid for in installments, payable as nearly as may be possible in eight equal annual payments, the first installment to fall due and become delinquent on the 15th day of February, 1952; and one additional installment shall fall due and become delinquent after the 15th day of February each year after the year 1952, until the whole of said assessment shall be paid, with interest on all unpaid installments at the rate of six per cent per annual, and such installments and assessments, together with interest thereon shall be collected in such manner as is provided by law.

SECTION III: The Mayor and the City Council of the City of Rexburg, Idaho, shall, for the purpose of meeting the expenses of making said improvements, issue registered warrants of Local Lateral Sewerage Improvement District No.4, payable to the proper persons, in the aggregate principal amount of \$17,511.63, which warrants shall bear interest at the rate of six per cent per annum from date of issuance until redeemed and which warrants shall be payable as nearly as may be in eight equal annual installments the last falling due on or before the 15th day of April, 1959. Said warrants shall be registered as provided by the provisions of Section 50-2925, as amended by Chapter 257 of the 1949 Session Laws and shall be paid, redeemed and retired from the moneys received from the special assessments herein provided for. Said warrants shall be numbered consecutively from one up, and shall be of such denominations, not exceeding \$500.00 as may be required for payment of all costs and expenses incurred in the making of improvements. Whenever there shall be sufficient money in the fund of said District, over and above the amount sufficient for the payment of interest on all unpaid warrants of said District to pay the principal on one or more of

said warrants, the Treasurer shall call in and pay such warrants in their numerical order, the lowest number first. Such call shall be made by written notice mailed to the last known holder of said warrant at his last known address, said notice setting forth the date on which said warrant will be paid, giving the number of the warrant or warrants called, and advising that interest upon said warrants so called shall cease upon such date, as specified in the call. Notice of such redemption shall also be published at least once not more than sixty nor less than thirty days prior to the date selected for redemption in a newspaper of general circulation in the City of Rexburg, Idaho.

SECTION IV: That said warrants, when executed, shall be issued to the lawful purchaser thereof and when so issued shall transfer to said purchaser or to any owner or owners thereof, all the right and interest of the City of Rexburg in and with respect to every assessment against the property in said District liable to assessment for such local improvements, and the lien thereby created against the property of such owners assessed as shall not have availed themselves of the provisions of law in regard to the redemption of their property from the lien of such assessment and shall authorize the owners and holders of said warrants to receive, sue for, and collect, or have collected such assessment embraced in any such warrant or through any of the methods provided by law for the collection of assessments for local improvements; and the City of Rexburg hereby pledges to such warrant holders the exercise of all lawful corporate powers in the collection of the assessments of the payments levied for the collection of such warrants.

SECTION V: That the whole cost of the improvements made in said Local Lateral Sewerage Improvement District No.4 for Rexburg, Idaho, in the sum of \$26,025.59, and the apportionment of the same as set forth in the assessment roll made out and certified as above recited, as revised and confirmed, is hereby assessed against all of the real property in said District as set forth in said assessment roll which is hereby specifically referred to and made a part hereof as if set forth at length herein.

SECTION VI: Said installments of assessments shall be payable on or before the 15th day of February, 1952, and the unpaid installments shall bear interest at the rate of six per centum per annum, which assessments and interest from the 15th day of April, 1951, until the maturity of the installments of said warrants, shall constitute and are thereby declared to be a lien in the several amounts assessed against each lot or tract of land hereinbefore specified from and after the date of the confirmation of said assessment roll, which lien shall be superior to the lien of any mortgage or other encumbrance, whether prior in time or not, and shall constitute such lien until paid, subject to the extinguishment of any such lien by the sale of any property on account of the nonpayment of general taxes.

SECTION VII: The first payment of installments of assessments shall become due and payable at the expiration of ten months from the date of the warrants herein authorized, to-wit on the 15th day of February, 1952, and subsequent installments at the expiration of each year thereafter, provided that, if any installment is not paid within twenty days from the date on which said installment shall become due, the said installment shall become delinquent and the City Treasurer shall add a penalty of two per cent.

SECTION VIII: Whenever any installment of an assessment made for the payment of interest or principal of the warrants herein authorized is not paid when due and shall become delinquent, it is hereby declared that all such unpaid installments and the whole assessment made against any property in said improvement district to pay the costs and expenses of such improvements shall be immediately due and payable and delinquent, and the City Treasurer shall forthwith mark the same delinquent on the local improvement installment docket and shall add to the amounts shown on said installment docket a penalty of two per centum thereon.

SECTION IX: The City Treasurer shall collect all installments of assessments levied upon the property within said Local Lateral Sewerage Improvement District and shall give public notice in the official newspaper of said City in three consecutive issues if in a daily paper, and in one regular issue if in a weekly paper, the first publication of such notice to be not less than ten days before such assessment or installment becomes due, which notice shall state the time for payment to begin and the time for payment to close, and that a two per cent penalty will be added after delinquency; and shall also, within the same time, mail a post card to each property owner at his last known post office address, containing the substance of said notice and any property owner may redeem his property from said installment by paying the principal thereof with the interest within the time specified in said notice and in default to such payment the same shall become delinquent and a

penalty of two per cent shall be added. Proof of publication by the publisher and affidavit of mailing such notice by the Treasurer shall be filed in the office of the treasurer in the file of said Improvement District before the date of delinquency. The failure of the City Treasurer to publish or mail any such notice or to do any other act or thing required by this section shall not affect such an assessment or installment, nor extend the time for payment thereof, but shall subject the treasurer to liability to the taxpayer for any damage he may sustain by reason of such failure.

SECTION X: That the City Council or other authorized taxing officers or the City of Rexburg shall for the purpose of ratifying and confirming the assessments hereby made, levy special assessments each year hereafter sufficient to redeem the installments of warrants with interest, next thereafter maturing, as issued, pursuant to the provisions of this ordinance, and in computing the amount of special assessments to be levied against each piece of property liable therefor, interest at the rate of six per centum per annum from the date of said warrants shall be included in such levies. Such assessments shall be made upon the property chargeable for the cost of such improvements, respectively, and shall be levied in the same manner as prescribed by law for the levy and collection of special assessments for such improvement where no warrants are issued.

SECTION XI: That the officers of the City of Rexburg be and they are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance, including, without limiting the generality of the foregoing, the printing of said warrants and the execution of such certificates as may be required by the purchaser thereof relating to the signing of the warrants, the tenure and identity of the municipal officials, the amounts certified on the assessment roll, together with the amount of cash payments, the receipt of the purchase price and the absence of litigation pending or threatened affecting the validity of the bonds.

SECTION XII: That should the courts of this or any other state of the United States declare any section, provision, paragraph, clause, sentence, phrase, or part of this ordinance invalid, unauthorized or unconstitutional or in conflict with any other section, provision, paragraph, clause, sentence, phrase or part thereof of this ordinance, then such decision shall affect only the section, provision, paragraph, clause, sentence, phrase or part thereof declared to be unconstitutional, unauthorized or invalid; and shall not affect any other part whatsoever of this ordinance. The City Council of the City of Rexburg, Idaho, hereby declares that it would have passed this ordinance, and each section, provision, paragraph, clause, sentence or phrase hereof irrespective of the fact that anyone or more of the sections, provisions, paragraphs, clauses, sentences or phrases or parts thereof be declared invalid, unauthorized or unconstitutional.

SECTION XIII: That by reason of the fact that certain areas within the City of Rexburg need local improvements, it is hereby declared that an emergency exists, that this ordinance is necessary to the immediate preservation of the public peace, health and safety, and that it shall be in full force and effect from and after its passage, approval, and publication as provided by law.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR this 21st day of March, 1951.

Joseph M. Parkinson, Mayor

(SEAL)

ATTEST:

City Clerk, Loretta M. Rigby

STATE OF IDAHO)
)ss.

County of Madison)

I, LORETTA M. RIGBY, City Clerk of the city of Rexburg, Idaho, do hereby certify: That the above and foregoing is a full, true and correct copy of the Ordinance Entitled:

AN ORDINANCE CONCERNING COSTS AND EXPENSES OF LOCAL IMPROVEMENT DISTRICT IMPROVEMENTS, CONFIRMING THE CREATION AND ESTABLISHMENT OF LOCAL LATERAL SEWERAGE IMPROVEMENT DISTRICT NO. 4 FOR REXBURG, IDAHO, FOR THE CONSTRUCTION AND INSTALLATION OF SANITARY PAYMENT IN INSTALLMENTS OF THE COSTS AND EXPENSES OF THE IMPROVEMENTS MADE IN SAID DISTRICT: PROVIDING FOR THE ISSUE OF REGISTERED WARRANTS: ASSESSING THE COST OF SUCH IMPROVEMENTS UPON ALL PROPERTY IN SAID DISTRICT IN PROPORTION TO THE NUMBER OF SQUARE FEET OF LANDS AND LOTS ABUTTING, ADJOINING, CONTIGUOUS AND ADJACENT THERETO INCLUDED IN SAID DISTRICT AND IN PROPORTION TO THE BENEFITS DERIVED BY SUCH PROPERTY BY SAID IMPROVEMENTS: AND PRESCRIBING THE MANNER FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENTS: PROVIDING WHEN THIS ORDINANCE SHALL BE IN EFFECT.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR this 21st day of March, 1951.

Loretta M. Rigby, City Clerk

(SEAL)