



**ORDINANCE NO. 632**

**AN ORDINANCE ESTABLISHING AND CREATING LOCAL IMPROVEMENT DISTRICT NO. 25 FOR THE CITY OF REXBURG, IDAHO, FOR THE PURPOSE OF CAUSING CERTAIN STREETS AND PARKING LOTS WITHIN THE CORPORATE LIMITS OF THE CITY OF REXBURG, IDAHO, TO BE GRADED, RE-GRADED, GRAVELED, PAVED, RE-PAVED, LANDSCAPED, LIGHTED, STRIPED, AND OTHERWISE IMPROVE THE HEREINAFTER DESCRIBED AREAS WITHIN THE DISTRICT, AND TO CONSTRUCT AND RECONSTRUCT CURBS, GUTTERS, SIDEWALKS, DRAINAGE FACILITIES AND OTHER WORK INCIDENTAL TO ALL THE FOREGOING IMPROVEMENTS ALONG SAID AREAS; DESCRIBING THE BOUNDARIES, THE IMPROVEMENTS WHICH SHALL BE MADE, PROVIDING FOR THE TOTAL COSTS AND EXPENSES THEREOF TO BE ASSESSED ACCORDING TO THE PERCENTAGE OF CALCULATION HERETOFORE DETERMINED ON ALL BENEFITTED PROPERTY IN THE DISTRICT BY USING THE METHOD OF ASSESSMENT CONTEMPLATED IN THE NOTICE OF INTENTION; PROVIDING FOR THE APPOINTMENT OF ENGINEERS TO PREPARE THE NECESSARY PLANS AND SPECIFICATIONS FOR THE CONSTRUCTION WORK ORDERED; AUTHORIZING THE ADVERTISEMENT OF BIDS THEREFORE BY GIVING NOTICE OF CALLING FOR SEALED BIDS FOR THE CONSTRUCTION WORK AND AWARD THEREOF TO THE LOWEST BIDDER AND THE EXECUTION OF CONSTRUCTION CONTRACTS AS PROVIDED BY SECTION 50-1710, IDAHO CODE; PROVIDING SEPARABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on the 18th day of February, 1981, the City Council of the City of Rexburg, Madison County, Idaho, adopted a Resolution declaring the intention to create Local Improvement District No. 25 to cause certain streets and parking lots within the corporate limits of the City of Rexburg, Idaho, to be graded, re-graded, graveled, paved, re-paved, landscaped, lighted, striped, and otherwise improve the hereinafter described areas within the District, and to construct and re-construct curbs, gutters, sidewalks, drainage facilities and other work incidental to all the foregoing improvements along said areas, which resolution authorized the publication and mailing of notice of intention to construct such improvements and to create such Local Improvement District, and

**WHEREAS**, such notice was duly published and mailed as provided by law, and

**WHEREAS**, on the 11th day of March, 1981, the City Council met at the hour of 8 o'clock P.M. for the purpose of hearing protests against the creation of the proposed district and/or the construction of said improvements, and other objections in relation thereto, and

**WHEREAS**, the Council heard and passed upon the protests made against the proposed Improvement District and the creation thereof and by motion duly made, seconded and carried, specifically ratified and confirmed Resolution No. 1 pertaining to Local Improvement District No. 25 and makes the following findings:

(a) That notice of the public hearing upon the said Resolution of intent to create said Local Improvement District (by publication of notice in the Rexburg Standard-Journal and by mailing notice to each property owner) as given by the City Clerk was given in the manner required by law and is therefore ratified and confirmed;

(b) That the creation of said Local Improvement District will be for the best interest of the property affected and the City;

(c) That there is reasonable probability that the obligations of the District will be paid considering that the values of the property, exclusive of improvements herein ordered to be made,

is not less than the sum of \$15,500,000.00 and that the estimated cost of the improvements is in the amount of \$200,000.00 of which amount \$150,000.00 shall be levied and assessed against the property owners benefitted by such improvements and \$50,000.00 shall be paid from the general funds of the City of Rexburg;

(d) That the market value of the property as determined by the Assessor of Madison County in the amount of \$15,500,000.00 is hereby deemed, fixed and established as the actual value of the property (real property and improvements thereon) situate within the boundaries of said proposed District, and that said actual value is determined to be in compliance with, and therefore sufficient to sustain the security for payment of the proposed improvements, the value limitations described in Section 50-1711, Idaho Code; and

(e) That the total costs and expenses thereof shall be assessed according to the percentage of calculation on all benefitted property in the District by using the method of assessment contemplated in the notice of intention, subject to any variation therefrom as a result of the Council's determining that the benefits to be derived by certain lots or parcels of property warrant such variations.

**WHEREAS**, all preliminary steps and proceedings necessary for the creation of said improvement district and the construction of the proposed improvements therein have been duly taken and adopted.

THEREFORE, BE IT ORDAINED by the Mayor and the Council of the City of Rexburg, Idaho:

**SECTION I:** That there shall be and there hereby is created a local improvement district in the City of Rexburg, Idaho, to be known and designated "Local Improvement District No. 25, City of Rexburg, Idaho", which shall include all of the lots, lands and parcels of real property within the boundaries of said District.

**SECTION II:** Said District is within the City of Rexburg, Idaho, and is more particularly described as follows:

1. Description for assessment numbers 1, 2A, 87 to 91 inclusive, and 110.

Commencing at the Northwest corner of Lot 2, Block 37, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded Plat thereof; and running thence South 155.0 feet; thence East 660.0 feet; thence North 155.0 feet; thence West 660.0 feet to the point of beginning.

2. Description for assessment numbers 2B to 6 inclusive.

Commencing at the point 175.0 feet South of the Northwest corner of Lot 2, Block 37, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded Plat thereof; and running thence South 320.0 feet; thence East 330.0 feet; thence North 165.0 feet; thence West 100.0 feet; thence North 155.0 feet; thence West 230.0 feet to the point of beginning.

3. Description for assessment numbers 7 to 16 inclusive.

Commencing at the Northeast corner of Lot 1, Block 38, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded plat thereof; and running thence West 303.0 feet; thence South 150.0 feet; thence East 223.0 feet; thence South 5.0 feet; thence East 80.0 feet; thence North 155.0 feet to the point to beginning.

4. Description for assessment numbers 17 to 21 inclusive, 47, 48, 50, and 51 and parking areas to be improved.

Commencing at the Southeast corner of lot 4, Block 38, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded plat thereof; and running thence North 495 feet; thence West 303.0 feet; thence South 495.0 feet; thence east 72.0 feet; thence North 80.0 feet; thence east 124.5 feet; thence South 17.0 feet; thence East 15.0 feet; thence South 63.0 feet; thence East 91.5 feet to the point of beginning.

5. Description for assessment numbers 22 to 41 inclusive and parking areas to be improved.

Commencing at the Northwest corner of Lot 2, Block 38, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded plat thereof; and running thence South 325.0 feet; thence East 297.0 feet; thence North 160.0 feet; thence West 99.0 feet; thence North 15.0 feet; thence East 99.0 feet; thence North 150.0 feet; thence West 297.0 feet to the point of beginning.

6. Description for assessment numbers 42 to 46 inclusive, 49, 49A, 114, and parking areas to be improved.

Commencing at a point which is 33.0 feet West and 49.5 feet South of the Northeast corner of Lot 3, Block 38, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded plat thereof; and running thence West 297.0 feet; thence South 231.0 feet; thence East 132.0 feet; thence 165.0 feet; thence West 33.5 feet; thence North 66.0 feet; thence East 50.0 feet; thence South 40.0 feet; thence East 99.0 feet; thence North 89.5 feet to the point of beginning.

7. Description for assessment numbers 52 to 63 inclusive and 92 to 98 inclusive, 112 & 113, and parking areas to be improved.

Commencing at the Northeast corner of Lot 1, Block 39, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded plat thereof; and running thence West 660.0 feet; thence South 99.0 feet; thence West 165.0 feet; thence south 99.0 feet; thence East 265.0 feet; thence South 330.0 feet; thence East 395.0 feet; thence North 660.0 feet to the point of beginning.

8. Description for assessment numbers 64 & 65.

Commencing at the Southeast corner of Lot 4, Block 32 of the Original City of Rexburg Plat, Madison County, Idaho, as per recorded Plat thereof; and running thence West 165.0 feet; thence North 165.0 feet; thence east 165.0 feet; thence South 165.0 feet; to the point of beginning.

9. Description for assessment numbers from 66 to 79 inclusive, also from 100 to 104 inclusive.

Commencing at the Northeast corner of Lot 1, Block 33 of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded Plat thereof and running thence West 146.0 feet; thence South 95.0 feet; thence West 85.0 feet; thence South 20.5 feet; thence West 99.0 feet; thence North 115.5 feet; thence West 82.5 feet; thence South 165.0 feet; thence West 247.5 feet; thence South 147.5 feet; thence East 165.0 feet; thence South 222.25 feet; thence West 40.0 feet; thence South 22.25 feet; thence west 14.0 feet; thence South 35.0 feet; thence West 111.0 feet; thence South 82.5 feet; thence East 660.0 feet; thence North 379.5 feet; thence west 330.0 feet; thence North 49.5 feet; thence East 330.0 feet; thence North 231.0 feet to the point of beginning.

10. Description for assessment number 80A:

Commencing at the Northwest corner of Lot 3, Block 34, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded Plat thereof and running thence East 193.0 feet; thence South 115.5 feet; thence West 28.0 feet; thence South 49.5 feet; thence west 165.0 feet; thence North 165.0 feet to the point of beginning.

11. Description for assessment numbers 80B to 86 inclusive, also number 109.

Commencing at the Southwest corner of Lot 3, Block 34, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded plat thereof, and running thence East 396.0 feet; thence North 165.0 feet; thence West 66.0 feet; thence South 16.5 feet; thence West 330.0 feet; thence South 148.5 feet to the point of beginning.

12: Description for assessment number 99.

Commencing at the Southwest corner of Lot 3, Block 32, of the Original City fo Rexburg Townsite Plat, Madison County, Idaho, as per recorded Plat thereof, and running thence

North 131.25 feet; thence East 90.25 feet; thence South 131.25 feet; thence West 90.25 feet to the point of beginning.

13. Description for assessment number 105.

Commencing at a point 176.5 feet North of the Southeast corner of Lot 4, Block 34 of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per the recorded Plat thereof, and running thence North 137.0 feet; thence West 165.0 feet; thence South 99.0 feet; thence East 80.0 feet; thence South 38.0 feet; thence East 85.0 feet to the point of beginning.

14. Description for assessment number 106, 115 and 116.

Commencing at the Northeast corner of Lot 1, Block 34, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per the recorded Plat thereof, running thence West 100.0 feet; thence South 99.0 feet; thence West 59.25 feet; thence South 82.5 feet; thence West 70.75 feet; thence South 132.0 feet; thence East 230.0 feet; thence North 313.5 feet to the point of beginning.

15. Description for assessment numbers 107 & 108.

Commencing at a point which is 16.5 feet North of the Southwest corner of Lot 2, Block 34, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded Plat thereof, and running thence East 164.5 feet; thence North 99.0 feet; thence West 61.25 feet; thence South 49.5 feet; thence West 102.75 feet; thence South 49.5 feet to the point of beginning.

16. Description for assessment number 111.

Commencing at a point which is 77.5 feet North of the Southeast corner of Lot 1, Block 37, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded Plat thereof; and running thence North 77.5 feet; thence West 165.0 feet; thence South 77.5 feet; thence East 165.0 feet to the point of beginning.

**SECTION III:** The areas to be improved or areas along which the improvements are to be made, the points between which improvements are to be made and the kind and character of the proposed improvements along and upon such areas are as follows; Parking Lot Improvements: Grading, Paving, Drainage, Sidewalks Landscaping, Lighting, Striping, etc.

1. Parking Lot A

Commencing at a point which is 5.0 feet North of the Southwest corner of Lot 2, Block 38, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded Plat thereof; and running thence East 141.5 feet; thence North 94.0 feet; thence East 56.5 feet; thence North 16.5 feet; thence West 49.5 feet; thence North 49.5 feet; thence West 49.5 feet; thence South 49.5 feet; thence West 99.0 feet; thence South 110.5 feet to the point of beginning.

2. Parking Lot B

Commencing at a point which is 165.0 feet South of the Northeast corner of Lot 1, Block 38, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded Plat thereof; and running thence West 165.0 feet; thence South 165.0 feet; thence East 165.0 feet; thence North 165.0 feet to the point of beginning.

3. Parking Lot C

Commencing at a point which is 247.5 feet North of the Southeast corner of Lot 4, Block 38, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded Plat thereof, and running thence North 24.0 feet; thence West 165.0 feet; thence South 24.0 feet; thence East 165.0 feet to the point of beginning.

4. Parking Lot D

Commencing at a point which is 49.5 feet South of the Northwest corner of Lot 3, Block 38, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded plat thereof; and running thence South 49.5 feet; thence East 132.0 feet; thence North 49.5 feet; thence West 132.0 feet to the point of beginning.

#### 5. Parking Lot E

Commencing at a point which is 151.83 feet North of the Southeast corner of Lot 4, Block 39, of the Original City of Rexburg Townsite Plat, Madison County, Idaho, as per recorded Plat thereof; and running thence West 165.0 feet; thence North 13.17 feet; thence West 45.0 feet; thence North 165.0 feet; thence East 79.0 feet; thence South 38.0 feet; thence East 10.0 feet; thence South 15.0 feet; thence East 38.0 feet; thence South 52.5 feet; thence East 83.0 feet; thence South 72.67 feet to the point of beginning.

### Curb and Gutter

1. Carlson Avenue between 1st East and Center, curb and gutter on both sides.

### Paving

1. Carlson Avenue between 1st East and Center.

**SECTION IV:** That the total estimated cost of the aforesaid improvements is \$200,000.00. \$150,000.00 of the cost and expenses of said District and of said improvements is to be paid by assessments against the lots and lands abutting, adjoining and being improved within the area of the District, and against lots and lands benefited by such improvements and included within said District, each lot and parcel of land being assessed separately for the debt thereof according to a front foot method, or a square foot method, or a combination thereof, or in proportion to the benefits derived to such property by said improvements, subject to any variations therefrom to be determined by the Council.

The cost and expenses of said improvements within street and alley intersections, namely, the sum of \$50,000.00 is, in the judgment of the City Council, a fair and equitable portion of the total cost and expenses of said District and of said improvements to be expended from the general funds of the City in consideration of the benefits accruing to the general public by reason of such improvements and shall be paid out of the general funds of the City.

The Council declares that the value of the property within the Local Improvement District is \$15,500,000.00.

**SECTION V:** The Council of Rexburg, Idaho, hereby appoints Forsgren-Perkins as city engineer for said Local Improvement District No. 25 and further directs and requires said engineer to:

(a) Prepare the necessary plans and specifications for the construction of the work and improvement herein ordered for approval by the Council in order to call for bids and, upon receipt of bids, thereby award a contract to the lowest responsible bidder for the construction of said work and improvement in the manner and form required by Section 50-1710, Idaho Code; and

(b) After the award of a contract as provided in subparagraph (a) above, prepare and submit a report to the Council (i) showing in detail the total costs and expenses of the improvements and the dollar amounts payable from assessments and from any other sources, and (ii) containing a form of an assessment roll which shall contain, among other things, the number of each assessment, the name of the owner, if known, a description of each lot, parcel or tract of real property assessed, the amount chargeable to each lot, parcel or tract of real property within the boundaries of said Local Improvement District according to the method of assessment originally contemplated by the Council subject to any variations therefrom as a result of the engineer's recommendation that the benefits to be received by any lot or parcel of property warrant such a variation from the method chosen, all to be detailed in the report.

**SECTION VI:** At the time and place appointed for a hearing of objections to said Assessment Roll, or a reasonable time thereafter, the Council shall consider the engineer's report and the Assessment Roll and hear and determine all objections which have been filed by any party interested (i) to the regularity of the proceedings in making such assessment (ii) to the correctness of

such assessment and (iii) to the amount levied on any particular lot, parcel or tract of real property including the benefits accruing thereon the proportionate share of the total cost of the improvements to be borne thereby, and the inclusion of any lot, parcel or tract of real property within the boundaries of the said Local Improvement District; and after said hearing the Council shall pass an ordinance confirming said Assessment Roll submitted to it by the engineer, or as revised and corrected by the Council as a result of hearing objections to said Assessment Roll, in relationship to the benefits accruing thereon as a result of the improvements ordered to be made.

**SECTION VII:** All proceedings heretofore had in connection with the creation of the aforesaid District, the hearings held thereon and the giving of notice of said hearings are hereby, in all respects, ratified, approved and confirmed and, by this Ordinance, is the final determination of the regularity, validity and correctness of such prior proceedings.

**SECTION VIII:** The officers of the City of Rexburg are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance.

**SECTION IX:** The provisions of this Ordinance are hereby declared separable, and if any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION X:** This Ordinance shall be in full force and effect from and after its passage, approval and publication hereof.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR this 20th day of May, 1981.

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John C. Porter, Mayor

(SEAL)

ATTEST:

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Rose Bagley, City Clerk

Thereupon it was moved by Councilman James Morris and seconded by Councilwoman Darlene Blackburn that the rule regarding ordinances of a general permanent nature to be fully and distinctly read on three different days be dispensed with and that said Ordinance be numbered 632 and be passed and adopted as read.

Thereupon the Clerk was ordered to call the roll on said motion and the roll call upon said motion was as follows:

Those voting AYE:

Councilmen:           Norris Reese  
                              Darlene Blackburn  
                              James Morris  
                              Nile Boyle  
                              Morgan Garner  
                              Sander Larsen

Those voting NAY:   None

Absent:                 None

The Mayor declared that the motion, having been passed by not less than three-fourths of the Council, had been duly carried, and that said Ordinance No. 632 was duly passed and adopted.

The City Clerk was directed to publish said Ordinance No. 632 in at least one issue of the Rexburg Standard or Rexburg Journal, a newspaper published in the City of Rexburg, Idaho.

Thereupon the meeting adjourned.

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John C. Porter, Mayor

(SEAL)

ATTEST:

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Rose Bagley, City Clerk

STATE OF IDAHO, )  
County of Madison, ss)  
City of Rexburg )

I, ROSE BAGLEY, the duly chosen, qualified and acting Clerk of the City of Rexburg, County of Madison, State of Idaho, do hereby certify that the foregoing pages number 24 to 36, both inclusive, are true, perfect and complete copies of the record of the proceedings of the city Council of Rexburg, had and taken at a lawful meeting of said Council held at the City Hall in said City on Wednesday, the 20<sup>th</sup> day of May, 1981, at the hour of 7:30 o'clock P.M. as recorded in the regular official book of records of the proceedings of said Council kept in my office, and that said proceedings were duly had and taken as therein shown, that the meetings therein shown were duly held, that the persons therein named as present at said meeting were present as shown by said minutes, and that all the members of the City Council were duly notified of said meeting.

WITNESS my hand and the seal of the City of Rexburg, this 20<sup>th</sup> day of May, 1981.

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Rose Bagley, City Clerk

(SEAL)