



**ORDINANCE NO. 644**

**AN ORDINANCE CONCERNING THE CREATION OF, IMPROVEMENTS IN, ASSESSMENTS AGAINST PROPERTY IN, AND STREET IMPROVEMENT BONDS FOR LOCAL IMPROVEMENT DISTRICT NO. 25, 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 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, AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN EFFECT.**

**WHEREAS**, the City Council of the City of Rexburg, Idaho, has heretofore adopted proceedings for the construction of improvements in Local Improvement District No. 25, 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 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. Ordinance No. 633 confirming the assessments roll for such improvements was duly adopted and approved on August 19, 1981, and

**WHEREAS**, notice of assessments to property owners in said District has been duly published in accordance with the requirements of said Ordinance No. 633 and the laws of the State of Idaho, and

**WHEREAS**, the share of the cost of the construction of improvements in said District assessed to the owners of private property in said District is \$150,000.00, and assessed to the City of Rexburg, Idaho, is \$50,000.00, for a total cost of \$200,000.00

**WHEREAS**, during the 30-day period following the confirmation of said assessment roll, the owners of private property paid \$34,381.22 on the principal of their assessments, leaving a principal balance of \$115,618.78, and

**WHEREAS**, on March 21, 1951, the City Council of said City adopted, and the Mayor of said City approved, Ordinance No. 373, creating a Local Improvement Guaranty Fund, to be used to guarantee bonds and warrants of local improvement districts in said City.

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

**SECTION I:** That all of the proceedings heretofore taken and adopted for the creation of said Local Improvement District No. 25, 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 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 within said District, and the assessments of a part of the cost of constructing such improvements on and against the private properties in said District, including the provisions of said Ordinance No. 373, which shall apply to the bonds hereafter mentioned, shall be and the same are hereby ratified, approved and confirmed.

**SECTION II:** That the unpaid assessments chargeable to the lots and lands abutting, adjoining,

and adjacent to the areas to be so improved and on and against all lots and lands benefited by such improvements included in said District, shall be paid for in installments, payable as nearly as may be possible in 10 equal annual payments on or before the 1st day of February in each of the years from 1983, to 1992, both inclusive, and bearing interest on the unpaid principal thereof from the 19th day of August, 1981, at the rate of ten per cent (10%) per annum, such interest being payable annually on or before the 1st day of February in each of said years, both the principal of and the interest on said assessments being payable in lawful money of the United States of America at the office of the City Treasurer of the City of Rexburg, Idaho.

**SECTION III:** That the Treasurer of the City of Rexburg, Idaho, be, and he is hereby authorized and empowered, and it shall be his duty to receive and collect all assessments levied to pay the cost of said improvements, the installments thereof, the interest thereon, and the penalties accrued, including without limiting the generality of the foregoing, the whole of the unpaid principal which becomes due and payable immediately because of the failure to pay any installment, whether of principal or interest, when due, and to pay and disburse such payments to the person or persons lawfully entitled to receive the same, in accordance with the laws of the State of Idaho, and all the ordinances and resolutions of said City heretofore or to be hereafter adopted. All monies constituting the payment of principal of said unpaid installments of assessments shall be placed in a separate fund to be designated "Bond Fund of Local Improvement District No. 25 of the City of Rexburg, Idaho", and any funds paid as interest on said installment payments of assessments shall be kept in a fund known as the "Interest Fund of Local Improvement District No. 25, of the City of Rexburg, Idaho."

Said Bond Fund and Interest Fund shall be deposited in such bank or banks as are designated as depositories of public monies of such municipalities under the laws of the State of Idaho. Interest received on such funds so deposited shall be placed to the credit of the fund from which it was earned. Maturing bonds shall be paid from the Bond Fund in regular numerical order, and the interest on the bonds, when due, shall be paid from the Interest Fund.

The City Treasurer be, and he is also hereby authorized and empowered, and it shall be his duty, to receive and collect all of the receipts of municipal taxes and charges levied and collected for guaranteeing the payment of said bonds to place said monies in the City's "Local Improvement Guarantee Fund," as heretofore provided, to disburse there from said monies for the payment of the interest on and the principal of the bonds hereinafter authorized, if necessary to redeem said bonds at maturity, both principal and interest, and otherwise to maintain and manage said fund in the manner heretofore specified.

**SECTION IV:** That the City Treasurer shall give notice of the installments of assessments becoming due, principal, interest and penalties for delinquencies, pursuant to Section 50-1716, and all laws amendatory thereof and supplemental thereto. The failure of the City Treasurer to mail such notice or to do any other act or thing required by this section shall not affect the validity of the assessments or installments thereof due nor extend the time for payment thereof, but shall subject the municipality to liability to a taxpayer for any damage sustained by reason of such failure.

**SECTION V:** The sale of Local Improvement District No. 25 bonds shall transfer to the owner or holder of such bonds all the rights and interest of the City of Rexburg, Idaho, in and with respect to every such assessment and the lien thereby created against the property of each owner assessed as shall not have availed himself of the provisions of the Local Improvement District Code, in regard to the redemption of his property and shall authorize owners and holders of such bonds to receive and have collected the assessments or assessments embraced in any such bonds through any of the methods provided by law for the collection of assessments for local improvements.

**SECTION VI:** That the assessments and the interest thereon have been and shall continue to constitute, and are hereby declared to be a lien in the several amounts assessed against each lot or tract of land hereinbefore specified from and after the 19th day of August, 1981, the date on which the ordinance levying such assessments became effective, 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, such lien shall not be subject to the extinguishment for any reason whatsoever, including but not limited to the sale of the property assessed on account of the nonpayment of general taxes or the conveyance of such property any means to the United States of America or any agency thereof, the State of Idaho, or any county, city, school district, junior college district or other public body, agency or taxing unit in said state.

**SECTION VII:** That for the purpose of defraying a portion of the cost of said improvements there be issued, in the name of the City of Rexburg, Street Improvement Bonds of said Local Improvement District No. 25 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 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 within said District, Series April, 1982, in the aggregate principal amount of \$115,618.78, consisting of 116 bonds numbered consecutively from 1 to 116, both inclusive, which bonds shall bear date as of the 1st day of April, 1982, and shall be in denominations hereinafter set forth, provided however, that bond No. 1 shall be of a denomination other than a multiple of \$100.00, and shall bear interest at the rate hereinafter specified, payable annually on the 1st day of April, each year, said interest to be evidenced by coupons attached to said bonds. If, upon presentation at maturity, payment of any bond is not made as herein provided, interest thereon shall continue at the same rate until the principal thereof is paid in full. Said bonds shall be fully negotiable and shall have all the qualities of negotiable paper, subject to the specific provisions stated herein, and the holder or holders thereof shall possess all rights enjoyed by holders of negotiable instruments under the provisions of the Uniform Commercial Code. Said bonds shall be numbered, shall be in the denomination of, and shall bear interest and shall mature serially in regular numerical order in the amounts designated on the 1st day of April in each of the years indicated as follows:

YEAR	BOND NO.	AMOUNT	COUPON RATE
1983	1	\$ 618.78	10%
1983	1-12	11,000.00	10%
1984	13-23	11,000.00	10%
1985	24-34	11,000.00	10%
1986	35-45	11,000.00	10%
1987	46-56	11,000.00	10%
1988	57-68	12,000.00	10%
1989	69-80	12,000.00	10%
1990	81-92	12,000.00	10%
1991	93-104	12,000.00	10%
1992	105-116	12,000.00	10%

Said bonds and the coupons thereto attached shall be payable in lawful money of the United States of America at the office of the City Treasurer of the City of Rexburg, Madison County, Idaho. Said bonds shall be signed by the Mayor, attested by the City Clerk and countersigned by the City Treasurer of the City of Rexburg, and each bond shall have affixed thereto the corporate seal of said City. The coupons shall bear the facsimile signatures of the mayor, City Clerk and City Treasurer, which officers by the execution of said bonds shall adopt as and for their signatures the facsimiles thereon appearing on said coupons.

The holder of any bond issued under the authority of the Local Improvement District Code, shall have no claim therefore against the City of Rexburg except to the extent of the funds created and received by assessments against the property within any local improvement district as herein provided, and to the extent of the local improvement guarantee fund which has been established by the City of Rexburg, but the City of Rexburg shall be held responsible for the lawful levy of all special taxes or assessments herein provided and for the faithful accounting of settlements and payments of the special taxes and assessments levied for the payment of the bonds as herein provided. The owners and holders of such bonds shall be entitled to complete enforcement of all assessments made for the payment of such bonds. A copy of Section 50-1723 of the Local Improvement District Code of the State of Idaho shall be plainly written, printed or engraved on the face of each bond so issued.

Each bond shall provide that the principal thereof and the interest thereon are payable solely from the principal of or interest on the unpaid assessments levied in the District to pay the total cost and expenses of said Local Improvement District No. 25 of the City of Rexburg, Idaho.

Maturing bonds shall be paid from the Bond Fund and the interest on the bonds, when due, shall be paid from the Interest Fund. If there is sufficient money in the Bond Fund to pay the principal of one or more bonds, the Treasurer may call in and pay such bonds as of the next interest payment date, at the price of par and accrued interest. The bonds to be called shall be selected by lot and shall, insofar as can be done taking into consideration the denominations of the outstanding

bonds represent an equal amount of bonds from each maturity outstanding at the time of redemption.

Notice of prior redemption shall be given by the Treasurer in the name of the City of Rexburg by publication of such notice at least once in each calendar week on any day of the week for at least four successive weeks, the first publication to be at least thirty days prior to the redemption date, in a newspaper of general circulation in the City, and a copy of such notice shall be sent by registered or certified mail at least thirty days prior to the redemption date to the original purchasers of the bonds.

Such notice shall specify the number or numbers of the bonds to be so redeemed (if less than all are to be redeemed) and the date fixed for redemption, and shall further state that on such redemption date there will become due and payable upon each bond so to be redeemed at the office of the Treasurer of the City of Rexburg, the principal amount thereof, together with accrued interest to the redemption date, and that from and after such date interest will cease to accrue. Notice having been given in the manner herein before provided, the bond or bonds so called for redemption shall become due and payable on the redemption date so designated and upon presentation thereof at said office, together with all appurtenant coupons maturing subsequent to the redemption date, and the City of Rexburg will pay the bond or bonds so called for redemption.

**SECTION VIII:** That said bonds, the coupons thereto attached, and the certificate thereon, shall be in substantially the following form:

(Form of Bond)

UNITED STATES OF AMERICA

STATE OF IDAHO

COUNTY OF MADISON

CITY OF REXBURG

NO. \_\_\_\_\_

\$ \_\_\_\_\_

STREET IMPROVEMENT BOND  
LOCAL IMPROVEMENT DISTRICT NO. 25  
FOR STREETS FOR REXBURG, IDAHO  
Series

CITY OF REXBURG, IN THE COUNTY OF MADISON, STATE OF IDAHO, For value received, hereby promises to pay to the bearer hereof the sum of \_\_\_\_\_ DOLLARS on the 1st day of April \_\_\_\_\_, with interest thereon at the rate of ten per centum (10%) per annum, payable annually on the 1st day of April in each year, upon presentation and surrender of this bond and the attached coupons as they severally become due, both principal and interest being payable in lawful money of the United States of America at the office of the City Treasurer, Rexburg, Idaho.

If there is sufficient money in the Bond Fund of Local Improvement District No. 25 of the City of Rexburg, Idaho, to pay the principal of one or more bonds of this series, the Treasurer of the City of Rexburg, Idaho, may call in and pay such bonds as of the next interest payment date at the price of par and accrued interest. The bonds to be called shall be selected by lot and shall, in the event less than all of the outstanding bonds are to be redeemed, in so far as can be done taking into consideration the denominations of the outstanding bonds, represent an equal amount of bonds from each maturity outstanding at the time of the redemption.

This bond is issued for the purpose of paying a portion of the costs and expenses of constructing certain street improvements made in Local Improvement District No. 25 of 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 re-construct curbs, gutters, sidewalks, drainage facilities and other work incidental to all the foregoing improvements along said areas within said District, pursuant to resolutions and ordinances duly adopted by said City of Rexburg, Idaho, under and by virtue of the law known as "Local Improvement District Code," Chapter 17, Title 50, Idaho Code, and all other laws thereunto enabling. In conformity with said Code, it is hereby provided that the principal sum herein named shall be payable from a separate fund designated "Bond Fund of Local Improvement District No. 25 of the City of Rexburg, Idaho" pledged solely for the payment of the principal of the bonds of the series of which this is one, and consisting of all monies constituting the payment of interest on assessments unpaid at the time of the issuance of this bond.

The principal of this bond and the interest thereon, is payable solely from the principal of or interest on unpaid assessments levied in Local Improvement District No. 25 of the City of Rexburg, Idaho, to pay the total cost and expenses of such local improvement district project. Provided, the principal of and the interest on the bonds of the series of which this is one, shall, if necessary, be redeemed at maturity from the City's "Local Improvement Guarantee Fund" heretofore duly authorized and created, and not otherwise.

If, upon presentation at maturity, payment of this bond is not made as herein provided, interest thereon shall continue at the same rate until the principal hereof is paid in full.

Pursuant to Section 50~1723 of the Local Improvement District Code of the State of Idaho, "The holder of any bond issued under the authority of this code shall have no claim therefore against the municipality by which the same is issued, except to the extent of the funds created and received by assessments against the property within any local improvement district as herein provided and to the extent of the Local Improvement Guarantee Fund which may be established by any such municipality under the provisions of this code, but the municipality shall be held responsible for the lawful levy of all special taxes or assessments herein provided for and for the faithful accounting of settlements and payments of the special taxes and assessments levied for the payment of the bonds as therein provided for. The owners and holders of such bonds shall be

entitled to a complete enforcement of all assessments made for the payment of such bonds. A copy of this section shall be plainly written, printed or engraved on the face of each bond so issued."

The assessments made and levied to pay the cost and expenses of the work or improvements authorized by the provisions of said "Local Improvement District Code of the State of Idaho" shall constitute a lien upon and against the property in said Local Improvement District No. 25, upon which such assessment or assessments were made and levied from and after the 19th day of August, 1981, the date upon which the ordinance levying such assessments or assessments was passed, which lien is superior to the lien of any mortgage or other encumbrance, whether prior in time or not, and shall constitute such lien until paid. Such lien shall not be subject to the extinguishment for any reason whatsoever, including but not limited to the sale of any property assessed on account of the non-payment of general taxes, or the conveyance of such property by any means to the United States of America, or any agency thereof, the State of Idaho, or any county, city, school district, junior college district or other public body, agency or taxing unit in the State of Idaho.

IN TESTIMONY WHEREOF, the said City of Rexburg has caused this bond to be signed by its Mayor, countersigned by its Treasurer and attested by its Clerk and the Seal of the City of Rexburg affixed hereto. The coupons attached hereto bear the facsimile signatures of said officers. This bond is dated as of the \_\_\_\_\_ day of

\_\_\_\_\_  
Mayor

Countersigned:

\_\_\_\_\_  
Richard R. Horner, Treasurer.

ATTEST:

\_\_\_\_\_  
Rose Bagley, City Clerk.

(SEAL)

(Coupon Form)

No. \_\_\_\_\_

\$ \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_, unless the bond to which this coupon is attached has been called for prior redemption, the City of Rexburg, in the County of Madison and State of Idaho, will pay the bearer hereof \_\_\_\_\_ DOLLARS in lawful money of the United States of America out of the Interest Fund of Local Improvement District No. 25 of 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 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 within said District, at the office of the City Treasurer, in Rexburg, Idaho, being one year's interest on its Street Improvement Bond, dated the day of bearing No\_\_\_\_.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Treasurer.

ATTEST:

\_\_\_\_\_  
Rose Bagley, City Clerk.

(Certificate Form)

CERTIFICATE OF REGISTRATION

STATE OF IDAHO,)

COUNTY OF MADISON.)SS

CITY OF REXBURG.)

I, the undersigned, City Clerk of the City of Rexburg, in the County of Madison, State of Idaho, do hereby certify that the within bond has been duly registered in a public record book kept for that purpose in my office, in all respects as required by law, and that the signatures on this bond are the genuine signatures of the Mayor, City Clerk and City Treasurer of the City of Rexburg, Idaho, and that the signatures on the coupons are the facsimile signatures of said officers.

---

Rose Bagley, City Clerk

(SEAL)

**SECTION IX:** That all interim warrants heretofore issued, if any, to pay for the construction of the improvements in said Local Improvement District No. 25 of the City of Rexburg, Idaho, shall be redeemed and retired from the proceeds, of the sale of said bonds.

**SECTION X:** That any holder of anyone or more of said bonds, or any of the coupons representing interest thereon, may, either at law or in equity, by suit, action, mandamus or other appropriate proceeding in any court of competent jurisdiction, protect the liens created by this ordinance on the proceeds of said assessments and any guarantee fund, and may by suit, action, mandamus, or other appropriate proceedings enforce and compel the performance of any duty imposed upon the said City by the provisions of this ordinance, including, without limiting the generality of the foregoing, the segregation of assessments and the proper application thereof.

**SECTION XI:** That the officers of the City of Rexburg be, and they hereby are, 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 bonds and the execution of such certificates as may reasonably be required by the purchasers thereof, relating, inter alia, to the signing of the bonds, the tenure and identity of municipal officials, the amounts certified on the assessment roll together with the amount of cash payments, the accuracy of property descriptions, the receipt of the assignable certificates and the delivery of the bonds, and the absence of litigation pending or threatened affecting the validity of the bonds.

**SECTION XII:** That all ordinances or resolutions. or parts thereof in conflict with the provisions of this ordinance are hereby repealed. This repealer shall not be construed to revive any ordinance, nor resolution, or part thereof, heretofore repealed.

**SECTION XIII:** That after said street improvement bonds are issued. this ordinance shall be and remain irrevocable until said bonds and the interest thereon shall be fully paid. certified and discharged, as herein provided.

**SECTION XIV:** That this ordinance may be amended or supplemented by an ordinance or ordinances adopted by the City Council in accordance with the laws of the State of Idaho, and without the receipt by the City of any additional consideration. with the written consent of the holders of seventy-five per centum (75%) of the bonds authorized by this ordinance and outstanding at the time of the adoption of such amendatory or supplemental ordinance, provided, however, that no such ordinance shall have the effect of permitting:

- A. An extension of the maturity of any bond authorized by this ordinance; or
- B. A reduction in the principal amount of any bond or the rate of interest thereon; or
- C. The creation of a lien upon or a pledge of revenues ranking prior to the lien or pledge created by this ordinance; or
- D. A reduction of the principal amount of bonds required for consent to such amendatory or supplemental ordinance.

**SECTION XV:** That should any court of competent jurisdiction hold that any part of this ordinance is void or ineffective. such holding shall not affect the remaining parts hereof, the intention being that each part hereof is severable.

**SECTION XVI:** That, by reason of the fact that certain areas within the City of Rexburg, Idaho, need said 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 17th day of February, 1982.

---

John C. Porter, Mayor

(SEAL)

ATTEST:

\_\_\_\_\_  
Rose Bagley, City Clerk

STATE OF IDAHO)  
  )ss.  
County of Madison. )

I, ROSE BAGLEY, City Clerk of the City of Rexburg, Idaho, do hereby certify: That the foregoing is a full, true and correct copy of an ordinance entitled:

**AN ORDINANCE CONCERNING THE CREATION OF, IMPROVEMENTS IN, ASSESSMENTS AGAINST PROPERTY IN, AND STREET IMPROVEMENT BONDS FOR LOCAL IMPROVEMENT DISTRICT NO. 25, 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 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 WITHIN SAID DISTRICT, AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN EFFECT.**

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR on the 17th day of February. 1982.

IN WITNESS WHEREOF. I have hereunto set my hand and affixed the seal of said City this 17th day of February. 1982.

\_\_\_\_\_  
Rose Bagley, City Clerk

(~~SEAL~~)

Councilman James Morris moved the adoption of said Ordinance, which motion was seconded by Councilman Morgan Garner.

The Clerk was then instructed to call the roll on the passage of the Ordinance and the roll call on the said passage of Ordinance No. 644 resulted as follows:

Those voting AYE:   Glen Pond  
                              Darlene Blackburn  
                              Sander Larsen  
                              Nile Boyle  
                              Morgan Garner  
                              James Morris

Those Voting Nay:   None

The Ordinance was thereupon, by the Mayor, declared to have been duly passed, and the Clerk of the City was directed to publish said Ordinance No. 644 in full in at least one issue of the Rexburg Standard Journal, a newspaper published in the City of Rexburg, Madison County, Idaho.

There being no further business to come before the meeting, the meeting was, on motion duly made, seconded and carried, adjourned.

\_\_\_\_\_  
John C. Porter, Mayor

