



ORDINANCE NO. 740

AN ORDINANCE CONCERNING THE CREATION OF, IMPROVEMENTS IN, ASSESSMENTS AGAINST PROPERTY IN, AND STREET IMPROVEMENT REGISTERED WARRANTS FOR LOCAL IMPROVEMENT DISTRICT NO. 27, FOR THE PURPOSE OF CAUSING CERTAIN STREETS AND PARTS THEREOF WITHIN THE CORPORATE LIMITS OF SAID CITY TO BE GRADED, RE-GRADED, GRAVELED, PAVED, RE-PAVED AND OTHERWISE IMPROVE CERTAIN STREETS WITHIN THE DISTRICT AND TO CONSTRUCT AND RECONSTRUCT SIDEWALKS, CURBS, GUTTERS, DRIVEWAYS, DRAINAGE FACILITIES, OFF-SITE STORM SEWER, AND OTHER WORKS INCIDENTAL TO ALL OF THE FOREGOING IMPROVEMENTS WITHIN SAID DISTRICT, 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. 27, for the purpose of causing certain streets and parts thereof within the corporate limits of said City, to be graded, re-graded, graveled, paved, re-paved and otherwise improve certain streets within the District and to construct and reconstruct sidewalks, curbs, gutters, driveways, drainage facilities, off-site storm sewer and other work incidental to all of the foregoing improvements within said District. Ordinance No. 738 confirming the assessments roll for such improvements was duly adopted and approved on September 2, 1992, and

WHEREAS, notice of assessments to property owners in said District has been duly published in accordance with the requirements of said Ordinance No. 738 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 \$152,316.71, and

WHEREAS, during the 30-day period following the confirmation of said assessment roll, the owners of private property paid \$20,271.13 on the principal of their assessments, leaving a principal balance of \$132,045.58, and

WHEREAS, the City authorizes the creation of a LID 27 Warrant Reserve Fund in the amount of \$12,954.42, 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 improvements 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. 27, for the purpose of causing certain streets and parts thereof within the corporate limits of said city to be graded, re-graded, graveled, paved, re-paved and otherwise improve certain streets within the District and to construct and reconstruct sidewalks, curbs, gutters, driveways, drainage facilities, off-site storm sewer, and other works incidental to all of the foregoing improvements 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. 738, which shall apply to the registered warrants 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 streets to be so improved and on and against all lots and lands

benefitted 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 22nd day of October in each of the years from 1993 to 2002, both inclusive, and bearing interest on the unpaid principal thereof from the 2nd day of September, 1992, at the rate of five and one-half percent (5.5%) per annum, such interest being payable annually on or before the 22nd day of October 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, 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, and 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 "Registered Warrant Fund of Local Improvement District No. 27 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. 27, of the City of Rexburg, Idaho."

Said Registered Warrant 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 registered warrants shall be paid from the Registered Warrant Fund in regular numerical order, and the interest on the registered warrants, 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 registered warrants to place said monies in the City's "Local Improvement Guarantee Fund," as heretofore provided, to disburse therefrom said monies for the payment of the interest on and the principal of the registered warrants hereinafter authorized, if necessary to redeem said registered warrants 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, Idaho Code, 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. 27 registered warrants shall transfer to the owner or holder of such registered warrants 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 registered warrants to receive and have collected the assessments or assessments embraced in any such registered warrants 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 2nd day of September, 1992, 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 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 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 Warrants of said Local Improvement District No. 27 for the purpose of causing certain streets and parts thereof within the corporate limits of said City to be graded, regraded, graveled, paved, re-paved and otherwise improve certain streets within the District and to construct and reconstruct sidewalks, curbs, gutters, driveways, drainage facilities, off-site storm sewer, and other works incidental to all of the foregoing improvements along said streets within said District and to create a LID 27 Warrant Reserve Fund of \$12,954.42, in the aggregate principal amount of \$145,000.00 consisting of registered warrants numbered consecutively from 1 to 11, both inclusive, which registered warrants shall be dated the 2nd day of September, 1992, and shall be in denominations hereinafter set forth, provided however, that Registered Warrant 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 October 22, each year, said interest to be evidenced by said registered warrant. If, upon presentation at maturity, payment of any registered warrant is not made as herein provided, interest thereon shall continue at the same rate until the principal thereof is paid in full. Said registered warrants 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 registered warrants 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 22nd day of October in each of the years indicated as follows:

YEAR	WARRANT NO.	REGISTERED AMOUNT	COUPON RATE
1993	1	\$ 14,500.00	5.5%
1994	2	14,500.00	5.5%
1995	3	14,500.00	5.5%
1996	4	14,500.00	5.5%
1997	5	14,500.00	5.5%
1998	6	14,500.00	5.5%
1999	7	14,500.00	5.5%
2000	8	14,500.00	5.5%
2001	9	6,500.00	5.5%
2001	10	8,000.00	5.5%
2002	11	14,500.00	5.5%

Said registered warrants 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 registered warrants shall be signed by the Mayor, the City Clerk and the City Treasurer of the City of Rexburg, and each registered warrant shall have affixed thereto the corporate seal of said City.

The Holder of any registered warrant issued under the authority of the Local Improvement District Code, shall have no claim therefor 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 LID 27 Reserve Fund, 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 registered warrants as herein provided. The Owners and holders of such registered warrants shall be entitled to complete enforcement of all assessments made for the payment of such registered warrants. 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 back of each registered warrant so issued.

Each registered warrant 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. 27 of the City of Rexburg, Idaho.

Maturing registered warrants shall be paid from the Registered Warrant Fund and the interest on the registered warrants, when due, shall be paid from the Interest Fund. If there is sufficient money in the Registered Warrant Fund to pay the principal of one or more registered warrants, the Treasurer may call in and pay such registered warrants as of the next interest payment

date, at the price of par and accrued interest. The registered warrants to be called shall be selected by lot and shall, insofar as can be done taking into consideration the denominations of the outstanding registered warrants, represent an equal amount of registered warrants 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 purchaser or purchasers of the registered warrants. Such notice shall specify the number or numbers of the registered warrants 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 registered warrant 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 hereinbefore provided, the registered warrant or registered warrants so called for redemption shall become due and payable on the redemption date so designated and upon presentation thereof at said office, together with interest maturing subsequent to the redemption date, and the City of Rexburg will pay the registered warrant or registered warrants so called for redemption.

That said registered warrants shall be in substantially the following form:
(Form copied)

If there is sufficient money in the Registered Warrant Fund of Local Improvement District No. 27 of the City of Rexburg, Idaho, to pay the principal of one or more registered warrants of this series, the Treasurer of the City of Rexburg, Idaho, may call in and pay such registered warrants as of the next interest payment date at the price of par and accrued interest. The registered warrants to be called shall be selected by lot and shall, in the event less than all of the outstanding registered warrants are to be redeemed, insofar as can be done taking into consideration the denominations of the outstanding registered warrants, represent an equal amount of bonds from each maturity outstanding at the time of the redemption.

This registered warrant 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. 27 of the City of Rexburg, Idaho, for the purpose of causing certain streets and parts thereof within the corporate limits of said City to be graded, re-graded, graveled, paved, re-paved and otherwise improve said streets within the District and to construct and reconstruct sidewalks, curbs, gutters, driveways, drainage facilities, off-site storm sewer, and other works incidental to all of the foregoing improvements along certain streets 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 "Registered Warrant Fund of Local Improvement District No 27 of the City of Rexburg, Idaho," pledged solely for the payment of the principal of the registered warrants 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 registered warrant.

The principal of this registered warrant and the interest thereon, is payable solely from the principal of or interest on unpaid assessments levied in Local Improvement District No. 27 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 registered warrants 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 registered warrant 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 therefor 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."

This warrant is subject to all of the provisions of the Idaho Local Improvement District Code relating to local improvement district bonds so far as the same may be applicable including, but not limited to, Sections 50-1762 to 50-1769, Idaho Code.

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. 27 for the streets for Rexburg, Idaho, upon which such assessment or assessments were made and levied from and after the date upon which the ordinance levying such assessment 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.

(Certificate Form)

CERTIFICATE OF REGISTRATION

STATE OF IDAHO)

)ss

County of Madison,)

I, the undersigned, City Clerk of the City of Rexburg, in the County of Madison, State of Idaho, do hereby certify that the within registered warrant 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 registered warrant 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.

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. 27 of the City of Rexburg, Idaho, shall be redeemed and retired from the proceeds of the sale of said warrants.

SECTION X: That any holder of any one or more of said registered warrants 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 the LID 27 Reserve Fund, 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 registered warrants and the execution of such certificates as may reasonably be required by the purchasers thereof, relating, inter alia, to the signing of the registered warrants, 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

registered warrants, 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 registered warrants are issued, this ordinance shall be and remain irrevocable until said registered warrants 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 percentum (75%) of the registered warrants 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 registered warrant authorized by this ordinance; or
- B. A reduction in the principal amount of any registered warrant 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 registered warrants 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 on this 21st day of October, 1992.

Nile L. Boyle, 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 REGISTERED WARRANTS FOR LOCAL IMPROVEMENT DISTRICT NO. 27, FOR THE PURPOSE OF CAUSING CERTAIN STREETS AND PARTS THEREOF WITHIN THE CORPORATE LIMITS OF SAID CITY TO BE GRADED, RE-GRADED, GRAVELED, PAVED, RE-PAVED AND OTHERWISE IMPROVE CERTAIN STREETS WITHIN THE DISTRICT AND TO CONSTRUCT AND RECONSTRUCT SIDEWALKS, CURBS, GUTTERS, DRIVEWAYS, DRAINAGE FACILITIES, OFF-SITE STORM SEWER, AND OTHER WORKS INCIDENTAL TO ALL OF THE FOREGOING IMPROVEMENTS WITHIN SAID DISTRICT, AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN EFFECT.

PASSED BY THE CITY COUNCIL OF SAID CITY AND APPROVED BY THE MAYOR on the 21st day of October, 1992.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City this 21st day of October, 1992.

Rose Bagley, City Clerk

(SEAL)