



ORDINANCE NO. 258

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE, EXECUTION, SALE, AND DELIVERY OF SPECIAL ASSESSMENT SEWERAGE IMPROVEMENT BONDS, IN THE AGGREGATE PRINCIPAL SUM OF \$116,050.34 TO PROVIDE FUNDS FOR THE CONSTRUCTION OF THE IMPROVEMENTS IN AND FOR LOCAL SEWERAGE IMPROVEMENT DISTRICT NO. 1, IN THE CITY OF REXBURG, MADISON COUNTY, IDAHO; PROVIDING FOR THE FORM AND DATE OF SAID BONDS, AND THE TIME OF PAYMENT THEREOF; PROVIDING FOR THE COLLECTION OF SPECIAL ASSESSMENTS FOR SAID IMPROVEMENTS HERETOFORE LEVIED AND ASSESSED UPON THE PROPERTY IN SAID LOCAL IMPROVEMENT DISTRICT SUFFICIENT TO PAY THE INACCRUING UPON SAID BONDS PROMPTLY WHEN AND AS THE SAME FALLS DUE, AND ALSO TO DISCHARGE THE PRINCIPAL THEREOF AT MATURITY; REPEALING ALL ORDINANCES, OR PARTS HEREOF, IN CONFLICT HERewith, AND DECLARING AN EMERGENCY.

WHEREAS, Heretofore and on the 15th day of July, A.D. 1920, Ordinance No. 253 of said city was passed and approved, said ordinance confirming the assessment roll for Local Sewerage Improvement District No. 1 in said city; and

WHEREAS, Thereafter in form, time, and manner, as required by law, notice of the time within which the assessments names in said assessment roll might be paid in cash without penalty, interest, or costs, was given by the city treasurer on account of said assessments, and on this date there remains outstanding and unpaid assessments in the total sum of \$116,050.34.

WHEREAS, It has been and is hereby ascertained and determined by this council that it is not only advisable and to the best interest of the said city, but also necessary that special assessment sewerage improvement bonds in the aggregate principal sum of \$116,050.34 bearing interest at the rate of six per centum (6%) per annum, payable semi-annually, be issued and sold to provide funds for the payment of the costs and expenses of the improvements in said Local Sewerage Improvement District No. 1, and that the proceeds be paid to the contractor for such improvements; and

WHEREAS, The special assessment sewerage improvement bonds hereinabove and hereinafter mentioned by this council have been duly awarded and sold to Drake-Ballard Company, with offices at Minneapolis, Minnesota, who were and are the highest and best bidders therefor, at a price exceeding the par value of said bonds; and

WHEREAS, Each and all of the proceedings had in creating Local Sewerage Improvement District No. 1, and in making of the assessment for the cost of the construction of the improvements therein, have been and are regular and in due form of law, according to the statutes of the state of Idaho;

NOW THEREFORE, In consideration of the premises,

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF REXBURG, MADISON COUNTY, IDAHO:

SECTION I: That it be and is hereby ascertained, determined, and declared that each and all of the proceedings had and taken in the making of the assessment for the cost of the creation and organization of Local Sewerage Improvement District No. 1, and the construction of improvements

therein, have been and are in all respects regular and in due form of law, according to the constitution and statutes of the state of Idaho, and the ordinances of said city; and that the assessment of the property in said Local Sewerage Improvement District No. 1, and the amount thereof, as shown by the assessment roll, confirmed and approved by Ordinance No 253 and filed with the city clerk on the 11th day of June, A.D. 1920, is correct and in accordance with the constitution and statutes of said state and the Ordinance of said city, and is the amount of the total cost of said improvement; and that the amount of said assessment so assessed upon any land, lots, pieces, or parcels of land within said Local Improvement district, and subject to assessment for the cost and expense thereof, shall be and is hereby declared a lien upon said land, lots, pieces, or parcels of land, and shall and does take precedence of all other liens and shall be collected together with interest on unpaid installments at the rate of six per centum (6%) per annum, and may be foreclosed in accordance with the provisions of the statutes and ordinances in such case made and provided.

SECTION II: That for the purpose of providing funds for the payment of the costs and expenses of said improvements in and for said Local Sewerage Improvement District No. 1, there shall be and there are hereby, authorized, ordered, and directed to be issued, sold and delivered in the name of said city, to Drake-Ballard Company, of Minneapolis, Minn., negotiable coupons bonds in the aggregate principal sum of \$116,050.34, which bonds shall be known as and designated "Special Assessment Sewerage Improvement Bonds;" shall be One Hundred seventeen in number, numbered consecutively from 1 to 117, both inclusive, of the denomination of \$1,000 each; shall bear date of August 1, A.D. 1920, shall be absolutely due and payable August 1, A.D. 1930, but shall be redeemable on an interest payment date prior thereto, as provided by law and in this ordinance. Said Bonds shall bear interest from their date until paid at the rate of six per centum (6%) per annum, payable semi-annually on the first days of February and August, respectively, in each year which installments of interest to date of maturity of principal shall be evidenced by appropriate coupons attached to each bond; and both principal of and interest on said bonds shall be payable in gold coin of the United States of America, out of "Local Sewerage Improvement District No. 1 – Bond Interest, and Sinking Fund," at the office of the City Treasurer in Rexburg, Idaho, or at the National Bank of Commerce, in the city and state of New York, U.S.A., at the option of the holder.

SECTION III: That each of said bonds and each of the interest coupons to be there to attached shall be in substantially the following forms, respectively, to-wit:

(Form of Bond)

UNITED STATE OF AMERICA
STATE OF IDAHO COUNTY OF MADISON
CITY OF REXBURG
Special Assessment Sewerage Improvement Bond

District No. 1

KNOW ALL MEN BY THESE PRESENTS, That the city of Rexburg of Madison County, Idaho, acknowledges itself to owe and for value received hereby promises to pay to the bearer hereof the principal sum of One Thousand Dollars on or before August 1, 1930, together with interest on said sum from the date hereof until paid at the rate of six (6) per centum per annum, payable semi-annually on the first days of February and August, respectively, in each year, as evidenced by and upon the presentation and surrender of the interest coupons hereto attached as they severally become due; and both the said interest on and principal of this bond are hereby made payable in gold coin of the United States of America of, or equal to, the present standard of weight and fineness at the office of the City Treasurer in Rexburg, Idaho, or at the National Bank of Commerce in the city and state of New York, U.S.A., at the option of the holder, out of the local Improvement Fund heretofore created for the payment of the costs and expenses of the improvement in Local Sewerage Improvement District No. 1, in said city, and not otherwise.

This bond is issued by said city for the purpose of providing funds for the payment of the costs and expenses of constructing sewers in and for said Local Sewerage Improvement District No. 1, pursuant to, under by virtue of and in all respects in full and strict compliance with the

constitution and Chapter 80, Section Laws of Idaho of 1911, being and act entitled: "An Act amending Section 2353 of the political codes of Idaho, relating to assessment and bond issue for sewerage improvements; and declaring an emergency", and all laws of said state supplementary thereto and amendatory thereof.

And it is hereby certified, recited and warranted that said city is now and for some years past been a city of said state, and a body politic and corporate, duly organized, existing and operating under and by virtue of the constitution and laws of the state of Idaho, and is now and always has been under the control of a duly organized Mayor and city council as the duly constituted corporate authority thereof; that all things, acts and conditions required by the constitution and laws of the state of Idaho and the ordinances of said city, to exist and to happen and be done and performed, precedent to and in the creation of the said Local Sewerage Improvement District No. 1 and the construction of sewers therein and therefor, and the issuance of this bond in order to constitute the said bond the valid and binding obligation of said city, and payable as aforesaid, do exist and have happened and been done and performed in regular and due form and time; that the total costs and expenses of said improvement have been duly levied and assessed as special assessments for sewerage improvements upon all of the lands, lots and pieces and parcels of land in said local Sewerage Improvement District No. 1, separately and in addition to all other taxes, and said special assessments are a lien upon said lands, lots and pieces and parcels of land, and take precedence of all other lien; that due provision has been made for, and said city hereby guarantees the collection of said special assessments sufficient to pay the interest accruing hereon promptly when and as the same falls due and also to discharge the principal hereof at maturity.

In conformity with subdivision 15, chapter 80 of said session laws of 1911, it is hereby recited that "The holder of any bond issued under the authority of this chapter, shall have no claim there-for against the city, town or village by which the same is issued in any event, except for the collection of the special assessment made for the work of improvement for which said bond was issued, but this remedy in case of non-payment shall be confined to the enforcement of such assessment.

"A copy of this subdivision shall be plainly written, printed or engraved upon the face of each bond so issued."

This bond is redeemable by said city on any interest payment date, upon call of the Treasurer of said city made prior thereto by publication for thirty(30) days in the official newspaper following the delinquency of any installment of the assessment.

IN TESTIMONY WHEREOF, The city of Rexburg, of Madison County, Idaho, by its city council has caused this bond to be signed by the mayor of said city and attested by the clerk thereof, countersigned by the City Treasurer, sealed with the corporate seal of said city and recorded by said clerk; and each of the twenty (20) interest coupons hereto attached to be signed by the engraved facsimile signatures of said mayor, treasurer and clerk, the 1st day of August, A.D. 1920.

JOHN L. BALLIF, JR.

Mayor

ATTEST: RAY D. GARNER
City Clerk

COUNTERSIGNED: _____
City Treasurer

(Form of Coupon)

Coupon No. _____

\$ _____

On the first day of February/August, A.D. 19_____

The City of Rexburg, of Madison County, Idaho, for value received, promises to pay to the bearer hereof the sum of Thirty dollars in gold coin of the United States of America of, or equal to, the present standard of weight and fineness, at the office of the city treasurer in Rexburg, Idaho, or at the National Bank of Commerce, in the city and state of New York, U.S.A., at the option of the holder, being six months' interest then due on its Special Assessment Sewerage Improvement Bond, District o. 1, dated August 1, A.D. 1920,

No. _____

(Fac-Simile signature)
Mayor

ATTEST: _____
(Fac-Simile signature)
City Clerk

COUNTERSIGNED: _____
(Fac-simile signature)
City Treasurer

SECTION IV: That each of the bonds hereby authorized shall be signed by the mayor, countersigned by the city treasurer, attested by the clerk, and sealed with the corporate seal, respectively, of said city, which seal shall be impressed thereon, and recorded by said clerk; that each of the interest coupons to be attached to each of said bonds shall be signed by the engraved facsimile signatures of said mayor, clerk, and treasurer; that the officers of said city in this section mentioned are hereby authorized, ordered, and directed to cause said bonds and coupons to be prepared substantially in the forms respectively, hereinabove set forth, and to execute the same for and on behalf of said city and in the manner aforesaid; and that the city treasurer cause the said bonds to be delivered without undue or necessary delay to said Drake-Ballard Company, of Minneapolis, Minn., the lawful purchaser of the same, upon payment being made to said treasurer of the agreed purchase price therefor; that said treasurer shall hold the proceeds of the sale of said bonds in a separate fund subject to the order of he said city council, to be used exclusively for the purpose of paying the cost of said improvements, but the purchaser of said bonds or any subsequent holder, shall be in no wise responsible for the application of the proceeds of the sale of said bonds by the said treasurer, council, or any other officers of said city; and said bonds, or any part thereof, which have been delivered to said purchaser, shall thereafter be incontestable and their legality shall not be open to contest by any person or persons, corporation or corporations, or by the said city, for any reason or reasons whatsoever.

SECTION V: That in all cases where any assessment or any installment thereof, or interest thereon, as provided in and said assessment roll for said Local Sewerage Improvement District No. 1, and in said Ordinance No. 253, confirming and approving said assessment roll, becomes due, the same shall be paid to the city treasurer whose duty it is to collect such assessment, and all sums so paid shall be place in the fund known as "Local Sewerage Improvement District No. 1 – Bond, Interest, and Sinking Fund" and shall be applied solely to the payment of the costs and expenses of said improvements and the redemption of the said bonds issued therefore.

SECTION VI: That on the 15th days of January and July in the year 1921, and on the 15th days of January and July, respectively, each year thereafter so long as any of the interest coupons appertaining to the bonds hereby authorized to be issued remain outstanding and unpaid, the city treasurer shall be, and he is hereby, authorized, ordered, and directed to remit, by and through the aforesaid purchaser of said bonds, out of the moneys in said "Local Sewerage Improvement District No. 1 – Bond, Interest and Sinking Fund," in the form of check or draft, payable in New York, U.S.A. to the National Bank of Commerce, in the said city of New York, a sum sufficient to pay the

semi-annual interest accruing on said bonds on the first days of February and August, respectively, in each year, and any and all escrow charges made by said bank for handling said coupons; and on the 15th day of August, A.D. 1920, the said City Treasurer shall be, and he is hereby, authorized, ordered, and directed so to remit to said National Bank of Commerce, in the said city of New York, a sum sufficient to pay the principal amount of said bonds outstanding and becoming due on the 1st day of December next thereafter, together with all interest accrued thereon, and any and all escrow charges made by said bank for handling the same.

SECTION VII: That the sale and award of the said special assessment sewerage improvement bonds, hereinbefore mentioned, heretofore made by the mayor and council of said city upon the best terms at the lowest rate of interest at which said bonds can be sold, namely: at six per centum (6%) interest per annum, to Drake-Ballard Company with offices in Minneapolis, Minn., the highest and best bidder therefore, be and the same is, hereby ratified, approved and confirmed.

SECTION VIII: That the mayor and council, and the clerk and treasurer, respectively, of said city, all, any or either of them, are hereby authorized, ordered, and directed to furnish the aforesaid purchaser of said bonds with such certificates, transcripts, or other documents as will fully evidence the proceedings had preliminary to the issuance of said bonds, the regularity and sufficiency thereof, and the acts of any one or all of said officers are hereby authorized, ratified, approved, and confirmed.

SECTION IX: That it is hereby made the duty of the city treasurer, before the redemption of any of the bonds in this ordinance authorized, to mail written notice to the said Drake-Ballard Company, stating the bonds to be redeemed and the date on which said redemption will be made. The said notice shall be so mailed at least thirty days prior to the date of such redemption.

SECTION X: That it be and is hereby certified, recited, and warranted that all conditions, acts, and things necessary and essential to the validity of the bonds hereinbefore mentioned and required by law to be done, have been fully done and performed.

SECTION XI: That the provisions of this ordinance and each of the bonds and each of the interest coupons issued pursuant thereto, shall constitute, and the same are hereby declared to be, a binding and irrevocable contract between said city and the purchaser of said bonds and the holder from time to time of each of said bonds and the interest coupons thereto appertaining.

SECTION XII: That all resolutions, ordinances, or orders, or parts thereof, in conflict with the provisions hereof, be and the same are hereby, repealed, rescinded, and annulled.

SECTION XIII: That this ordinance shall be forever irrepealable until the indebtedness hereby created, both as to principal and interest, shall have been fully paid, satisfied, and discharged, as provided by the constitution and statutes of the state of Idaho.

SECTION XIV: That this ordinance being for the purpose of providing funds for the immediate payment of the costs and expenses of improvement in said Local Sewerage Improvement District No. 1, the same shall therefore be in full force and effect from and after its passage, approval, and due publication, according to law.

PASSED AND APPROVED THIS 8TH DAY OF SEPTEMBER, A.D. 1920

(SEAL)

JOHN L. BALLID, JR.
Mayor

ATTEST: _____
RAY D. GARNER
City Clerk