



ORDINANCE NO. 373

AN ORDINANCE CREATING A LOCAL IMPROVEMENT GUARANTEE FUND TO BE USED TO GUARANTEE BONDS AND WARRANTS OF LOCAL IMPORVEMENT DISTRICT, PROVIDING MONEY FOR SUCH FUND AND LIMITING THE AMOUNT OF SUCH FUND, DEFINING THE RIGHTS OF BONDS HOLDERS AND WARRANT HOLDERS, PROVIDING THAT THE CITY OF REXBURG BE SUBROGATED TO THE RIGHTS OF WARRANT HOLDERS AND BOND HOLDERS, AUTHORIZING THE CITY TO PURCHASE PROPERTY AT TAX SALES AND TAKE OTHER STEPS TO REPLENISH SUCH FUNDS, PROVIDING THE MANNER OF ISSUING WARRANTS AGAINST SUCH FUND, REPEALING ORDINANCES OR PARTS THEREOF IN CONSLICT HEREWITH, AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN EFFECT.

WHEREAS, the City Council of the City of Rexburg, Idaho, has heretofore created “Local Lateral Sewerage Improvement District No. 4 for Rexburg, Idaho,” for the purpose of constructing and installing Sanitary Sewer Laterals, complete with manholes, wherever necessitated by reason of the construction and installation of said Sanitary Sewer Laterals, and

WHEREAS, it may create other local improvement districts for Rexburg, Idaho, in the future in accordance with the laws of the State of Idaho;

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

SECTION I: That there be and hereby is created in the City of Rexburg, County of Madison and State of Idaho, a special fund known and designated as “Local Improvement Guarantee Fund” of said City of Rexburg.

SECTION II: That said fund is created for the purpose of guaranteeing to the extent of said fund the payment of bonds and warrants, and interest thereon, hereafter issued against any local improvement district in said City for the payment of local improvements therein.

SECTION III: That in order to provide money for said fund and for the use and the purposes of said fund the City of Rexburg shall levy an annual tax of one mill per year, beginning with the year 1951, which is due and collectible in the year 1951, on all of the taxable property in said City of Rexburg; provided, however, that said City may reduce the amount of said levy if said City appropriates from other proper sources as may be determined by the said City a sum approximately equal in amount to the sum which it is estimated will be not collected but would have been collected except for said reduction of the levy; and provided, further, that the total sum so levied and/or appropriated in any year shall not be more than sufficient to pay the outstanding warrants on said fund and to establish therein a balance, which combined levy and appropriations in any one year shall not exceed 5 per centum of the outstanding obligations thereby guaranteed; and provided, further, that the City shall not levy any tax as here in provided when the amount of moneys in the “Local Improvement Guarantee Fund” equals 10 per centum of the total outstanding obligations to be guaranteed. The tax levies herein authorized and directed shall be additional to and in need be in excess of any and all statutory and charter limitations.

SECTION V: That hereafter when any bond, warrant or coupon drawn against any local improvement fund is presented to said City of Rexburg for payment and there is not sufficient amount in said local improvement fund against which to draw to pay the same, unless otherwise requested by the holder, payment therefore shall be made by warrant drawn against the “Local Improvement Guarantee Fund” herein provided. The City shall not be liable to any holder or owner of said bond or warrant for any loss to any guarantee fund occurring in the lawful operation thereof by the City.

SECTION V: That whenever there shall be paid out of the “Local Improvement Guarantee fund” any sum on account of principal or interest of a local improvement bond or warrant, the City, as Trustee for the fund, shall be subrogated to all of the rights of the holders or owners of the bonds for interest coupons or warrants so paid, and the policies thereof, or the assessment underlying the same, shall become part of the guarantee fund. There shall be paid into the guarantee fund any surplus remaining in any local improvement fund after the payment of all outstanding bonds or warrants, payable out of such local improvement fund. Bonds or warrants guaranteed by such fund shall have no preference except in the order or presentation for payment.

SECTION VI: That hereafter all moneys derived from the assignment of delinquent certificates, redemptions, sale of property under foreclosure for delinquent local improvement assessments or from the rent or sale of property, title to which has been obtained by the City pursuant to Chapter 29, Title 50, Idaho Code, and the terms of this ordinance, and all other laws amendatory thereof and supplemental thereto, shall be paid into the “Local Improvement Guarantee Fund,” and all delinquency certificates issued and such property acquired shall be held by the City for the benefit of such Guarantee Fund. Money from the Guarantee Fund may be used to redeem property subject to local improvement assessments from general tax delinquencies, underlying bonds or warrants guaranteed by the fund, or the purchase such property at county tax sales, or otherwise, from the county for the purpose of protecting the Guarantee Fund. After so acquiring title to real property, the City may lease or sell and convey the same for such price and on such terms as may be determined by the Mayor and Council, and any provision of law, charter or ordinance to the contrary notwithstanding, and all proceeds resulting therefrom shall belong to and be paid into the Guarantee Fund; provided, however, that in any event the City purchases such property at tax sale, or otherwise, it shall not be sold for a lesser sum than the City paid therefor.

SECTION VII: That whenever there is not sufficient cash in said “Local Improvement Guarantee Fund” at any time to pay any and all warrants, together with interest thereon, drawn against said fund, the City Council may replenish said “Local Improvement Guarantee Fund” by transferring or appropriating to it, moneys from the general fund of the City or other available sources, as may be determined by said Council, subject, however, to the limitations herein prescribed. Warrants drawing interest as herein provided may be issued against said “Local Improvement Guarantee Fund” to meet any financial liability against it; but at the time of making its next annual tax levy, the City shall provide for the levy of a sum sufficient with other resources for the Guarantee Fund to pay warrants so issued and outstanding, the tax for this purpose not to exceed one mill in any one year.

SECTION VIII: That the holder or owners of any local improvement bond or warrant shall have no claim thereon 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 and to the extent of its prop rata share of the “Local Improvement Guarantee Fund” authorized and issued under the provisions of this ordinance.

SECTION IX: That at such time, and not before, when all warrants and bonds and coupons of all existing local improvement districts for Rexburg shall have been paid in full, the amounts and all property rights in said “Local Improvement Guarantee Fund” shall revert to the general fund of the City of Rexburg, Idaho, and said “Local Improvement Fund” shall terminate and become non-existent at said time.

SECTION X: That all ordinances or parts thereof in conflict with this ordinance are hereby repealed. After the bonds or warrants of any local improvement district for Rexburg, Idaho, have been hereafter issued, this ordinance shall constitute a contract by the said Local Lateral Sewerage Improvement District for Rexburg and the holder or holders of said bonds or warrants and shall be and remain irrevocable until said bonds or warrants and the interest accruing thereon shall have been full paid, satisfied and discharged.

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

