



ORDINANCE NO. 551

AN ORDINANCE RELATING TO THE JOINT WATER AND SEWER SYSTEM OF THE CITY OF REXBURG, IDAHO: AUTHORIZING THE ISSUANCE OF JOINT WATER AND SEWER REVENUE BONDS, SERIES JANUARY I, 1974, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$500,000.00 IN ANTICIPATION OF THE COLLECTION OF REVENUES OF SUCH SYSTEM: PRESCRIBING THE FORM OF SAID BONDS: PROVIDING FOR THE COLLECTION AND DISPOSITION OF THE REVENUES DERIVED FROM SAID SYSTEM: RATIFYING ACTION HERETOFORE TAKEN: PROVIDING OTHER DETAILS IN CONNECTION WITH SAID BONDS AND SAID SYSTEM: AND PROVIDING AN EFFECTIVE DATE OF THE ORDINANCE.

WHEREAS, the City of Rexburg (herein "City!!) in the County of Madison and State of Idaho, is a municipal corporation duly organized and existing as a City under the general laws of the State of Idaho; and

WHEREAS, the City now owns and operates and does hereby determine that it shall continue to operate a joint water and sewer system (herein "System"); and

WHEREAS, the City Council (herein "Council") has determined and does hereby Determine that the interest of the community and the public interest and necessity require the immediate improvement, betterment, alteration, enlargement and extension of the City's water system by the construction, purchase and other acquisition of wells, reservoirs, storage facilities, pumping stations, transmission and interconnecting pipelines, mains, conduits and aqueducts; and all appurtenances and machinery necessary, useful or convenient, for obtaining, storing, treating, purifying or transporting water to domestic uses or purposes (herein the "Project"); and

WHEREAS, for the purpose of defraying in part the cost of the project, the Council further deems it necessary to publicly advertise and issue its joint water and sewer revenue bonds in the principal amount of \$500,000.00, payable solely from the revenues of said joint water and sewer system as so constructed pursuant to the Revenue Bond (herein "Act") cited as Sections 50-1027 through 50-1042, Idaho Code, and all laws thereunto enabling; and

WHEREAS pursuant to Ordinance No. 432 duly introduced, passed and signed as of the 2nd day of January, introduced, passed and signed as of the 2nd day of January, 1963, is supplemented by Ordinances No. 433, and 434 and a resolution of the City Council, all duly introduced, passer and signed on the 6th day of March, 1963 and as supplemented by Ordinance No. 437, duly introduced, passed and signed on the 5th day of June, 1963, the City has heretofore issued its negotiable, coupon, revenue bonds designated as the "City of Rexburg Joint Water and Sewer Revenue Bonds, Series January 1;1963" (herein the "1963 bonds"), in the principal amount of \$330,000.00, bearing date as of January 1, 1963, consisting of 330 bonds in the denomination of \$1,000.00 each, numbered consecutively from 1 through 330, bearing interest until maturity at a rate or rates not exceeding six per centum (6%) per annum, evidenced by one set of interest coupons attached to the 1963 bonds, payable semiannually, commencing on the first day of July, 1963, and thereafter on the first days of January and July in each year,' and being numbered and maturing serially in regular numerical order and being payable on the first day of January in each of the designated years and amounts, as follows:

<u>BOND NUMBERS</u> <u>(ALL INCLUSIVE)</u>	<u>YEARS</u> <u>MATURING</u>	<u>AMOUNTS</u> <u>MATURING</u>
1-5	1964	\$5,000.00
6-12	1965	7,000.00
13-20	1966	8,000.00
21-29	1967	9,000.00
30-39	1968	10,000.00

40-50	1969	11,000.00
51-62	1970	12,000.00
63-76	1971	14,000.00
77-91	1972	15,000.00
92-107	1973	16,000.00
108-124	1974	17,000.00
125-142	1975	18,000.00
143-161	1976	19,000.00
162-181	1977	20,000.00
182-202	1978	21,000.00
203-225	1979	23,000.00
226-250	1980	25,000.00
251-275	1981	25,000.00
276-302	1982	27,000.00
303-330	1983	28,000.00

both principal of, any prior redemption premiums due in connection with, and the interest on said bonds being payable in lawful money of the United States of American, without deduction for exchange or collection charges, at the Rexburg Branch of the First Security Bank of Idaho, in Rexburg, Idaho, from the net revenues derived from the operation of the City's joint water and sewer system, of which there are outstanding and unpaid, after the first day of January, 1974, the 1963 bonds numbered 125 through 330, in the aggregate principal amount of \$206,000.00; and

WHEREAS, except as provided in the ordinance authorizing the issuance of the 1963 bonds, the City has never pledged the revenues derived from the operation of the joint water and sewer system for the redemption of revenue bonds payable from such revenues, or otherwise, with the result that the net revenues to be derived from the operation of the system may be pledged lawfully and irrevocably to secure the repayment of said revenue bonds authorized pursuant to the Revenue Bond Act; and

WHEREAS, said revenue bonds shall not be a debt of the City and it shall not be liable thereon, nor shall said bonds be payable out of any funds other than the revenue from said system pledged to the payment thereof; and

WHEREAS, at a special bond election duly held on the 6th day of November, 1973, there was submitted to the qualified electors of the City the following question:

JOINT WATER AND SEWER REVENUE BOND QUESTION SUBMITTED:

Shall the City of Rexburg, Idaho, be authorized to issue and sell its joint water and sewer revenue bonds in the aggregate principal amount of \$500,000, or so much thereof as may be necessary, for the purpose of defraying in part the cost of acquiring, constructing improving, bettering and extending such joint system by the construction, purchase, extension and equipment of wells, reservoirs, storage facilities, pumping stations, transmission and interconnecting pipelines, mains, conduits and aqueducts; and all appurtenances and machinery necessary, useful or convenient, for obtaining, storing, treating, purifying or transporting water for domestic uses or purposes, such bonds to mature serially commencing two years and ending thirty years from the date of the bonds and to bear interest at a rate or rates not to exceed 7% per annum, as more fully provided in Ordinance No. 541, passed and signed on the 28th day of September, 1973, the principal of and the interest on the bonds to be payable solely from the net revenues to be derived from the operation of the City's joint water and sewer system; and

WHEREAS, said question was approved by at least a majority of the qualified electors of the City voting at said election, and the results are hereby so declared; and

WHEREAS, the city of Rexburg has complied with all prerequisites established by Section 21 of Ordinance No. 542 for the issuance of additional bonds with a lien on the net revenues of the system on a parity with the lien enjoyed by the 1963 bonds, including, but not limited to, a written certification of a certified public account, employed by the City, that the annual earnings of the system for the fiscal year preceding the date of issuance of the bonds herein authorized, when adjusted as provided in said Section 21 of Ordinance No. 432, are sufficient to pay the amounts required by Ordinance No. 432; and

WHEREAS, pursuant to a resolution duly passed and adopted by the Council on the 17th day of April, 1974, the City's negotiable, coupon, Joint Water and Sewer Revenue Bonds, Series January 1, 1974, in the aggregate principal amount of \$500,000.00 were publicly offered for sale pursuant to the laws of the State; and

WHEREAS, pursuant to said notice, sealed bids for the purchase of the 1974 revenue bonds were received and publicly opened on the 15th day of May, 1974, at the hour of 7:30 P.M.; and

WHEREAS, at the meeting of the Council held on the 15th day of May, 1974, commencing at the hour of 7:30 p.m., the bonds were sold at a price equal to their principal amount, accrued interest to the date of their delivery, and a premium of none, at the rates hereinafter designated, to Foster and Marshall, Seattle, Washington (herein the Purchaser"), constituting the bidder making the best bid for the bonds; and

WHEREAS, the City Council, including the Mayor, has determined and does hereby determine that it is necessary and for the best interest of the City and the inhabitants hereof that the 1974 revenue bonds be so issued.

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

SECTION I: Short Title. This ordinance may be designated by the short title "1974 revenue bond ordinance."

SECTION II: Definitions. The terms defined in this section, except where the context requires otherwise, shall have the following meanings:

(1) "Bond Fund" means the "City of Rexburg, Idaho, Joint Water and Sewer Revenue Bonds, Series January 1, 1975, Bond Fund."

(2) (a) "Bonds" or "1974 Revenue Bonds" means the securities herein authorized designated as the "City of Rexburg, Idaho, Joint Water and Sewer Revenue Bonds, Series January I, 1974."

(b) "1963 Bonds" or "1963 Revenue Bonds" means the securities authorized by Ordinance No. 432 designated as the "City of Rexburg Joint Water and Sewer Revenue Bonds, Series January I, 1963."

(3) "Consulting Engineer" means any qualified registered or licensed professional engineer practicing under the laws of the State of Idaho.

(4) "Gross income," "gross revenues," "Income" or "revenues" means all income and revenue derived by the City from any rates, fees, tolls and charges for the services furnished by, or the use of, the joint water and sewer system as the same may at any time exist to serve customers within or outside the municipal limits, whether resulting from improvements or otherwise.

(5) "Fiscal Year" means the twelve months commencing January 1 of any year and ending December 31 of said year.

(6) "Holder" means a person in possession and the apparent owner of coupons or bonds.

(7) "Independent Accountant" means any certified public accountant practicing under the laws of the State of Idaho who is independent and not an officer or employee of the municipality.

(8) "Insured Bank" means a bank qualified to accept public deposits under state law which is a member of the Federal Deposit Insurance Corporation.

(9) "Net Income" or "Net Revenues" means the gross revenues less the operation and maintenance expenses.

(10) "Operation and Maintenance Expenses" means all reasonable and necessary current expenses of the municipality, paid or accrued, for operating, maintaining and repairing the joint water and sewer system, including legal and overhead expenses of the municipality directly related to the administration of the system, insurance premiums, audits, charges of depository banks and

paying agents, professional services, salaries and administrative expenses, labor and the cost of materials and supplies for current operation, but not including depreciation, legal liability not based on contract, the cost of improvements to the system, or charges for the accumulation of reserves.

(11) "Paying Agent" means the First Security Bank of Idaho, N. A., in Rexburg, Idaho.

(12) "Project" means the water facilities improvement and extension program to be financed in part by the bonds.

(13) "Project Engineer" means the Consulting Engineer hired for the Project.

(14) "Purchaser" means Foster and Marshall.

(15) "Reserve Fund" means the "City of Rexburg, Idaho Joint Water and Sewer Revenue Bonds, Series January I, 1974, Reserve Fund."

(16) "Revenue Bond Act" or Act means Sections 50-1027 through 50-1042, Idaho Code.

(17) "System" means all of the City's joint water and sewer system, and its joint water and sewer system facilities and properties now owned or hereafter acquired, whether situated within or without the City boundaries.

SECTION III: Ratification. All consistent action taken previously by the Council and the municipal officers directed toward the project and toward the issuance of its joint water and sewer revenue bonds for that purpose is ratified, approved and confirmed.

SECTION IV: Authorization of Project. The Project is authorized at a total cost of approximately \$1,351,000.00, and the necessity thereof is hereby declared. The City expects to defray part of the cost by the issuance of the joint water and sewer revenue bonds herein authorized in the aggregate principal amount of \$500,000.00 or so much thereof as may be necessary. The City also expects to defray part of the cost of the Project by the issuance of its general obligation water bonds authorized In Ordinance No 550 in the aggregate principal amount of \$500,000.00, or so much thereof as may be necessary. The City expects that the balance of the cost will be defrayed from state and federal grants and from other sources. The Project briefly and generally described shall consist of the improvement, betterment, alteration, enlargement and extension of the City's water system by the construction, purchase and other acquisition of wells, reservoirs, storage facilities, pumping stations, transmission and interconnecting pipelines, mains, conduits and aqueducts; and all appurtenances and machinery necessary, useful or convenient, for obtaining, storing, treating, purifying or transporting water for domestic uses or purposes, all as more particularly described in the engineering water study, plans and specifications which have heretofore been prepared and filed by Forsgren, Perkins and Associates, P. A., Consulting Engineers, Rexburg, Idaho, a qualified firm of consulting engineers chosen for that purpose, which study, plans and specifications are available for inspection in the office of the City Clerk.

SECTION V: Authorization of Bonds. For the purpose of providing funds to pay a portion of the cost of the Project, 1974 Bonds in the principal amount of \$500,000.00 shall be issued in anticipation of the collection of revenues of the system, pursuant to the Revenue Bond act.

SECTION VI: Bond Details. The bonds shall be dated as of delivery, shall consist of 100 bonds in the denomination of \$5,000.00 each, numbered from 1 upwards, shall bear interest from delivery until maturity at the rates hereinafter designated, evidenced by only one set of interest coupons payable to bearer on the first day of July, 1974, and semiannually thereafter on the first days of January and July in each year, and shall mature serially in regular numerical order on January I as follows:

Bond Numbers (All Inclusive)	Interest Rate (Per Annum)	Principal Maturing	Years Maturing
1	7.00 %	\$ 5,000.00	1976
2	7.00 %	5,000.00	1977
3	7.00 %	5,000.00	1978
4	7.00 %	5,000.00	1979
5	7.00 %	5,000.00	1980
6	7.00 %	5,000.00	1981
7	7.00 %	5,000.00	1982
8	7.00 %	5,000.00	1983

9-10	7.00 %	10,000.00	1	984
11-12	7.00 %	10,000.00		1985
13 -15	7.00 %	15,000.00		1986
16 - 18	7.00 %	15,000.00		1987
19 - 21	7.00 %	15,000.00		1988
22 - 24	6.00 %	15,000.00		1989
25 - 27	6.00 %	15,000.00		1990
28 - 30	6.00 %	15,000.00		1991
31 - 34	6.00 %	20,000.00		1992
35 - 38	6.20 %	20,000.00		1993
39 - 42	6.20 %	20,000.00		1994
43- 47	6.20 %	25,000.00		1995
48 - 52	6.20 %	25,000.00		1996
53 - 57	6.25 %	25,000.00		1997
58 - 62	6.25 %	25,000.00		1998
63 - 68	6.30 %	30,000.00		1999
69 - 74	6.30 %	30,000.00		2000
75 - 80	6.30 %	30,000.00		2001
81 - 86	6.40 %	30,000.00		2002
87 - 93	6.40 %	35,000.00		2003
94 -100	6.40 %	35,000.00		2004

Both principal and interest are payable in lawful money of the United States of America, without deduction for exchange or collection charges at the Paying Agent. If upon presentation at maturity payment of any bond is not made, interest shall continue at the coupon rate until the principal is paid in full.

SECTION VII: Prior Redemption. Bonds maturing on and after January 1, 1990, shall be subject to redemption prior to their respective maturities in whole or in part, in inverse numerical order, at the option of the City, on January 1, 1989, or on any interest payment date thereafter for the principal amount thereof, accrued interest to the redemption date, and a premium of 3% of the principal amount redeemed.

SECTION VIII: Redemption Notice. Notice of Prior redemption shall be given by the City Clerk in the name of the City by one publication, not less than 30 days prior to the redemption date, in a newspaper of general circulation to the redemption date, in a newspaper of general circulation in the City. A copy of the notice shall be mailed at least 30 days prior to the redemption date to:

- (A) The original purchase of the bonds for to the managing partner of any purchasing syndicate);
- (B) Burrows, Smith, & Company, Salt Lake City, Utah 84101; and
- (C) First Security Bank of Idaho, N. A., in Rexburg, Idaho, i.e., the Paying Agent bank.

The notice shall identify the bonds to be redeemed, specify the redemption date, and state that on such date the principal amount thereof, accrued interest to the redemption date, and the stipulated premium will become due and payable at the Paying Agent and thereafter interest will cease to accrue. After such notice and presentation of said bonds, together with any coupons maturing, subsequent to the redemption date, the bonds called for redemption will be paid.

SECTION IX: Negotiability. Each bond shall be negotiable and payable to bearer. The bonds and coupons shall have all the qualities of negotiable paper and each Holder shall possess all rights enjoyed by holders of negotiable instruments under the Uniform Commercial Code Investment Securities:

SECTION X: Bond Registration.- Registration of any of the bonds authorized herein as to principal or interest, or both, shall not be permitted.

SECTION XI: Form and Execution. The Mayor, Treasurer and Clerk shall file their manual signatures with the Secretary of State. Each bond shall be signed and executed in the corporate name of the City with the facsimile signature of the Mayor, manually subscribed, and countersigned by the Treasurer, and attested with the facsimile Signature of the Clerk under a facsimile of the official seal of the City. The interest coupons shall be attached to each of such bonds, and shall be numbered from one upwards, consecutively, commencing with that coupon first

maturing and shall bear the facsimile signature of the Treasurer. Said bonds and coupons bearing the signatures of the officers in office at the time of the signing thereof shall be the valid and binding obligations of the City, notwithstanding that before the delivery thereof and payment therefore, any or all of the persons whose signatures appear thereon shall have ceased to fill their respective offices.

SECTION XII: Incontestable Recital. Pursuant to the Revenue Bond act, the bonds herein authorized shall recite that they are issued pursuant to said Act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

SECTION XIII: Special Obligation. Principal and interest of bonds shall be payable solely out of the net income of the system. The net income of the system is pledged for that purpose. The Holders may not look to any general or other fund for the payment of bond principal or interest, except the special funds pledged therefore. The bonds shall not constitute an indebtedness nor a debt within the meaning of any constitutional or statutory provision or limitation and shall not be considered general obligations of the City. The bonds shall constitute the City's special obligations.

SECTION XIV: Form of Bonds and Coupons. The bonds, coupons, registration certificate and form of legal opinion certificate shall be substantially as follows:

(Form of Bond)

UNITED STATES OF AMERICA

STATE OF IDAHO

COUNTY OF MADISON

CITY OF REXBURG
JOINT WATER AND SEWER REVENUE BOND
SERIES JANUARY I, 1974

No. _____

\$5,000.00

Solely from the special funds provided therefore, the City of Rexburg, Madison County, State of Idaho (herein "City"), for value received promises to pay to bearer on the first day of January, the principal sum of

FIVE THOUSAND DOLLARS

and to pay from said special funds interest hereon from the date of delivery until maturity at the rate of

_____ per centum (_____ %)

per annum on July 1, 1974, and semiannually thereafter on the first days of January and July in each year, upon presentation and surrender of interest coupons as the severally become due. This bond is payable in lawful money of the United States of America, without deduction for exchange or collection charges, at the First Security Bank of Idaho, N. A. Rexburg, Idaho. If, upon presentation at maturity, payment of this bond is not made as herein provided, interest shall continue at the coupon rate until the principal is paid in full.

This bond is one of a series of 100 bonds dated as of January 1, 1974 (herein "1974 (herein "1974 revenue bonds")), of like tenor and date, except as to number, prior redemption option and maturity, said series being in the, principal amount of \$500,000.00 and said bonds are authorized for the purpose of providing funds with which to defray in part the cost of improvement, betterment, alteration, enlargement and extension of the City's water system by the construction, purchase and other acquisition of wells, reservoirs, storage facilities, pumping stations, transmission and inter connecting pipelines, mains, conduits and aqueducts; and all appurtenances and machinery necessary, useful or convenient, for obtaining, storing, treating, purifying or transporting water for domestic uses or purposes. The issuance of this bond was authorized by a majority of the qualified electors of City voting at an election held on November 6, 1974.

Bonds of this series maturing on and after January 1, 1990, are subject to prior redemption in whole or in part, in inverse numerical order at the option of the City on January 1, 1989, or on any interest payment date thereafter, for the principal amount thereof, accrued interest to the redemption date, and a premium of 3% of the principal amount so redeemed. Redemption shall be

made upon not less than 30 days' prior notice as provided in the ordinance authorizing the 1974 revenue bonds (the "1974 revenue bond ordinance").

Payment of this bond and interest thereon shall be made solely from, and as security for such payment there are pledged, pursuant to the 1974 revenue bond ordinance, two special funds identified as the "City of Rexburg, Idaho Joint Water and Sewer Revenue Bonds, Series January 1, 1974, Bond Fund," and the "City of Rexburg, Idaho Joint Water and Sewer Revenue Bonds, Series January I, 1974, Reserv8 Fund," into which the City covenants to pay from the revenues of its joint water and sewer system (herein "system"), after provision for all necessary and reasonable operation and maintenance expenses, and all principal, interest and reserve requirements on its "City of Rexburg Joint Water and Sewer Revenue Bonds, Series January I, 1963" ("1963 bonds"), sums sufficient to pay the principal and the interest on the 1974 revenue bonds and to create and maintain a reasonable and specified reserve. For a description of said funds and the nature and extent of the security afforded thereby, reference is made to the 1974 revenue bond ordinance. The 1974 revenue bonds are equitable and ratably secured by and constitute an irrevocable and first lien (but not necessarily an exclusively 'first lien) upon the net revenues of the system, which lien is on a parity with the lien on the net revenues of the system enjoyed by the 1963 bonds. Additional bonds may be issued payable from said net revenues and having a lien thereon inferior and junior to the lien, or, subject to designated conditions, having a lien thereon on a parity with the lien of the 1974 revenue bonds, in accordance with the 1974 revenue bond ordinance.

The City covenants and agrees with the holder hereof that it will keep and perform all the covenants of the 1974 revenue bond ordinance, including its covenant against the sale or mortgage of the system or any part thereof unless provision has been made for the payment of the 1974 revenue bonds and its covenant that it will fix, maintain and collect rates sufficient to pay operation and maintenance expenses and 140% of both the principal of and the interest on the 1974 revenue bonds and any other obligations payable from the revenues of the system (including reserves).

This bond is issued pursuant to the Revenue Bond Act, now cited as Sections 50-1027 through 50-1042, Idaho Code, as amended, and all laws amendatory thereof and supplemental thereto. This recital shall be conclusive evidence of the validity of said bond and the regularity of its issuance.

This bond, including interest thereon, does not constitute a debt of the City within the meaning of any constitutional or statutory limitations, but is payable solely out of special funds and the net revenues of the system pledged to the payment thereof. The holder may not look to any general or other fund for payment.

This bond is subject to the conditions, and every holder by accepting the same agrees with the obligor and every subsequent holder, that (a) the delivery of this bond to any transferee shall vest title to this bond and to the attached interest coupons in such transferee to the same extent for all purposes as would delivery under like circumstances of any negotiable instrument payable to bearer; (b) the obligor and its agents may treat the bearer of this bond as the absolute owner for all purposes and shall not be affected by any notice to the contrary; (c) the principal of the interest on this bond shall be paid, and this bond and its coupons are transferable, free from and without regard to any equities between obligor and the original or any intermediate holder or any setoffs or cross-claims; and (d) the surrender of this bond and of each of the coupons shall be a good discharge to the obligor for the same.

It is further certified, recited, and warranted that all the requirements of law have been fully complied with by the proper municipal officers in the issue of this bond.

IN WITNESS WHEREOF, the City has caused this bond to be signed and executed in its name and on its behalf with the facsimile signature of its Mayor, to be countersigned and manually subscribed by the Treasurer and to be attested with the facsimile signature of its Clerk under a facsimile of the City seal, and has caused the interest coupons appertaining hereto to be executed with the facsimile signature of its Treasurer, all as of January 1, 1974.

(Facsimile Signature)
Mayor

Counter signed:
(Manual Signature)
Treasurer

(FACSIMILE SEAL)

Attest:

(Facsimile Signature)
City Clerk

(Form of Coupon)

Coupon No. _____ \$ _____

January

On July 1, ____, unless prior to the maturity of this coupon the bond to which this coupon is attached, if callable, shall have been previously called for prior redemption, the City of Rexburg, Idaho, will pay to bearer the amount herein designated in lawful money of the United States of America, at the First Security Bank of Idaho, N. A., Rexburg, Idaho, solely from and secured by a pledge of special funds and being interest then due on its City of Rexburg, Idaho Joint Water and Sewer Revenue Bonds, Series January 1, 1974, and bearing Bond no. _____

(Facsimile Signature)

City Treasurer

(Form of Registration Certificate)

I, the undersigned, the duly chosen, qualified and acting City Clerk—Treasurer of the City of Rexburg, in the County of Madison and State of Idaho, do hereby certify that the within bond has been duly registered in permanent public record books kept in my office for said purpose, in full compliance with the Constitution and laws of the State of Idaho, showing the number, date and denomination of the bond, the rate of interest thereon, and the date if maturity and place of payment, the number and denominations of the attached coupons, the names and addresses of the purchasers, and the date and amount of sale.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the City of Rexburg, County of Madison, State of Idaho, as of the first day of January, 1974.

(Facsimile Signature)

City Clerk -- Treasurer

(SEAL)

(Form of Legal Opinion Certificate)

STATE OF IDAHO)
COUNTY OF MADISON
CITY OF REXBURG)

LEGAL OPINION
CERTIFICATE

The undersigned Clerk of the City of Rexburg in the County of Madison and State of Idaho, does hereby certify that the following approving legal opinion of Messrs. Dawson, Nagel, Sherman & Howard, Attorneys at Law, Denver, Colorado, to-wit: (Attorneys' opinion was inserted in sub-margins, including complimentary closing and "/s/ Dawson, Nagel, Sherman & Howard, Attorneys at Law, Denver, Colorado, to-wit:

(Attorneys' opinion was inserted in sub margins, including complimentary Closing and "/s/ Dawson, Nagel, Sherman& Howard.") is a true, perfect and compete copy of a manually executed and dated copy thereof on file in the records of the City in my office; that a manually executed and dated copy of the opinion was forwarded to a representative of the purchasers for retention in its records; and that the opinion was dated and issued as of the date of the delivery of and payment for the bonds of the series of which this bond is one.

IN WITNESS WHEREOF, I have caused to be hereunto set a facsimile of my signature and affixed a facsimile of the seal of the City.

(Facsimile Signature)
City Clerk
Rexburg, Idaho

(FACSIMILE SEAL)

(End of Form of Legal Opinion Certificate)

SECTION XV: Period of Facilities' Usefulness. The facilities to be acquired with bond proceeds will be useful for at least 30 years, i.e., until January 1, 2004.

SECTION XVI: Bond Preparation, Execution and Delivery. The Mayor, Clerk and Treasurer are directed to prepare and execute the bonds. Thereafter, the Treasurer shall deliver them to the Purchaser on receipt of the agreed purchase price.

SECTION XVII: Disposition of Bond Proceeds.

A. Construction Account. Bond proceeds shall be promptly deposited in a separate account in an Insured Bank selected by the Purchaser, which account shall be known as the "City of Rexburg, Idaho Joint Water and Sewer Revenue Bonds, Series January 1, 1974, Construction Account". Amounts in the construction account exceeding the applicable federal deposit insurance coverage shall be secured by the depository bank in advance in accordance with U. S. Treasury rules and regulations governing the deposit of government moneys. Moneys in the account shall be ad solely for the Project and shall be withdrawn only upon warrants or checks draw and signed by the Mayor and the Treasurer. Warrants or checks shall not be issued until the Council has received engineering approval that such sum is due and owing. The City's share of any liquidated damages and other moneys paid by defaulting contract contractor or their sureties shall be deposited in said account to assure completion of the Project. After the engineer has certified that the Project has been completed and all expenses have been paid, such certification shall be filed with the depository bank, and thereupon such bank shall transfer to the "City of Rexburg, Idaho Joint Water and Sewer Revenue Bonds, Series January I, 1974, Reserve Fund" all money, if any, remaining in the Construction Account.

B. Accrued interest and Premium Accrued interest received at the time of delivery of the bonds and any premium shall be deposited in the Bond fund to apply to the payment of interest next due.

C. Purchaser not Responsible. The Purchaser or any Holder shall not be responsible for the application or disposal of funds.

SECTION XVIII: Fiscal Year. For the purpose of this ordinance the system shall be operated upon a fiscal year commencing January 1 in each year and ending on December 31 of said year.

SECTION XIX: Income Fund. A special fund and bank account shall be maintained known as the "City of Rexburg, Idaho Joint Water and Sewer Revenue Bonds, Series January 1, 1974, Gross Income Fund," herein sometimes designated as the "1974 Income Fund." So long as any of the 1974 revenue bonds shall be outstanding all income and revenue derived from the operation of the system shall be deposited into the 1974 Income Fund.

SECTION XX: Administration of Income Fund. The following payments shall be made from the Income Fund.

A. Operation and Maintenance Expenses. Firstly, there shall be set aside each month such reasonable percentage of the Income Fund as the Council shall determine to be reasonable and necessary for the proper operation and maintenance of the system. Said moneys shall be used solely therefore, including but not limited to the cost of all salaries, necessary repairs, labor, materials, adequate insurance, and bank collection and other proper charges concerning the accounts, the 1963 joint water and sewer revenue bonds and the 1974 joint water and sewer revenue bonds, and other obligations in connection with the system. Any surplus remaining at the end of the fiscal year and

not used for operation and maintenance purposes shall be transferred back to the 1974 Income Fund.

B. Bond Fund Payments. Secondly, from any moneys remaining in the Income Fund, the following payments shall be made:

(1) There shall continue to be deposited and paid into a bank account to be known as the "City of Rexburg, Idaho Joint Water and Sewer Revenue Bonds, Series January 1, 1963, Interest and Bond Retirement Fund," (herein the "1963 Bond Fund") created by Section 198 of Ordinance No. 432, the following:

(a) Monthly, commencing on each interest payment date of the 1963 amount in six substantially equal monthly installments necessary to pay the next maturing installment of interest on the outstanding 1963 bonds, except to the other moneys are available therefore; and

(b) Monthly, commencing on each principal payment date of the 1963 bonds, an amount in twelve substantially equal installments necessary to pay the next maturing installment of principal of the 1963 bonds, except to the extent any other moneys are available therefore.

(2) There shall be deposited and paid into a bank account to be known as the "City of Rexburg, Idaho Joint Water and Sewer Revenue Bonds, Series January 1, 1974, Bond Fund" (herein the "1974 Bond Fund"), the following:

(a) Commencing on the first day of July, 1974, an amount in equal monthly installments sufficient, together with any available moneys therein, to pay the January 1, 1975 installment of interest on the outstanding 1974 bonds, and on each interest payment date of the 1974 revenue bonds, and on the first of each and every month thereafter one-sixth (1/6) of the amount necessary to pay the next maturing installment of interest on the outstanding 1974 revenue bonds.

(b) Commencing on the first day of January, 1975, an amount in equal monthly installments sufficient, together with any available moneys therein, to pay the January 1, 1976, installment of principal of the outstanding bonds, and on each principal payments date of the 1974 revenue bonds, and on the first of each and every month thereafter, one-twelfth (1/12) of the amount necessary to pay the next maturing install of principal on the outstanding 1974 revenue bonds.

C. Reserve Fund Payments. Thirdly, concurrently with the above payments into the Bond Fund, commencing on the first day of July, 1975, at least \$400.00 per month into a separate fund known as the "City of Rexburg, Idaho Joint Water and Sewer Revenue Bonds, Series January I, 1974, Reserve Fund"), until an amount not less than \$35,000.00 (herein "Minimum Reserve") has been accumulated. After the Minimum Reserve has been accumulated, an amount shall be deposited annually from the Income Fund into the 1974 Reserve Fund sufficient to maintain said Reserve Fund in the amount not less than the Minimum Reserve. The moneys in the 1974 Reserve Fund shall be maintained as a continuing reserve to be used only to prevent deficiencies in the payment of the principal of and the interest on the 1974 revenue bonds herein authorized resulting from the failure to deposit into the 1974 Bond Fund sufficient funds; to pay said principal and interest as the same accrue.

D. Termination of Deposits. Payment need not be made into the 1974 Bond Fund or the 1974 Reserve Fund if the Total amount in both funds at least equals the principal and interest requirements of the then outstanding bonds to maturity. In that case such an amount equal to such principal and interest requirements shall be set aside for that purpose and all other moneys may be used in any lawful manner.

E. Defraying Delinquencies in BOND Fund and in Reserve Fund. If, for any reason, the City shall fail to pay into the 1974 Bond "Fund the full stipulated amount from net revenues, then the difference between the paid and the amount stipulated shall be paid into the 1974 Bond Fund from the 1974 Reserve Fund. Money so used shall be replaced in the 1974 Reserve Fund from the first revenues, there, after received not required to be otherwise applied by this section. If, for any reason, the City shall fail to pay into the 1974 Reserve Fund the full stipulated amount, the difference between the amount paid and the amount stipulated shall in like manner be paid therein from the first revenues thereafter received not required to be otherwise applied by this section. The moneys in the 1974 Bond Fund shall be used only for the purpose of paying the principal and interest of the 1974 revenue bonds. Any moneys in the 1974 Reserve Fund in excess of the Minimum Reserve may be withdrawn and used in the same manner, as net income.

F. Payment for Additional Obligations. After making the above payments, any balance in the 1974 Income Fund may be used for the payment of principal and interest on additional bonds including reasonable reserves therefore. The lien of additional bonds on net income shall be on a parity with, or subordinate to, the lien and pledge of the 1963 bonds and the 1974 bonds. Any payments in respect of additional parity bonds shall be made concurrently with those required by this section.

G. Use of Surplus Revenues. After making the above payments, the remaining net income shall be applied to any other lawful purpose or purposes authorized by the Constitution and laws of the State of Idaho as the City Council may direct, including, without limitation, any purpose stated in Section 50-1033, Idaho Code, as amended.

SECTION XXI: General Administration of Funds. The funds and accounts hereof shall be administered as follows:

A. Places and Times of Deposits. The above accounts and funds shall be separately maintained and deposited in one or more bank accounts in an Insured Bank or Banks. Each account shall be continuously secured to the extent required by law and shall be irrevocable and not withdrawable by anyone for any other purpose. Payments shall be made into the proper account on the first day of the month or year, as the case may be, except when the first day shall be a Sunday or legal holiday, then payment shall be made on the preceding secular day. At least 5 days prior to any interest payment date, moneys sufficient to pay interest and principal then due shall be credited at the Paying Agent. Nothing in this ordinance shall prevent the Council from establishing one bank account for any of the funds required by this ordinance.

B. Investment of Money. Any moneys in any fund or account designated in Section 17, 19, and 20 of this ordinance may be invested or reinvested by the City Treasurer in such obligations as may be permitted by the Constitution and laws of the state of Idaho, and applicable federal statutes and regulations. The obligations so purchased as an investment of moneys in said fund shall be deemed at all times to be part of said fund, and the interest accruing thereon and any profit realized therefrom shall be credited to the fund and any loss resulting from such investment shall be charged to the fund. The City Treasurer shall present for redemption or sale on the prevailing market any obligations so purchased as an investment of moneys in the fund whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund.

C. Bonds Not Arbitrage Bonds. The City and the Council covenant with the Purchasers and holders of the Bonds from time to time, that the City will make no use of the proceeds of the Bonds which will cause the Bonds to be arbitrage bonds; and the City and the Council covenant and agree to comply with the requirements of Section 103(d) of the Internal Revenue Code and proposed Treasury Regulations Sections 1.103-13 and 1.103-14 (as hereafter amended and supplemented from time to time) throughout the term of the Bonds.

SECTION XXII: First Lien Bonds. The 1974 revenue bonds, subject to the payment of all necessary and reasonable operation and maintenance expenses, constitute in irrevocable and first (but not necessarily an exclusively first) lien upon the revenues of the system on a parity with the lien thereon to secure the outstanding 1963 bonds.

SECTION XXIII: Additional Bonds.

A. Earnings Test. This ordinance shall not prevent the issuance of additional bonds payable from and constituting a lien upon net income on a parity with the lien of the 1963 revenue bonds and the 1974 revenue bonds. Before any such additional parity bonds are actually issued it must be determined that:

(1) The amount in the Reserve Fund for the 1963 revenue bonds created by Ordinance No. 432 must equal at least \$25,000.00, i.e., the Minimum Reserve for said Reserve Fund; and

(2) The amount in the 1974 Reserve Fund must equal at least \$35,000.00, i.e., the Minimum Reserve for said 1974 Reserve Fund; and

(3) The revenues derived from the operation of the system for the fiscal year immediately preceding the date of the issuance of such additional parity obligations shall have been sufficient to

pay the costs of operation and maintenance for said fiscal year, and, in addition, sufficient to pay an amount equal to one hundred forty per, centum (140%) of the combined maximum annual principal and interest requirements of the outstanding 1963 revenue bonds and any other obligations. the City payable from the net revenues of the system and the bonds or other obligations proposed to Be issued.

B. Certification of Revenues. A written certificate by an Independent Accountant that annual net revenues are sufficient shall conclusively determine the right of the City to issue additional parity bonds.

C. Consideration of Additional Expenses.

In determining whether additional parity bonds may be issued, the Independent Accountant shall consider any probable increase (but not reduction) in operation and maintenance expenses that will result from the expenditure of the proceeds of the proposed additional parity bonds.

D. Subordinate Obligations Permitted. The City may issue bonds or other obligations having a lien on net revenues subordinate to the lien of the 1963 revenue bonds and the 1974 revenue bonds.

E. Superior Obligations Prohibited. The City shall not issue any bond or other obligation having a lien on net revenues prior and superior to the lien of the 1963 revenue bonds and the 1974 revenue bond.

F. Use of Proceeds. The proceeds of any additional bonds or other obligations payable from system revenues shall be used only for improving, bettering and extending the system.

G. Payment Dates for Additional Obligations. Any additional parity or junior lien bonds or other parity or junior lien obligations issued in compliance with the terms hereof shall bear interest payable semi-annually on the first days of January and July in each year, except that the first coupon or any bond may represent interest accruing for any period not in excess of one year, and such obligations shall mature on the first day of January in the years designated by the Council during the term of said bonds or other obligations.

SECTION XXIV: Refunding Bonds. The provisions of Section 23 hereof are subject to the following exceptions:

A. Privilege of Issuing Refunding Obligations. If at any time the Council shall find it desirable to refund any of the 1974 revenue bonds herein authorized, said bonds or other obligations may be refunded (but only with the consent of the holders unless the bonds or other obligations shall then mature, or be callable) without changing lien priority for the payment of the refunding obligations.

B. Refunding Part of an Issue.

The refunding bonds or obligations shall enjoy complete equality of lien with any portion of the same issue which is not refunded. The holders of such refunding bonds or obligations shall be subrogated to a II of the rights and privileges enjoyed by the holders of the bonds or obligations of the same issue refunded thereby.

C. Limitation upon Issuance of any Refunding Obligations. Any refunding bonds or obligations payable from system revenues shall be issued with such details as the Council may provide, but without impairing any contractual obligation imposed by any proceedings authorizing any unrefunded portion of any issue (including the 1974 revenue bonds). If only a part of any issue is refunded, and if such bonds or other obligations are refunded in such manner that the interest rate thereon is increased or if any, refunding obligation matures at an earlier date than the maturity date of the corresponding obligations refunded thereby, then such obligations may not be refunded without the ill consent of the holder or holders of the unrefunded portion of said obligations; and that the refunding bonds or other obligations shall either be sold for cash at not less than the par value and accrued interest, and the proceeds thereof shall be used to pay the bonds refunded, or if so permitted by law and then only with the consent of the holder or holders of the bonds or other obligations refunded, the refunding bonds or other obligations shall be delivered dollar for dollar in exchange for the bonds or other obligations refunded.

SECTION XXV: Equality of Bonds. The 1974 revenue bonds shall not be entitled to any priority one over the other in the application of net revenues, regardless of the time of their issuance.

SECTION XXVI: Protective Covenants. The City covenants and agrees with each and every holder that:

A. Use of Bond Proceeds. The Project shall be constructed and acquired without delay.

B. Payment of Bonds Herein Authorized. The City will pay bond principal and interest at the place, on the dates, and in the manner specified according to the true intent and meaning thereof.

C. Use Charges. Rates for services rendered by the system shall be reasonable and just, taking into account the cost and value of the system, operation and maintenance expenses, possible delinquencies, proper allowances for depreciation, contingencies, and the amounts necessary to retire all bonds payable from net revenues, and the reserves therefore. There shall be charged against all users, including the State and its subdivisions, rates and amounts sufficient to produce revenues to pay the annual operating and maintenance charges, and 140% of both and principal of and interest on all bonds and other obligations payable from net revenues, including reserves therefore. No free service shall be furnished by system. Any use of the system by the City will be paid for from the City's general fund at the reasonable value of the use so made. Income so derived from the City shall be treated in the same manner as any other system income.

D. Levy of Charges. Prior to the delivery of any 1974 revenue bonds, the City will establish and levy the required rates and charges. No reduction in any initial rate schedule may be made unless:

(1) The City has complied with Section 20 for at least the full fiscal year immediately preceding such reduction.

(2) The audit for the full fiscal year immediately preceding such reduction discloses that the estimated revenues resulting from the proposed rate schedule will be sufficient to meet the requirements of paragraph C of this section.

E. Efficient Operation. The City shall make such improvements and repairs to the system as may be necessary to insure its economical and efficient operation and ability to meet demands for service.

F. Records. Separate records will be kept showing complete and correct entries of all transactions relating to the system. Such records shall include monthly entries showing:

(1) The number of water customers and the number of customers;

(2) The revenues received from water charges and sewer charges by classes of customers;
and

(3) A detailed statement of expenses of the system.

G. Right to Inspect. Any Holder of any of the bonds, or his duly authorized agent shall have the right at all reasonable times to inspect the system, and all records, accounts and data relating thereto.

H. Audits and Budgets. The City agrees that it will, within 60 days following the close of each fiscal year, cause an audit of such books and accounts to be made by an Independent Accountant. Each such audit, in addition to matters thought proper by the account, shall include:

(1) A statement for the fiscal year just closed, of the income and expenditures of the system, including gross revenues, net revenues, the amount of any capital expenditures and profit or loss;

(2) A balance sheet as of the end of such fiscal year, including all funds created by proceedings authorizing bonds and other obligations payable from system revenues;

(3) The accountant's comment regarding the City's methods of operation and accounting practices;

(4) A list of the insurance policies in force, setting out the amount of each policy, the risks covered, the name of the insurer, and the expiration date;

(5) A recapitulation of each fund or account created by the various proceedings showing deposits and withdrawals for said fiscal year

(6) The number of any metered water connections, any unmetered water connections, any unmetered sewer connections and any unmetered sewer connections at the beginning and at the end of the year;

(7) The number of customers in each class of customers and the revenues per class of customers.

The City will furnish a copy of each audit and report to any Holder at his request, and without request to the original purchaser of the 1974 revenue bonds and to The First Security Bank of Idaho, N. A., in Rexburg, Idaho. Any Holder shall have the right to discuss the contents with any person making the audit.

I. Billing Procedure and Discontinuance of Service. All bills shall be sent out on a regularly established day of each month in advance or after service is rendered. Bills shall be due within 20 days from date. If bills are not paid 90 days after such date they shall be collected in any lawful manner, including the denial or discontinuance of water service and the cost of disconnection and reconnection thereof. Sewer charges shall be billed jointly with water charges. Each such bill shall show separately water and sewer charges. In no case shall payment be accepted from a user of both water and sewer services unless payment is made in full for each such service.

J. Use of Bond and Reserve Funds. The 1974 Bond Fund and the 1974 Reserve Fund shall be used solely and only, and said fund are hereby pledged for the purposes set forth above.

K. Charges and Liens upon System. The City will pay all taxes and governmental charges lawfully levied in respect of said system when due. The city will comply with all valid requirements of any governmental authority relative to the system. It will not create or permit to be created any Lien or charge upon the system or the revenues except as permitted herein. The City will satisfy all claims and demands within 60 days after the same shall accrue with might by law become a Lien upon the system or upon the revenues unless the validity thereof is being contested in good faith by appropriate legal proceedings.

L. Construction Contract and Bond. The city will require each person, firm or corporation with whom it may contract for labor or materials to furnish a performance and payment bond in the full amount of any contract.

M. Insurance. Fire and extended coverage insurance on the facilities above ground, including their contents, will be determined with the assistance of the Project Engineer. The City will carry workmen's compensation insurance on all full-time employees and public liability insurance if authorized by state law as interpreted by the City's attorney. In the event of property loss or damage, insurance proceeds shall be used first for the purpose of restoring or replacing the property lost or damaged, and any remainder shall be treated as net income derived from the operation of the system.

N. Competing System or Works. The City shall not grant any franchise or license to a competing system, or permit any person or organization to sell water or sewer service within the City.

O. Alienating System. The City will not sell, lease, mortgage, pledge, or otherwise alienate, the system, or any part thereof, except any portion which shall have been replaced by other property of at least equal value or which shall cease to be necessary for the efficient operation of the system. In the event of any sale as aforesaid, the proceeds of such sale shall be distributed as net income.

P. Extension of Interest Payments. The City will not extend or be a party to the extension of the time for paying any coupon or claim for interest. Any coupon or installment of interest so extended shall not be entitled in case of default hereunder to the benefit or security of this ordinance except subject to the prior payment in full of the principal of all bonds and interest which has not been extended.

Q. Management of the System. If an "event of default" shall occur or if the net revenues in any fiscal year fall to equal principal, interest and reserves for all bonds payable from net revenues, the City shall retain a Consulting Engineer to assist the management of the system so long as such default continues or the net revenues are less than the amount designated.

R. Fidelity Bonds. Each municipal official or other individual having custody of any monies derived from the operations of or otherwise pertaining to the system, or responsible for their handling, shall be bonded in any amount at least equal to the total monies in his custody at any one time. The cost of each such bond shall be considered one of the operation and maintenance expenses of the system.

S. City's Existence. The City will maintain its corporate Identity and existence so long as any of the 1974 revenue bonds remain outstanding, unless another political subdivision by operation of law succeeds to the liabilities and rights of the City, without adversely affecting to any substantial degree the privileges and rights of any Holder.

SECTION XXVII: Events of Default. It is an "event of default" If:

A. Nonpayment of Principal. Payment of principal of any 1974 revenue bond is not made when due at maturity or upon prior redemption.

B. Nonpayment of Interest. Payment of interest is not made when due.

C. Incapable to Perform. The City is not capable of fulfilling its obligations there under.

D. Default of Any Provision. The City default in the punctual performance of its covenants hereunder for 60 days after written notice shall have been given by the Holders of 25% of the outstanding bonds.

SECTION XXVIII: Remedies of Defaults. Upon the happening of any event of default, the Holder or Holders of not less than 25% in principal amount of the outstanding bonds, or a trustee therefore, may protect and enforce the rights of any bondholder by proper legal or equitable remedy deemed most effectual including mandamus, specific performance of any covenant, the appointment of a receiver (the consent to such appointment being hereby granted), injunctive relief, or requiring the governing body of the City to act as if it were the trustee of an expressed trust, or any combination of such remedies. All proceedings shall be maintained for the equal benefit of all Holders . Any receiver appointed to protect the rights of bondholders may take possession any operate and maintain the system in the same manner as the City itself might do. The failure of any Holder to proceed does not relieve the City of any person of any liability for failure to perform any duty hereunder. The foregoing rights are in addition to any other right and the exercise of any right by any bondholder shall not be deemed a waiver of any other right.

SECTION XXIX: Duties upon Default. Upon the happening of any event of default, the City will perform all proper acts to protect and preserve the security created for the prompt payment of the principal of and interest on bonds. The holders of not less than 25% in principal amount of the outstanding bonds, after written demand, may proceed to protect and enforce the rights provided by this section.

SECTION XXX: Prior Charge Upon Lower Rates. If any commission or authority lawfully prescribes a lower schedule of rates than contemplated by this ordinance then the payment of principal and interest on the 1963 revenue bonds and the 1974 revenue bonds, and any other parity bonds, shall constitute a first and prior charge on such revenues.

SECTION XXXI: Defeasance. When the bonds have been paid, the pledge and lien and all obligations hereunder shall be discharged and the bonds shall no longer be deemed to be outstanding. Subject to Section 218, payment shall be deemed made when the Council has placed in escrow with a commercial bank exercising trust powers, an amount sufficient (including the known minimum yield from Federal Securities) to meet all requirements of principal and interest as the same become due to their final maturities. Any Federal Securities shall become due when needed in accordance with a schedule agreed upon between the Council and such bank at the time of the creation of the escrow. Federal Securities within the meaning of this section shall include only direct obligations of, or which are unconditionally guaranteed by, the United States of America.

SECTION XXXII: Amendment of Ordinance. This ordinance may be amended, without receipt by the City of any additional consideration, but with the written consent of the Holders of three-fourths (3/4) of the 1974 revenue bonds then outstanding (not including bonds which may be held for the account of the City); but no ordinance adopted without the written consent of the Holders of all outstanding bonds shall have the effect of permitting;

- (1) An extension of the maturity of any bond; or
- (2) A reduction in the principal amount, interest rate or prior redemption premium of any bond; or
- (3) The creation of a Lien upon revenues ranking prior to the Lien or pledge created by this ordinance; or
- (4) A reduction of the principal amount of bonds required for consent to such amendatory ordinance; or
- (5) The establishment of priorities as between bonds issued and outstanding under the provisions of this ordinance; or
- (6) The modification of or otherwise effecting the rights of the Holders of less than all of the outstanding bonds.

SECTION XXXIII: Delegated Powers. The officers of the City be" and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance, including, without limitations, the execution of such certificates as may be reasonably required by the Purchaser, relating, inter alia to the signing of the bonds, the tenure and identity of the officials of the Council and of the City, the delivery of the bonds and the receipt of the bond purchase price, and, if it is in accordance with fact, the absence of litigation, pending or threatened, affecting the validity thereof, and the absence or existence of factors 'affecting the exemption of interest on the bonds from federal income taxation, the assembly and dissemination of financial and other information concerning the City and the bonds, and the sale and issuance of the bonds pursuant to the provisions of this ordinance and to any instrument supplemental thereto.

SECTION XXXIV: Ordinance Irrepealable. After any of the 1974 revenue bonds are issued, this ordinance shall be irrepealable until defeasance.

SECTION XXXV: Severability Clause. The invalidity or unenforceability of any provision of this ordinance shall not affect the remaining provision.

SECTION XXXVI: Repealer Clause. All bylaws, orders, resolutions and ordinances or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION XXXVII: Publication. This ordinance shall be published in at least one of the Rexburg Standard, which is the official newspaper of the City.

SECTION XXXVIII: Effective Date. This ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law.

PASSED BY THE CITY COUNCIL APPROVED BY THE MAYOR, this 15th day of May, 1974

John C. Porter, Mayor

(SEAL)

ATTEST:

