



CITY OF
REXBURG
America's Family Community

ORDINANCE NO. 628

AN ORDINANCE PROVIDING FOR AND AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION, COUPON BONDS OF THE CITY OF REXBURG, IDAHO, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$235,000 FOR THE PURPOSE OF DEFRAYING THE COST OF CONSTRUCTING, ENLARGING, EXTENDING, REPAIRING, ALTERING AND IMPROVING THE CITY'S MUNICIPAL SEWERAGE SYSTEM: PROVIDING FOR THE LEVY OF AN ANNUAL TAX SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS: PRESCRIBING OTHER DETAILS IN CONNECTION WITH SAID BONDS AND SAID TAXES: RATIFYING ACTION TAKEN TOWARD ACCOMPLISHING SAID PURPOSES AND ISSUING SAID BONDS THEREFORE: AND PROVIDING THE EFFECTIVE DATE HEREOF.

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 Council (herein "Council") has determined and does hereby determine that the interest of the community and the public interest and necessity require the constructing, enlarging, extending, repairing, altering, and improving of the City's municipal sewerage system (herein "Project"); and

WHEREAS, the Council of the City (herein "Governing Body"), has determined and does hereby redetermine that at a special municipal bond election duly held in the City (herein "election"), On Tuesday, July 29, 1980, there was submitted to the registered qualified electors of the City the following question:

GENERAL OBLIGATION SEWER BOND QUESTION SUBMITTED:

Shall the City of Rexburg, Idaho, issue and sell its negotiable coupon, general obligation bonds in one series or more in the principal amount of \$235,000 or so much thereof as may be necessary each series bearing interest at a rate or rates not exceeding 10% per annum, as may be fixed by the City Council prior to the issuance of such bonds, payable serially according to law, commencing not later than two years and ending ten years from the date of the Bonds, for the purpose of constructing, enlarging, extending, repairing, altering, and improving the city's municipal sewerage system, in accordance with Ordinance No. 622 adopted the 4th day of June, 1980.

WHEREAS, said question upon the issuance of the general obligation bonds therein designated carried by more than a two-thirds vote of the registered qualified electors in the City voting thereon at said election; and

WHEREAS, the result of said election has heretofore been duly canvassed and declared;

WHEREAS, the City has not heretofore issued any of the bonds so authorized at the election;

WHEREAS, the council on behalf and in the name of the City now desires to issue all of the City's general obligation sewer bonds so authorized at the election; and

WHEREAS, the life of all of the improvements to be acquired with the proceeds of the bonds herein authorized to be issued will be at least ten (10) years from the date which the bonds bear; and

WHEREAS, the Council is accordingly authorized to issue the bonds of the City herein authorized for the purpose and in the amount provided in the proposition authorizing their issuance and adopted by the qualified electors of the City; and

WHEREAS, pursuant to a resolution duly passed and adopted by the Council on September 17, 1980, the City's negotiable, coupon, General Obligation Sewer Bonds, Series December 1, 1980 (herein the "bonds"), in the aggregate principal amount of \$235,000 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 bonds were received and publicly opened on October 29, 1980, at the hour of 7:00 P.M. and

WHEREAS, at the meeting of the Council held on October 29, 1980, commencing at the hour of 7:00 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 \$ -0- at the rates hereinafter designated, to Dain Bosworth Incorporated -of 100 Dain Tower, Minn. Mn. 55402, and associates (herein "Purchaser"), collectively 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 thereof that the bonds be so issued.

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

SECTION I: All action heretofore taken (not inconsistent with the provisions of this ordinance) by the Council and the officers of the City, directed toward:

a. The Project; and

b. The issuance of general obligation bonds therefor:
be, and the same hereby is ratified, approved and confirmed, including without limiting the generality of the foregoing, the acceptance of the proposal for the purchase of the bonds herein authorized submitted by the Purchaser.

SECTION II: For the purpose of providing funds for the Project, there shall be issued by the City, on its behalf, and upon the credit thereof, the negotiable, coupon, general obligation bonds, described as the "City of Rexburg, Idaho, General Obligation Sewer Bonds, Series December 1, 1980." in the principal amount of \$235,000, consisting of forty-seven bonds in the denomination of \$5,000 each, numbered from 1 through 47.

SECTION III: The bonds shall be dated as of December 1, 1980, numbered consecutively in regular numerical order from one upwards, payable to bearer, and bearing interest at the rates hereinafter designated payable on June 1 and December 1 in each year, commencing December 1, 1981, both principal and interest being 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., in Rexburg, Idaho. If any bond shall not be paid upon presentation at its maturity, it shall continue to draw interest at the coupon rate stated on the face of the bonds until the principal thereof is paid in full.

SECTION IV: The bonds shall bear interest from the date thereof until their respective maturities at the respective rates hereinafter designated, evidenced by only one set of coupons attached to the bonds, and shall be numbered, mature serially, without option of prior redemption, in regular numerical order on December 1 in each of the designated amounts and years, as follows:

<u>Bond Numbers</u> <u>(All Inclusive)</u>	<u>Interest Rate</u> <u>(Per Annum)</u>	<u>Amounts</u> <u>Maturing</u>	<u>Years</u> <u>Maturing</u>
1	9.80%	\$ 5,000	1981
2 - 3	9.80%	10,000	1982
4 - 6	9.80%	15,000	1983
7 - 10	9.80%	20,000	1984
11 - 15	8.578%	25,000	1985
16 - 21	7.80%	30,000	1986
22 - 27	7.80%	30,000	1987
28 - 33	8.00%	30,000	1988
34 - 40	8.35%	35,000	1989
41 - 47	8.35%	35,000	1990

SECTION V: The bonds hereby authorized shall be fully negotiable and shall have all the qualities of negotiable paper, and the holder or holders thereof shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Uniform Commercial Code-- Investment Securities. The bonds shall constitute the general obligations of the City and the full faith and credit of, and all taxable property within, the City shall be, and hereby are, pledged for the payment thereof. The bonds shall be equally and ratably secured without priority by reason of number, date of maturity, date of sale, of execution, or of delivery.

SECTION VI: Prior to the execution of any bond, pursuant to the Uniform Facsimile Signature of Public Officials Act, adopted as Ch. 11, Session Laws of Idaho 1959, also cited as Sections 59-1018 through 59-1023, Idaho Code, the Mayor, the Treasurer, and the Clerk shall each forthwith file with the Secretary of State his or her manual signature certified by him or her under oath.

SECTION VII: The bonds shall be payable to bearer and shall be executed and signed in the name of and on behalf of the City with the engraved, imprinted, stamped or otherwise reproduced facsimile of the signature of the Mayor of the City, shall be manually subscribed and countersigned by its Treasurer, and shall be signed, executed and attested with such a facsimile signature of its Clerk under a printed, engraved, stamped, or otherwise placed thereon facsimile of the official seal of the City. The interest accruing to maturity on the bonds shall be evidenced by coupons attached thereto, and the coupons shall be consecutively numbered from one upwards, commencing with that coupon first maturing, and all such interest coupons shall state on the face thereof the amount thereof, the name of the City, the identifying series, issue and numbers of the bond to which it is attached, and each such coupon shall provide for the payment of the interest accruing semiannually (except with respect to the first coupon) and at the same place of payment as fixed in such bond and shall be signed by the Treasurer by his facsimile signature, which officer by the execution of the bonds and a signature certificate pertaining thereto shall adopt as and for his signature the facsimile thereof appearing on the coupons. The registration certificate endorsed on each bond shall be executed with a like facsimile signature of each the Clerk and the Treasurer. The bonds and coupons bearing the signatures of the officers in office at the time of the signing thereof shall be the valid and binding obligation 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. The Mayor, Treasurer and Clerk, at the time of the execution of the bonds and a signature certificate appertaining thereto, each may adopt as and for his or her own facsimile signature the facsimile signature of his or her predecessor in office in the event that such facsimile signature appears upon any of the bonds or coupons appertaining to the bonds.

SECTION VIII: Before any bonds are delivered, they shall be registered by the Clerk and the Treasurer in permanent public record books kept in their offices for that purpose, in full compliance with the law. The register shall show the number of each bond, its date and amount, rate of interest, date and amount of sale, when and where payable, and the names and addresses of the purchasers, and the number and denomination of the coupons attached to the bond. After the bonds have been duly executed and sold and after such registration by the Clerk and the Treasurer, the Treasurer shall cause the bonds of said series to be delivered to the Purchaser thereof, upon payment being made therefore on the terms of the sale of the bonds.

SECTION IX: The bonds, the coupons thereto attached, and the certificates to be endorsed thereon, shall be in substantially the following form:

(Form of Bond)

UNITED STATES OF AMERICA

STATE OF IDAHO

COUNTY OF MADISON

CITY OF REXBURG
GENERAL OBLIGATION
SEWER BOND

SERIES DECEMBER I, 1980

NO. _____

\$5,000

The City of Rexburg (herein "City"), in the County of Madison and State of Idaho, acknowledges itself indebted, and hereby promises to pay to the bearer hereof the sum of

FIVE THOUSAND DOLLARS

ON THE FIRST DAY OF December, 19__ , with interest hereon from date until maturity at the rate of

_____ per (_%)

per annum, payable on June 1 and December 1 in each year, commencing on December 1, 1981. both principal and interest being 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., in Rexburg, Idaho, upon presentation and surrender of the annexed coupons and of this bond as they severally become due. If, upon presentation at maturity, payment of this bond is not made as herein provided, interest here on shall continue at the coupon rate stated on the face hereof until the principal hereof is paid in full.

The bonds of the series of which this bond is one are not subject to redemption prior to maturity.

This bond is issued by the City, upon its behalf and upon the credit thereof, for the purpose of providing funds for constructing, enlarging, extending, repairing, altering and improving the City's municipal sewerage system; under the authority of and in full conformity with the Constitution and statutes of the State of Idaho, and. in particular, with the provisions of Chapter 2 of Title 57, Idaho Code, and all laws amendatory thereof or supplemental thereto. and pursuant to an ordinance of the City duly adopted and published, and made a law of the City prior to the issuance of this bond. It is hereby certified and warranted that the issuance of this bond has been authorized by a vote of more than two-thirds of the electors qualified to vote on the question at a special election held in the City on July 29, 1980.

It is hereby certified and recited that the full faith and credit of and all taxable property within the City are and shall continue to be pledged for and until the full payment of the principal of and interest on this bond; that all the requirements of law have been fully complied with by the proper officers of the City in the issuance of this bond; that the total indebtedness of the City, including that of this bond, does not exceed any limit of indebtedness prescribed by the Constitution or laws of the State of Idaho; and that provision has been made for the levy and collection of annual taxes sufficient to pay the interest on and the principal of this bond when the same becomes due.

IN WITNESS WHEREOF, THE City of Rexburg, in the County of Madison and State of Idaho, has caused this bond to be executed and signed in the name and on behalf of the City with the facsimile signature of the Mayor of the City, to be counter- signed and manually subscribed by the Treasurer thereof, and to be attested with a like facsimile signature of the City Clerk; has caused the facsimile of the seal of the City to be affixed hereon; and has caused the coupons attached to this bond to be signed with the facsimile signature of the City Treasurer, which official, by the execution hereof, does adopt as and for his own proper signature the facsimile thereof appearing on each of said coupons, all as of December 1, 1980.

CITY OF REXBURG

BY _____ (Facsimile Signature)
Mayor

(FACSIMILE SEAL)

(Attorneys' approving opinion to be inserted in sub margins, including complimentary closing and "/s/ Sherman & Howard.")

is a true, perfect and complete 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 their 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 my facsimile signature.

(Facsimile Signature)
Rose Bagley, City Clerk

(End of Form of Certificate)

SECTION X: The Mayor, the Clerk, and the Treasurer are authorized and directed to execute the bonds and the certificates thereon; and the recitals therein contained shall be effective as of December 1, 1980, as recitals made by and on behalf of the City.

SECTION XI: The bonds, when duly executed, shall be delivered to a representative of the Purchaser on receipt of the agreed purchase price. The funds realized from the sale of the bonds shall be applied solely to the purpose for which the bonds have been authorized, as stated in the election proposal; but the Purchaser shall in no manner be responsible for the application or disposal by the City, or by any of its officers, of any of the funds derived from the sale thereof.

SECTION XII: The interest and principal falling due on said bonds on December 1, 1981, may be paid from the general fund of said City or from any other fund available for that purpose; and for the purpose of reimbursing such fund or funds and for the purpose of providing for the payment of interest accruing thereafter on the bonds, there shall be and there is hereby levied for each of the years from 1981 through 1990, a continuing direct annual tax on all of the taxable property in the City, sufficient to produce a sum of money to pay the interest on the bonds as and when the same falls due; and provisions to meet the requirements of this section shall in due time, manner and season, annually hereafter be made, which said sums so hereby levied shall be applied to the payment of the interest on said bonds as and when the same shall become due. There shall be and there is hereby also levied for each of the years 1981 through 1990 a continuing direct annual tax on all of the taxable property in the City, sufficient to produce a sum to pay the principal accruing on the bonds as the same becomes due as hereinabove set forth. It is hereby made the duty of the City Council and it is hereby required, annually, at the time and in the manner provided by law for levying other taxes, to ratify and carry out the provisions hereof with reference to the levy of taxes, and it is hereby made the duty of the officers of the City to levy, extend and collect such taxes in the manner provided by law for the purpose of creating a fund for the payment of the interest upon and the principal of the bonds promptly as the same respectively become due. Said direct annual taxes levied to pay said principal and interest shall be in addition to any, and all other, taxes levied to effect the purposes of said City. Said taxes, when collected, shall be kept for and applied only to the payment of said interest and principal as hereinbefore specified, but nothing herein contained shall be so construed as to prevent the City from applying any other funds that may be in its Treasury and available for that purpose to the payment of said interest and principal; and the levy or levies herein provided for may thereupon to that extent be diminished.

SECTION XIII: It shall be the duty of the Mayor of the City to, and it is hereby covenanted and agreed that the City Council will, annually and at the time and in the manner provided by law for the levying of other taxes of the City, ratify and carry out the provisions of this ordinance with reference to the levying of said taxes, and it is hereby required that all officers of the City charged with the extension and collection of taxes, shall extend and collect the taxes for which provision is made in this ordinance. In the event the proceeds of the taxes hereinabove levied or hereafter levied are not available to meet the payment of the interest on or the principal of the bonds, the principal or interest, or both, shall be paid from the general funds of the City and said general fund shall be reimbursed from the proceeds of said taxes when the same are collected.

SECTION XIV: The City hereby covenants for the benefit of each holder of the bonds that:

(1) Sums credited to the various accounts pertaining to the Project or the bonds shall not be invested in such a manner as to result in the loss of exemption from Federal income taxation of interest on any of the bonds;

(2) The City shall make no use of the proceeds of the bonds or any funds reasonably expected to pay the principal of or interest on the bonds which will cause them to be "arbitrage bonds" under the U.S. Internal Revenue Code of 1954, as amended (herein "Tax Code") and the applicable regulations there under promulgated by the Internal Revenue Service; and the City and its officers, employees and other agents shall take appropriate action so that on the basis of the facts, estimates and circumstances in existence on the date of the issue of the bonds it is reasonably expected that the proceeds of the bonds and any funds reasonably expected to be used to pay the principal of or interest on the bonds will be used in a manner that will not cause the bonds to be taxable "arbitrage bonds" under §103(c) Tax Code, and the applicable income tax regulations there under.

SECTION XV: 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 limitation:

A. The printing of the bonds, including the printing on each bond of a certified true copy of bond counsel's approving opinion; and

B. The execution of such certificates as may be reasonably required by the Purchaser, relating to:

- (1) The signing of the bonds,
- (2) The tenure and identity of the officials of the City Council and of the City,
- (3) The assessed valuation and indebtedness of the City,
- (4) The delivery of the bonds and the receipt of the bond purchase price,
- (5) If in accordance with the facts, the absence and existence of factors affecting the exemption of interest on the bonds from Federal income taxation, and
- (6) If in accordance with the facts, the absence of litigation, pending or threatened, affecting the validity of the bonds.

SECTION XVI: This ordinance shall be and remain irrevocable until the principal of and the interest on the bonds authorized to be issued by this ordinance, and in fact actually issued, shall have been duly paid, satisfied and discharged as herein provided.

SECTION XVII: All bylaws, resolutions and ordinances in conflict with this ordinance, are hereby repealed.

SECTION XVIII: If any section, paragraph, clause or provision of this ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

SECTION XIX: This ordinance shall be published once in one issue of the Rexburg Journal, the official newspaper of the City; and this ordinance shall be in full force and effect from and after its passage, approval and publication, the council dispensing with the rule providing that ordinances must be read on 3 different days, all as provided by law.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR this October 29, 1980.

John C. Porter, Mayor

(SEAL)

ATTEST:

Rose Bagley, City Clerk

