



**ORDINANCE NO. 698**

**AN ORDINANCE CONCERNING THE CREATION OF, IMPROVEMENTS IN, ASSESSMENTS AGAINST PROPERTY IN, AND STREET IMPROVEMENT DISTRICT NO. 26, FOR THE PURPOSE OF CAUSING CERTAIN STREETS AND PARTS THEREOF WITHIN THE CORPORATE LIMITS OF SAID CITY TO BE GRADED, RE-GRADED, GRAVELED, PAVED, RE-PAVED AND OTHERWISE IMPROVE CERTAIN STREETS WITHIN THE DISTRICT AND TO CONSTRUCT AND RECONSTRUCT SIDEWALKS, CURBS, GUTTERS, DRAINAGE FACILITIES, AND OTHER WORKS INCIDENTAL TO ALL OF THE FOREGOING IMPROVEMENTS WITHIN SAID DISTRICT, AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN EFFECT.**

**WHEREAS**, the City Council of the City of Rexburg, Idaho, has heretofore adopted proceedings for the construction of improvements in Local Improvement District No. 26, for the purpose of causing certain streets and parts thereof within the corporate limits of said City, to be graded, re-graded, graveled, paved, re-paved and otherwise improve certain streets within the District and to construct and reconstruct sidewalks, curbs, gutters, drainage facilities, and other work incidental to all of the foregoing improvements within said District. Ordinance No. 692 confirming the assessments roll for such improvements was duly adopted and approved on September 25, 1989, and

**WHEREAS**, notice of assessments to property owners in said District has been duly published in accordance with the requirements of said Ordinance No. 692 and the laws of the State of Idaho, and

**WHEREAS**, the share of the cost of the construction of improvements in said District assessed to the owners of private property in said District is \$97,000.00, and assessed to the City of Rexburg, Idaho, is \$56,000.00, for a total cost of \$153,000.00, and

**WHEREAS**, during the 30-day period following the confirmation of said assessment roll, the owners of private property paid \$20,779.56 on the principal of their assessments, leaving a principal balance of \$76,220.44, and

**WHEREAS**, on March 21, 1951, the City Council of said City adopted, and the Mayor of said City approved, Ordinance No. 373, creating a Local Improvement Guaranty Fund, to be used to guarantee bonds and warrants of local improvements districts in said City,

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

**SECTION I:** That all of the proceedings heretofore taken and adopted for the creation of said Local Improvement District No. 26, for the purpose of causing certain streets and parts thereof within the corporate limits of said city to be graded, re-graded, graveled, paved, re-paved and otherwise improve certain streets within the District and to construct and reconstruct sidewalks, curbs, gutters, drainage facilities, and other works incidental to all of the foregoing improvements within said District, and the assessments of a part of the cost of constructing such improvements on and against the private properties in said District, including the provisions of said Ordinance No. 373, which shall apply to the registered warrants hereafter mentioned, shall be and the same are hereby ratified, approved and confirmed.

**SECTION II:** That the unpaid assessments chargeable to the lots and lands abutting, adjoining, and adjacent to the streets to be so improved and on and against all lots and lands benefited by such improvements included in said District, shall be paid for in installments, payable as nearly as may be possible in 10 equal annual payments on or before the 13th day of November in

each of the years from 1990 to 1999, both inclusive, and bearing interest on the unpaid principal thereof from the 13th day of November, 1989, at the rate of seven and one-half percent (7.5%) per annum, such interest being payable annually on or before the 13th day of November in each of said years, both the principal of and the interest on said assessments being payable in lawful money of the United States of America at the office of the City Treasurer of the City of Rexburg, Idaho.

**SECTION III:** That the Treasurer of the City of Rexburg, Idaho, be, and he is hereby authorized and empowered, and it shall be his duty to receive and collect all assessments levied to pay the cost of said improvements, the installments thereof, the interest thereon, and the penalties accrued, the whole of the unpaid principal which becomes due and payable immediately because of the failure to pay any installment, whether of principal or interest, when due, and to pay and disburse such payments to the person or persons lawfully entitled to receive the same, in accordance with the laws of the State of Idaho, and all the ordinances and resolutions of said City heretofore or to be hereafter adopted. All monies constituting the payment of principal of said unpaid installments of assessments shall be placed in a separate fund to be designated "Registered Warrant Fund of Local Improvement District No. 26 of the City of Rexburg, Idaho," and any funds paid as interest on said installment payments of assessments shall be kept in a fund known as the "Interest Fund of Local Improvement District No. 26, of the City of Rexburg, Idaho."

Said Registered Warrant Fund and Interest Fund shall be deposited in such bank or banks as are designated as depositories of public monies of such municipalities under the laws of the State of Idaho. Interest received on such funds so deposited shall be placed to the credit of the fund from which it was earned. Maturing registered warrants shall be paid from the Registered Warrant Fund in regular numerical order, and the interest on the registered warrants, when due, shall be paid from the Interest Fund.

The City Treasurer be, and he is also hereby authorized and empowered, and it shall be his duty, to receive and collect all of the receipts of municipal taxes and charges levied and collected for guaranteeing the payment of said registered warrants to place said monies in the City's "Local Improvement Guarantee Fund," as heretofore provided, to disburse therefrom said monies for the payment of the interest on and the principal of the registered warrants hereinafter authorized, if necessary to redeem said registered warrants at maturity, both principal and interest, and otherwise to maintain and manage said fund in the manner heretofore specified.

**SECTION IV:** That the City Treasurer shall give notice of the installments of assessments becoming due, principal, interest and penalties for delinquencies, pursuant to Section 50-1716, Idaho Code, and all laws amendatory thereof and supplemental thereto. The failure of the City Treasurer to mail such notice or to do any other act or thing required by this section shall not affect the validity of the assessments or installments thereof due nor extend the validity of the assessments or installments thereof due nor extend the time for payment thereof, but shall subject the municipality to liability to a taxpayer for any damage sustained by reason of such failure.

**SECTION V:** The sale of Local Improvement District No. 26 registered warrants shall transfer to the owner or holder of such registered warrants all the rights and interest of the City of Rexburg, Idaho, in and with respect to every such assessment and the lien thereby created against the property of each owner assessed as shall not have availed himself of the provisions of the Local Improvement District Code, in regard to the redemption of his property and shall received and have collected the assessments or assessments embraced in any such registered warrants through any of the methods provided by law for the collection of assessments for local improvements.

**SECTION VI:** That the assessments and the interest thereon have been and shall continue to constitute, and are hereby declared to be, a lien in the several amounts assessed against each lot or tract of land hereinbefore specified from and after the 13th day of November, 1989, the date on which the ordinance levying such assessments became effective, which lien shall be superior to the lien of any mortgage or other encumbrance, whether prior in time or not, and shall constitute such lien until paid, such lien shall not be subject to the nonpayment of general taxes or the conveyance of such property by any means to the United States of America or any agency thereof, the State of Idaho, or any county, city, school district, junior college district or other public body, agency or taxing unit in said state.

**SECTION VII:** That for the purpose of defraying a portion of the cost of said

improvements there be issued, in the name of the City of Rexburg, Street Improvement Warrants of said Local Improvement District No. 26 for the purpose of causing certain streets and parts thereof within the corporate limits of said City to be graded, re-graded, graveled, paved, re-paved and otherwise improve certain streets within the District and to construct and reconstruct sidewalks, curbs, gutters, drainage facilities, and other works incidental to all of the foregoing improvements along said streets within said District, in the aggregate principal amount of \$76,220.44 consisting of registered warrants numbered consecutively from 1 to 10, both inclusive, which registered warrants shall bear date as of the 13<sup>th</sup> day of November, 1989, and shall be in denominations hereinafter set forth, provided however, that Registered Warrant No. 1 shall be of a denomination other than a multiple of \$100.00, and shall bear interest at the rate hereinafter specified, payable annually on November 13, each year, said interest to be evidenced by said registered warrant. If, upon presentation at maturity, payment of any registered warrant is not made as herein provided, interest thereon shall continue at the same rate until the principal thereof is paid in full. Said registered warrants shall be fully negotiable and shall have all the qualities of negotiable paper, subject to the specific provisions stated herein, and the holder of holders thereof shall possess all rights enjoyed by holders of negotiable instruments under the provisions of the Uniform Commercial Code. Said registered warrants shall be numbered, shall be in the denomination of, and shall bear interest and shall mature serially in regular numerical order in the amounts designated on the 13th day of November in each of the years indicated as follows:

YEAR	REGISTERED WARRANT NO.	AMOUNT	COUPON RATE
1990	1	\$ 6,920.44	7.5%
1991	2	7,700.00	7.5%
1992	3	7,700.00	7.5%
1993	4	7,700.00	7.5%
1994	5	7,700.00	7.5%
1995	6	7,700.00	7.5%
1996	7	7,700.00	7.5%
1997	8	7,700.00	7.5%
1998	9	7,700.00	7.5%
1999	10	7,700.00	7.5%

Said registered warrants shall be payable in lawful money of the United States of America at the office of the City Treasurer of the City of Rexburg, Madison County, Idaho. Said registered warrants shall be signed by the Mayor, the City Clerk and the City Treasurer of the City of Rexburg, and each registered warrant shall have affixed thereto the corporate seal of said City.

The holder of any registered warrant issued under the authority of the Local Improvement District Code, shall have no claim therefor against the City of Rexburg except to the extent of the funds created and received by assessments against the property within any local improvement guarantee fund which has been established by the City of Rexburg, but the City of Rexburg shall be help responsible for the lawful levy of all special taxes or assessments herein provided and for the faithful accounting of settlements and payments of the special taxes and assessments levied for the payment of the registered warrants as herein provided. The owners and holders of such registered warrants shall be entitled to complete enforcement of all assessments made for the payment of such registered warrants. A copy of Section 50-1723 of the Local Improvement District Code of the State of Idaho shall be plainly written, printed or engraved on the back of each registered warrant so issued.

Each registered warrant shall provide that the principal thereof and the interest thereon are payable solely from the principal of or interest on the unpaid assessments levied in the District to pay the total cost and expenses of said Local Improvement District No. 26 of the City of Rexburg, Idaho.

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

date, at the price of par and accrued interest. The registered warrants to be called shall be selected by lot and shall, insofar as can be done taking into consideration the denominations of the outstanding registered warrants, represent an equal amount of registered warrants from each maturity outstanding at the time of redemption.

Notice of prior redemption shall be given by the Treasurer in the name of the City of Rexburg by publication for such notice at least once in each calendar week on any day of the week for at least four successive weeks, the first publication to be at least thirty days prior to the redemption date, in a newspaper of general circulation in the City, and a copy of such notice shall be sent by registered or certified mail at least thirty days prior to the redemption date to the original purchaser or purchasers of the registered warrants. Such notice shall specify the number or numbers of the registered warrants to be so redeemed (if less than all are to be redeemed) and the date fixed for redemption, and shall further state that on such redemption date there will become due and payable upon each registered warrant so to be redeemed at the office of the Treasurer of the City of Rexburg, the principal amount thereof, together with accrued interest to the redemption date, and that from and after such date interest will cease to accrue. Notice having been given in the manner hereinbefore provided, the registered warrant or registered warrants so called for redemption shall become due and payable on the redemption date so designated and upon presentation thereof at said office, together with interest maturing subsequent to the redemption date, and the City of Rexburg will pay the registered warrant or registered warrants so called for redemption.

**SECTION VIII:** That said registered warrants shall be in substantially the following form:

If there is sufficient money in the Registered Warrant Fund of Local Improvement District No. 26 of the City of Rexburg, Idaho, to pay the principal of one or more registered warrants of this series, the Treasurer of the City of Rexburg, Idaho, may call in and pay such registered warrants as of the next interest payment date at the price of par and accrued interest. The registered warrants to be called shall be selected by lot and shall, in the event less than all of the outstanding registered warrants are to be redeemed, insofar as can be done taking into consideration the denominations of the outstanding registered warrants, represent an equal amount of bonds from each maturity outstanding at the time of the redemption.

This registered warrant is issued for the purpose of paying a portion of the costs and expenses of constructing certain street improvements made in Local Improvement District No. 26 of the City of Rexburg, Idaho, for the purpose of causing certain streets and parts thereof within the corporate limits of said City to be graded, re-graded, graveled, paved, re-paved and otherwise improve said streets within the District and to construct and reconstruct sidewalks, curbs, gutters, drainage facilities, and other works incidental to all of the foregoing improvements along certain streets within said District, pursuant to resolutions and ordinances duly adopted by said City for Rexburg, Idaho, under and by virtue of the law known as "Local Improvement District Code," Chapter 17, Title 50, Idaho Code, and all other laws thereunto enabling. In conformity with said Code, it is hereby provided that the principal sum herein named shall be payable from a separate fund designated "Registered Warrant Fund of Local Improvement District No.26 of the City of Rexburg, Idaho," pledged solely for the payment of the principal of the registered warrants of the series of which this is one, and consisting of all monies constituting the payment of interest on assessments unpaid at the time of the issuance of this registered warrant.

The principal of this registered warrant and the interest thereon, is payable solely from the principal of or interest on unpaid assessments levied in Local Improvement District No. 26 of the City of Rexburg, Idaho, to pay the total cost and expenses of such local improvement district project. Provided, the principal of and the interest on the registered warrants of the series of which this is one, shall, if necessary, be redeemed at maturity from the City's "Local Improvement Guarantee Fund" heretofore duly authorized and created, and not otherwise.

If, upon presentation at maturity, payment of this registered warrant is not made as herein provided, interest thereon shall continue at the same rate until the principal hereof is paid in full.

Pursuant to Section 50-1723 of the Local Improvement District Code of the State of Idaho, "The holder of any bond issued under the authority of this code shall have no claim therefor against the municipality by which the same is issued, except to the extent of the funds created and received

