

ORDINANCE NO. 187

AN ORDINANCE OF THE CITY OF CLARK FORK, IDAHO, AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF A PARITY LIEN WATER REVENUE BOND IN THE PRINCIPAL AMOUNT OF \$9,400; DESCRIBING SAID BOND; CONFIRMING THE SALE OF SAID BOND; PROVIDING FOR THE COLLECTION AND DISPOSITION OF REVENUE; ESTABLISHING CERTAIN FUNDS AND ACCOUNTS; PROVIDING COVENANTS; AND PROVIDING FOR OTHER MATTERS RELATING THERETO

WHEREAS, the City of Clark Fork (the "City") is a municipal corporation organized and existing under the laws of Idaho; and

WHEREAS, the City Council (the "Council") of the City is authorized and empowered by Idaho Code Sections 50-1027 through 50-1042 (the "Revenue Bond Act") to issue water revenue bonds to finance all or part of the cost of acquisition, construction, and installation of a municipal water system and improvements thereto; and

WHEREAS, the Council, by adoption of Ordinance No. 183 on February 12, 1985, ordered a special bond election to be held within the City on March 5, 1985, for the submission to the qualified electors of the City the question of whether or not the City should be authorized to issue its water revenue bonds in the principal amount of not more than \$180,000 in order to provide funds for certain capital improvements to its water system; and

WHEREAS, the requisite majority of the qualified electors of the City, at said special bond election of March 5, 1985, authorized the issuance of water revenue bonds in the amount of not more than \$180,000; and

WHEREAS, the City heretofore, on July 15, 1986, pursuant to Ordinance No. 184, adopted on September 10, 1985, issued its Water Revenue Bond of 1986 (the "1986 Bond"), in the principal amount of \$168,900, payable from the revenues of its water system; and

WHEREAS, said Ordinance No. 184 provides that the net revenues to be derived from the operation of the City's water system may be pledged for the payment of principal of and interest on water revenue bonds in order to complete the project, on a parity with the 1986 Bond; and

WHEREAS, the Council has determined that the public health, safety, and welfare will be furthered by the water improvement project described hereinafter and has further determined to issue

water revenue bonds of the City, duly authorized by the electors of the City at said election of March 5, 1985, on a parity with the 1986 Bond, in the principal amount of \$9,400; and

WHEREAS, Idaho Code Section 57-227 authorizes the sale of water revenue bonds to the United States of America, Farmers Home Administration, at private sale without giving prior notice thereof and in such manner as the Council may determine.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF CLARK FORK, IDAHO, as follows:

Section 1: DEFINITIONS

As used in this Ordinance, the following words shall have the following meanings:

A. Acquisition or Acquire includes the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the Federal Government, the State, any public body therein or any person or entity, the condemnation, transfer, option to purchase, other contract, or other acquirement, or any combination thereof.

B. Bond means the principal amount of \$9,400 City of Clark Fork Parity Lien Water Revenue Bond, Series 1986-B, herein authorized to be issued in the form of a single fully registered bond without coupons.

C. Bond Fund means the "City of Clark Fork Water Revenue Bond Fund" referred to in Section 12 of this Ordinance and created by Ordinance No. 184, adopted on September 10, 1985.

D. Bond Register means the registration books on which are maintained the names and addresses of the owners or nominees of the owners of the Bond.

E. Bond Registrar for the purpose of the Bond, means the Treasurer.

F. Capital Improvement Fund means the "City of Clark Fork Water Revenue Bond Capital Improvement Fund" referred to in Section 10 of this Ordinance and created by Ordinance No. 184, adopted on September 10, 1985.

G. City means the City of Clark Fork, Bonner County, Idaho.

H. City Clerk means the de facto or de jure Clerk of the City, or other officer of the City who is the custodian of the

seal of the City and of the records of the proceedings of the City, or his/her successor in functions, if any.

I. Cost of Project or any phrase of similar import, means all or any part designated by the Council of the costs of the Project, or interest therein, which costs, at the option of the Council, may include all or any part of the incidental costs pertaining to the Project, including, without limitation:

(1) Preliminary expenses advanced by the City from funds available for the use therefor, or advanced by the Federal Government, or from any other source, with approval of the Council, or any combination thereof;

(2) The costs of making surveys, audits, preliminary plans, other plans, specifications, estimates of costs and other preliminaries.

(3) The costs of appraising, printing, estimates, advice, services of engineers, architects, financial consultants, attorneys at law, clerical help, or other agents or employees;

(4) The costs of contingencies;

(5) The costs of the issuance of the Bond;

(6) The costs of funding any short-term financing, bond anticipation notes, and other temporary loans appertaining to the Project and of the incidental expenses incurred in connection with such loans;

(7) The costs of any properties, rights, easements, or other interest in properties, or any licenses, privileges, agreements and franchises; and

(8) All other expenses necessary or desirable and appertaining to the Project, as estimated or otherwise ascertained by the Council.

J. Council means the City Council of the City.

K. Improvement or Improve includes the extension, widening, lengthening, betterment, alteration, reconstruction, or other major improvement, or any combination thereof, of any properties pertaining to the Project or an interest therein, but does not mean general maintenance or repair.

L. Mayor means the de facto or de jure Mayor of the City, or his/her successor in functions, if any.

M. Net Revenues means Revenue of the System after the deduction of Operation and Maintenance Expenses.

N. Operation and Maintenance Expenses or any phrase of similar import, means all reasonable and necessary current expenses of the City, paid or accrued, of operating, maintaining, and repairing the System or of levying, collecting, and otherwise administering the Net Revenues for the payment of the Bond; and the term includes (except as limited by contract or otherwise limited by law) without limiting the generality of the foregoing:

(1) Engineering, auditing, reporting, legal, and other overhead expenses of the various City departments directly relating and reasonably allocable to the administration of the System;

(2) Fidelity bonds and property and liability insurance premiums appertaining to the System, or a reasonably allocable share of a premium of any blanket bond or policy pertaining thereto;

(3) Payments to pension, retirement, health, and hospitalization funds and other insurance;

(4) Any taxes, assessments, excise taxes, or other charges which may be lawfully imposed on the City, the System, revenues therefrom, or any privilege in connection with their operation;

(5) The reasonable charges of the fiscal or paying agent, commercial bank, trust bank, or other depository bank appertaining to the Bond issued by the City or appertaining to the Project, if any;

(6) Contractual services, professional services, salaries, other administrative expenses, the cost of materials, supplies, repairs, and labor, appertaining to the issuance of the Bond and to the System; and

(7) All other administrative, general, and commercial expenses.

O. Project means the water improvement project described in Section 2 hereof and consisting generally of the construction and installation of improvements and betterments to the domestic water supply and distribution system of the City.

P. Registered Owner initially means the United States of America, Farmers Home Administration, its successors or assigns, and may mean any subsequent transferee or purchaser of the Bond.

Q. Reserve Fund means the "City of Clark Fork Debt Service Reserve Fund" referred to in Section 13 of this Ordinance, and created by Ordinance No. 184, adopted on September 10, 1985.

R. Revenue Fund means the "City of Clark Fork Water Revenue Fund" referred to in Section 11 of this Ordinance and created by Ordinance No. 184.

S. Revenue of the System means all revenues received by the City from its System and may include, at the discretion of the City, moneys derived from one, all, or any combination of revenue sources appertaining to the System including, without limitation, rates, charges, rents, fees, and any other income derived from the operation or ownership of, from the use of services of, or from the availability of or services appertaining to, or otherwise derived in connection with the System or all or any part of any property appertaining to the System.

T. System means the domestic water supply and distribution system of the City, as it now exists, including its assets, real and personal, tangible and intangible, and as it may later be added to, extended, and improved, and shall include buildings, structures, utilities, or other income producing water facilities from the operation of or in connection with which the revenues of the payment of the Bond to be issued hereunder will be derived, and the lands appertaining thereto, including, without limitation, any Improvement to be acquired with the proceeds of the Bond.

U. Treasurer means the de facto or de jure Treasurer of the City, or his/her successor in functions, if any.

V. 1986 Bond means the City of Clark Fork, Idaho, Water Revenue Bond of 1986, issued in the original principal amount of \$168,900, as authorized by Ordinance No. 184, adopted on September 10, 1985.

## Section 2: THE PROJECT

A. Project Description. The water improvement project consists generally of the acquisition, construction, and installation of improvements and betterments to the City's domestic water supply and distribution system, as more particularly described in Section 2 of Ordinance No. 184, adopted on September 10, 1985, together with engineering and legal fees, administrative costs, and all other costs incidental thereto (the "Project").

B. Project Changes. The Council may make changes in the above-described plans prior to or in the course of actual construction, provided such changes are found necessary and desirable by the Council and that such changes do not substantially affect or alter the plans or the cost of the Project.

C. Costs. \$9,400 of the cost and expenses of construction and installation will be paid from the issuance and sale of the Bond, hereinafter defined, authorized to be issued at a special election held within said City on March 5, 1985. The balance will be realized from other legally available funds, including grant funds from the State of Idaho and other grant sources, and the proceeds of the 1986 Bond.

Section 3: THE BOND

The Bond, designated "City of Clark Fork Parity Lien Water Revenue Bond, Series 1986-B" (the "Bond"), shall be issued in fully registered form, shall be dated as of the date of its delivery, shall be in the total principal sum of \$9,400, and shall bear interest on the unpaid balance from the date of the Bond until paid, at the rate charged by the United States of America, Farmers Home Administration, at the time of approval. Said designation is hereby authorized to be modified to accurately reflect the year it is delivered.

Said Bond shall be payable in equal monthly installments of principal and interest, with the first installment of principal and interest being due thirty (30) days from the date of delivery of the Bond, and monthly on the same day of each month thereafter until maturity. The final monthly installment may be in such greater or lesser amount as is necessary to fully pay said Bond.

The principal of and interest on the Bond shall be fully paid within forty (40) years from its date.

The sale of the Bond to the United States of America, Farmers Home Administration (hereinafter the "Registered Owner"), is hereby authorized and approved. The Registered Owner has requested, and the City has agreed, that the obligation of the City thereunder shall be represented in the form of a single registered, transferable revenue bond without coupons. The Registered Owner thereof shall have the right, at its expense, to convert said single bond to fully registered serial bonds, without coupons.

The single fully registered Bond referred to herein shall be substantially in the form as set forth in Exhibit "A," attached hereto and hereby made a part hereof.

Section 4: EXECUTION

The Bond shall be executed in the name of the City, shall be signed by the manual signature of the Mayor, countersigned by the manual signature of the Treasurer, shall be attested by the manual signature of the Clerk, and shall be authenticated by the seal of the City affixed thereto.

Section 5: PLACE AND MANNER OF PAYMENT

Principal of the Bond and interest thereon shall be payable in lawful money of the United States of America, to the Registered Owner thereof, at the address of such Registered Owner as shown on the registration records of the City, or at such other address as designated in writing to the City by the Registered Owner.

Section 6: PREPAYMENT

The City hereby reserves the right, at its option, to prepay, on any payment date, the principal amount outstanding, in whole or, in the manner hereinafter provided, in part, at any time while the single registered Bond is held by the Registered Owner.

Prepayments shall be made on any monthly payment date, and partial prepayments shall be in the amount of \$1,000 or multiples thereof. No partial prepayment shall extend or postpone the due date of any subsequent installment. Any prepayment shall be made without penalty, and without additional interest or charges.

Notice of any such intended prepayment shall be mailed by registered mail to the Registered Owner of the Bond at its address appearing on the registration records of the City, or at such other address as designated in writing to the City by the Registered Owner for the payment of regular installments, at least thirty (30) days prior to the prepayment date.

Section 7: REDEMPTION

If the single Bond referred to herein is converted to fully registered serial bonds, the City reserves the right to redeem and call said serial bonds, at par plus accrued interest to the date of redemption, in inverse order of maturity, at the option of the City, on any interest payment date.

Section 8: CHARGES

The City has established, may from time to time revise, and shall maintain and collect water rates and charges for furnishing the services of the System to its customers, which rates and

charges are, and shall continue to be, uniform as to all persons or properties which are of the same class, which rates and charges shall be collected from the users thereof.

Section 9: PLEDGE OF REVENUES

The Net Revenues of the System are hereby pledged for the payment of the Bond, equal to and on a parity with the charge and lien created by the 1986 Bond, and shall be used and applied in the order of priority provided in Section 11 of this Ordinance.

The City shall establish, revise, maintain, and collect charges sufficient, with other revenues received, after taking into consideration anticipated delinquencies, to provide Net Revenues equal to not less than 1.2 times the sum of the combined aggregate amount of the principal of and interest on the Bond, together with the principal of and interest on the 1986 Bond, which shall become due the next succeeding fiscal year.

Section 10: THE CAPITAL IMPROVEMENT FUND

There has heretofore been created, by Ordinance No. 184, adopted on September 10, 1985, a fund known as the "City of Clark Fork Water Revenue Bond Capital Improvement Fund" (the "Capital Improvement Fund"), into which shall be deposited all of the proceeds of the sale of the Bond, to be used and applied for the payment of a portion of the cost and expense of the construction and installation of the Project, including the payment of the principal of and interest on all outstanding bond anticipation notes or other interim financing, if any. Any interest earnings on moneys invested from the Capital Improvement Fund shall be deposited into the Bond Fund, hereinafter defined. The City's share of any liquidated damages or other moneys paid by defaulting contractors or their sureties will be deposited into said Capital Improvement Fund to assure the completion of the Project.

When the Project has been completed and all costs related thereto have been paid in full, any balance remaining in the Capital Improvement Fund will be deposited into the Bond Fund described in Section 12 of this Ordinance.

Section 11: THE REVENUE FUND

There has heretofore been created, by Ordinance No. 184, adopted on September 10, 1985, a fund known as the "City of Clark Fork Water Revenue Fund" (the "Revenue Fund"), which shall be maintained by the Treasurer and into which the Revenue of the System shall be deposited forthwith upon its receipt.

A. Use of Revenues: The Revenue of the System shall be used for the payment of the following obligations in the following order of priority:

(1) First Charge and Lien: The costs of Operation and Maintenance Expenses.

(2) Second Charge and Lien: The principal of and interest on the Bond and the 1986 Bond by payment into the Bond Fund.

(3) Third Charge and Lien: To maintain the Debt Service Reserve Fund; and

(4) To administer surplus funds.

B. Surplus Funds: Funds remaining in the Revenue Fund after having been applied to designated funds for the purposes provided in this Section shall constitute surplus funds and may be used for the purposes set forth in Section 14 of this Ordinance.

#### Section 12: THE BOND FUND

There has heretofore been created, by Ordinance No. 184, adopted on September 10, 1985, a special fund known as the "City of Clark Fork Water Revenue Bond Fund" (the "Bond Fund"), into which shall be deposited, from Net Revenues, in addition to the amounts required by Ordinance No. 184, the following described revenues:

A. The amount, in equal monthly installments, sufficient to fully pay the Bond together with interest thereon within forty (40) years from its date, shall be accumulated into the Bond Fund on or before the 10th day of each month. The moneys herein allocated shall be used solely to pay currently maturing installments of principal of and interest on the Bond.

B. If the City for any reason shall fail to make such monthly deposit, then an amount equal to the deficiency shall be set apart and deposited into the Bond Fund out of the Debt Service Reserve Fund, described hereinafter.

#### Section 13: DEBT SERVICE RESERVE FUND

A. Deposits. There has heretofore been created, by Ordinance No. 184, adopted on September 10, 1985, a fund known as the "City of Clark Fork Debt Service Reserve Fund" (the "Reserve Fund") which shall be maintained by the Treasurer in the amounts and for the purposes set forth in Ordinance No. 184. In addition thereto, there shall be deposited into the Reserve Account ten

percent (10%) of the annual debt service payments on the Bond until the sum of \$548.00 has been accumulated as a debt service reserve fund for the Bond, which sum shall be maintained until the Bond has been paid in full.

B. Deficiencies or Withdrawals. Whenever any moneys are withdrawn from the Reserve Fund to pay the principal of or interest on the Bond, or if a deficiency exists in such Fund, the amount so withdrawn or the amount of such deficiency shall be restored by monthly deposits from Net Revenues until there has been restored therein the gross amount provided heretofore in subdivision A of this Section, together with any funds required to be maintained therein by Ordinance No. 184.

C. Refunding. In the event Refunding Bonds are ever issued, the amount set aside into the Reserve Fund to secure the payment of the Bond may be used to retire bonds or may be held in the Reserve Fund to secure payment of the refunding bonds issued, to refund the outstanding refunding bonds, or may be held in the Reserve Fund to secure the payment of any other issue or series of bonds payable out of the Bond Fund and issued on a parity with the Bond and the 1986 Bond.

D. Investments. All moneys in the Reserve Fund may be kept in cash or deposited in institutions permitted by law in an amount in each institution not greater than the amount insured by any department or agency of the United States Government, or may be invested and reinvested in any legal investment permitted for City moneys maturing not later than the last maturity date of any outstanding bonds. Interest earned on any such investment shall be deposited into the Bond Fund.

#### Section 14: SURPLUS FUNDS

Funds remaining in the Revenue Fund after having been applied to or designated funds for the purposes provided in Section 11 A of this Ordinance shall constitute surplus funds and may be used for any of the purposes set forth in Section 14 of Ordinance No. 184.

#### Section 15: ADDITIONAL BONDS OR OTHER OBLIGATIONS

A. Limitations Upon Issuance of Parity Obligations. Nothing contained in this Ordinance shall be construed in such a manner as to prevent the issuance by the City of additional bonds or other additional obligations payable from the Net Revenues on a parity with, but neither prior nor superior to, the lien of the Bond herein authorized; provided, however, that before any such additional parity bonds or other additional parity obligations are authorized or actually issued:

(1) The City is not, and has not been, in default as to any payments required by the provisions of this Ordinance or Ordinance No. 184 for a period of not less than twelve (12) months immediately preceding the issuance of such additional parity bonds or other additional parity obligations.

(2) The Net Revenues of the System for the past twelve (12) consecutive months immediately preceding the year of the issuance of such additional parity obligations shall have been sufficient to pay the Operation and Maintenance Expenses of the System for said past twelve (12) months, and, in addition, sufficient so that the Net Revenues for such preceding year equal an amount representing 120% of the annual principal and interest requirements of the outstanding Bond and the 1986 Bond and any other obligations of the City payable from the Net Revenues of the System, plus the average annual principal and interest requirements of the bonds or other obligations proposed to be issued; provided, this limitation may be waived or modified by the written consent of the Registered Owners of 75% of the principal amount of the Bond;

(3) A written certification by the City engineer or an independent engineer, if requested, that the 120% Net Revenue requirement of subsection (2) above has been satisfied, shall be obtained and filed with the City, which certification shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell, and deliver said additional bonds or other additional obligations on a parity with the Bond authorized herein and the 1986 Bond.

B. Parity Bonds to Complete Project. In the event grant funds, plus the proceeds of the Bond provided for in this Ordinance, are insufficient to complete the Project, then parity bonds may be issued to complete the Project, and the restrictions set forth in this Section pertaining to the issuance of parity bonds shall not apply.

C. Subordinate Lien Bonds. No provision of this Ordinance or of any instrument appertaining thereto shall be deemed to limit or restrict the power of the Council to issue bonds, notes or warrants, or to make pledges of the revenues which shall be subordinate as to the lien of the Bond and the 1986 Bond and which shall provide for compliance with the current provisions hereof prior to the application of any funds to said subordinate purpose.

D. Refunding. The restrictions with respect to the issuance of parity obligations shall not apply if such additional parity

bonds proposed to be issued are for the sole purpose of refunding outstanding water revenue bonds.

Section 16: INVESTMENTS

Surplus funds in any of the Funds set forth in this Ordinance may be invested in securities as permitted by law.

Section 17: GENERAL COVENANTS

For the protection and security of the Bond, it is covenanted and agreed to and with the Registered Owner of the Bond from time to time, that the City will perform the following covenants:

A. Complete Project. It will complete the construction of the Project with all practical dispatch and in a sound and economical manner.

B. Operate System. It will operate the System in an efficient and economical manner and prescribe, revise, and collect such charges in connection therewith so that the services, facilities, and properties of the System may be furnished at the lowest possible cost consistent with sound economy and prudent management.

C. Good Repair. It will operate, maintain, preserve, and keep the System and every part hereof in good repair, working order, and condition.

D. Preserve Security. It will preserve and protect the security of the Bond and the rights of the Registered Owner thereof.

E. Collect Revenues. It will collect and hold in trust the revenues and other funds pledged to the payment of the Bond and apply such revenue or other funds only as provided in this Ordinance.

F. Service Bond. It will pay and cause to be paid punctually the principal of the Bond and the interest thereon on the date or dates and at the place or places and in the manner mentioned in the Bond, and in accordance with this Ordinance.

G. Pay Claims. It will pay and discharge any and all lawful claims for labor, materials, and supplies which, if unpaid, might by law become a lien or charge upon the Revenue of the System, or any part of said Revenue of the System, or any funds in the hands of the Treasurer, prior or superior to the lien of the Bond or which might impair the security of the bond, to the end

that the priority and security of the Bond shall be fully preserved and protected.

H. Encumbrances. It will not mortgage or otherwise encumber, sell, lease, or dispose of the System or any part thereof, nor enter into any lease or agreement which would impair or impede the operation of the System or any part thereof necessary to secure adequate revenues for the payment of the principal of and interest on the Bond, nor which would otherwise impair or impede the rights of the Registered Owner of the Bond with respect to such revenues of the operation of the System without provisions for the retirement of the Bond then outstanding from the proceeds thereof.

I. Insurance. It will procure and keep in force insurance upon all buildings and structures of the System and the machinery and equipment therein, which are usually insured by entities operating like property, in good and responsible insurance companies. The amount of the insurance shall be such as may be required to adequately protect it and the Registered Owner of the Bond from loss due to any casualty, and in the event of any such loss, the proceeds shall be used to repair or restore the System or for the payment of the Bond issued under this Ordinance.

J. Fidelity Bonds. It will procure suitable fidelity bonds covering all of its officers and other employees charged with the operation of the System and the collection and disbursement of revenues therefrom.

K. Engineers. It will employ consulting engineers of acknowledged reputation, skill, and experience in the improvement and operation of the System for any unusual or extraordinary items of maintenance, repair, or betterments as shall be required from time to time, all reports, estimates, and recommendations of such consulting engineers to be filed with the Clerk and furnished to the Registered Owner of the bond issued hereunder, upon request.

L. Accounts. It will keep proper and separate accounts and records in which complete and separate entries shall be made of all transactions relating to the System, and it will furnish complete operating and income statements upon request.

M. Delinquencies. It will not furnish water service to any customer whatsoever free of charge, and it shall not later than sixty (60) days after the end of each calendar year, take such legal action as may be reasonable to enforce collection of all collectible delinquent accounts.

Section 18: SPECIAL COVENANTS

The City further covenants and agrees:

A. The Bond is a qualified tax-exempt obligation within the meaning and for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986 (the Tax Reform Act of 1986), and the City will not designate more than \$10,000,000, including the Bond, as qualified tax-exempt obligations during the calendar year.

B. None of the proceeds of the Bonds will be used directly or indirectly (i) to make or finance loans to persons or (ii) in any trade or business carried on by any person (other than use as a member of the general public). For purposes of the preceding sentence, the term "person" does not include a government unit other than the United States or any agency or instrumentality thereof, and the term "trade or business" means any activity carried on by a person other than a natural person.

C. The Bond is not a private activity bond within the meaning of the Internal Revenue Code of 1986.

D. The aggregate face amount of all tax-exempt bonds, including the Bond issued by the City during the calendar year of 1986, will not exceed \$5,000,000.

E. The City will take no action which would cause the Bond to become an arbitrage bond within the meaning of Section 148 of the Internal Revenue Code.

Section 19: AMENDMENTS

A. The City from time to time and at any time may adopt an ordinance or ordinances supplemental hereto, which ordinance or ordinances thereafter shall become a part of this Ordinance, for any one or more of all of the following purposes:

(1) To add to the covenants and agreements of the City in this Ordinance, other covenants and agreements thereafter to be observed, which shall not adversely affect the interest of the Registered Owner of the Bond, or to surrender any right or power herein reserved.

(2) To make such provisions for the purpose of curing any ambiguities or of curing, correcting, or supplementing any defective provisions contained in this Ordinance, or any ordinance authorizing future bonds in regard to matters or questions arising under such ordinances as the Council may deem necessary or desirable and not inconsistent with such ordinances and which shall not adversely affect, in any

material respect, the interest of the Registered Owner of the Bond.

Any such supplemental ordinance may be adopted without the consent of the Registered Owner of the Bond at any time outstanding, notwithstanding any of the provisions of subsection B of this Section.

B. With the consent of the Registered Owner of not less than 75% in aggregate principal amount of the Bond at the time outstanding, the Council may adopt an ordinance or ordinances supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Ordinance or of any supplemental ordinance; provided, however, that no such supplemental ordinance shall:

(1) Extend the fixed maturity of the Bond, or reduce the rate of interest thereon, or extend the time of payments of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, if applicable, without the consent of the Registered Owner of the Bond so affected; or

(2) Reduce the aforesaid percentage of the Registered Owner required to approve any such supplemental ordinance, without the consent of the Registered Owner of the Bond then outstanding.

It shall not be necessary for the consent of the Registered Owner under this subsection B to approve the particular form of any proposed supplemental ordinance, but it shall be sufficient if such consent shall approve the substance thereof.

C. Upon the adoption of any supplemental ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, and obligations of the City under this Ordinance and the Registered Owner of the Bond outstanding hereunder shall thereafter be determined, exercised, and enforced thereunder, subject in all respects to such modification and amendments, and all terms and conditions of any such supplemental ordinance shall be deemed to be part of the terms and conditions of this Ordinance for any and all purposes.

D. Any Bond executed and delivered after the execution of any supplemental ordinance adopted pursuant to the provisions of this Section may have a notation as to any matter provided for in such supplemental ordinance, and if such supplemental ordinance shall so provide, new bonds so modified as to conform, in the opinion of the Council, to any modification of this Ordinance

contained in any such supplemental ordinance, may be prepared and delivered without cost to the Registered Owner of any affected Bond then outstanding, upon surrender for cancellation of such Bond.

Section 20: VALIDITY OF ISSUANCE

The Bond is issued pursuant to the Idaho Revenue Bond Act, being Idaho Code Sections 50-1027 through 50-1042. This recital is conclusive evidence of the validity of the Bond and the regularity of its issuance.

Section 21: REGISTERED OWNER'S REMEDIES - RECEIVER

By action or suit in equity, the Registered Owner or subsequent owners of the Bond may, in the event of a material violation of any of the foregoing covenants, cause the appointment of a receiver, which receiver may enter and take possession of the System and any Net Revenues for the payment of the Bond, prescribe fees to be derived from the System, and collect, receive, and apply all Net Revenues of other moneys pledged for the payment of the bond in the same manner as the City might do in accordance with the obligations of the City.

Section 22: ORDINANCE A CONTRACT

The provisions of this Ordinance shall constitute a contract between the City and the Registered Owner so long as the Bond hereby authorized remains unpaid.

Section 23: DETERMINATION

The Council does hereby find, determine, and declare that it is essential to the public interest, welfare, and convenience of the City and the inhabitants thereof to undertake the Project and to construct the improvements, with said Project being paid for in part by the issuance of the Bond in conformity with the Idaho Code.

Section 24: SEVERABILITY

If any one or more of the covenants or agreements provided in this Ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements in this Ordinance and shall in no way affect the validity of the other provisions of this Ordinance or of the Bond.

Section 25: REPEALER

All prior ordinances inconsistent herewith are hereby repealed and shall, to the extent of such inconsistency, have no further force or effect.

Section 26: PUBLICATION

This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon passage, approval, and publication.

DATED this 9th day of December, 1986.

CITY OF CLARK FORK  
Bonner County, Idaho

Albert E. Schuch  
Mayor

ATTEST:

Betty R. Kietze  
City Clerk

( S E A L )

(Form of Bond)

UNITED STATES OF AMERICA

Registered  
No. One

Registered  
\$9,400.00

STATE OF IDAHO

COUNTY OF BONNER

CITY OF CLARK FORK

PARITY LIEN WATER REVENUE BOND, SERIES 1986-B

KNOW ALL MEN BY THESE PRESENTS: That the City of Clark Fork, Bonner County, Idaho, for value received, hereby promises to pay from the special fund hereinafter described and in the manner hereinafter set forth, and not otherwise, to the registered owner hereof, the principal sum of

NINE THOUSAND FOUR HUNDRED AND 00/100 DOLLARS

(\$9,400), together with interest on the unpaid balance at the rate of \_\_\_\_\_ percent (\_\_\_\_%) per annum. Said principal and interest shall be paid in the following installments on the following dates: Principal and interest in the amount of \$\_\_\_\_\_ shall be due on the \_\_\_\_\_ day of \_\_\_\_\_, 1987, and monthly thereafter on the same date each month for a period of forty (40) years from the date of the Bond. The final monthly installment may be in such lesser or greater amount as is necessary to pay the balance of principal and interest then remaining due.

This Bond shall be registered as to principal and interest in the name of the original owner and any subsequent owners in a registration book in the office of the City Treasurer, who shall be the Bond Registrar, and each registration is to be noted therein by the Bond Registrar. This Bond is transferable only upon said book, by notation thereon, by the registered owner hereof in person or by its attorney duly authorized in writing.

Both principal of and interest on this Bond shall be payable in lawful money of the United States of America, to the registered owner hereof, at the address of such owner as shown on the registration records of the City, or at such other address as designated in writing to the City by the registered owner. Any owner of this Bond subsequent to its original owner is hereby placed on notice of all payment of both principal of and interest on this Bond prior to its transfer to him and all subsequent owners hereof hereby acknowledge that they have ascertained the actual unpaid principal amount of this Bond as of the date of

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transfer to them and hereby release the City from all obligations as to all principal and interest paid by the City prior to such date.

The City has reserved the right, at its option, to prepay the principal amount outstanding, in whole or, in the manner herein-after provided, in part, at any time this Bond is held by the United States of America, Farmers Home Administration, or any subsequent transferee.

Prepayments shall be made on the date, at the place, and in the manner provided herein for making regularly scheduled monthly installments, and partial prepayments shall be in the amount of \$1,000 or multiples thereof, plus accrued interest to the date of such prepayment. Any such prepayment shall be made without penalty, additional interest, or charges.

Notice of any such intended prepayment shall be mailed by registered mail to the registered owner of the Bond at the address appearing on the registration records of the City, or at such other address as designated in writing to the City by the registered owner, at least thirty (30) days prior to the prepayment date. Interest on this Bond shall cease to accrue as to the amount of principal being prepaid after the date fixed for prepayment if notice has been properly given and funds equal to the amount of prepayment have been deposited at the place of payment at that time.

This Bond, upon the surrender hereof at the office of the City Treasurer may, at the option of the registered owner and at its expense, be exchanged for serial bonds, without coupons, in registered form, in the aggregate principal amount then remaining unpaid, bearing the same interest rate, maturing annually on December first of each of the remaining years of the original term of this Bond, and dated as of the year during which the surrender and exchange is effected. Serial bonds so issued shall be redeemable according to the provisions of Ordinance No. 187 of the City, adopted on December 9, 1986 (the "Bond Ordinance"), pursuant to which this Bond was issued.

This Bond is issued for the purpose of paying a portion of the cost of the construction and installation of improvements and betterments to the City's domestic water system (the "Project"), pursuant to the Idaho Revenue Bond Act (being Idaho Code Sections 50-1027 through 50-1042), and the Municipal Bond Law of the State of Idaho (being Idaho Code, Title 57, Chapter 2) and also pursuant to the Bond Ordinance and a special election held within the City on March 5, 1985.

This Bond creates a lien and charge upon the Net Revenue of

the City's domestic water System (as said capitalized terms are defined in the Bond Ordinance) equal to and on a parity with the lien and charge of the 1986 Bond, as defined in the Bond Ordinance, and superior to all other charges of any kind or nature, except the charges necessary to pay the principal of and interest on any future parity bonds. This Bond is a limited obligation of the City and is payable as to principal and interest solely from a special fund created by Ordinance No. 184, adopted on September 10, 1985, and designated as the "City of Clark Fork Water Revenue Bond Fund" (the "Bond Fund") and referred to in the Bond Ordinance. For a more particular description of said Bond Fund, the revenues to be deposited therein, and the nature and extent of the security afforded thereby, reference is made to the provisions of the Bond Ordinance pursuant to which this Bond is issued, and such Bond Fund will be maintained.

This Bond does not now and shall never constitute an indebtedness of the City within the meaning of any State Constitutional provision or statutory limitation, nor a charge against the general credit or taxing powers of the City.

The City has covenanted with the registered owner of the Bond to keep and perform all covenants and agreements contained in the Bond Ordinance, and the City will establish, maintain, collect, and account for rates and charges for service furnished by or through the System, including all extensions and improvements thereto hereafter constructed or acquired by the City, sufficient to pay the principal of and interest on the Bond as they fall due, provided such rates must be reasonable rates for the type, kind, and character of the services rendered.

IT IS HEREBY CERTIFIED, RECITED, and DECLARED that all conditions, acts, and things essential to the validity of this Bond do exist, have happened, and have been done, and that every requirement of law affecting the issue hereof has been duly complied with; that the Net Revenues to be derived from the operation of the System, including any future improvements, additions, or extensions thereto, have been and are hereby pledged and will be set aside into the Bond Fund in amounts sufficient for the payment of principal of and interest on this Bond.

IN WITNESS WHEREOF, the City of Clark Fork, of Bonner County, Idaho, under its corporate seal, has caused this Bond to be signed

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in its corporate name by its Mayor, countersigned by the Treasurer thereof, and attested by the City Clerk, this 9<sup>th</sup> day of December, 1986.

CITY OF CLARK FORK  
Bonner County, Idaho

Albert E. Schenk  
Mayor

\_\_\_\_\_  
Treasurer

ATTEST:

Betty R. Luce  
City Clerk

( S E A L )

\* \* \* \* \*

REGISTRATION CERTIFICATE

(No writing to be placed herein except by the Bond Registrar)

This Bond shall be payable only to the order of the registered owner or its legal representative.

<u>Date of Registration</u>	<u>Name and Address of Registered Owner</u>	<u>Signature of Bond Registrar</u>
December ----, 1986	United States of America Farmers Home Administration Finance Office 1520 Market Street St. Louis, MO 63103	

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