

ORDINANCE NO. 190

AN ORDINANCE OF THE CITY OF CLARK FORK, BONNER COUNTY, IDAHO, AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, SERIES 1987, IN THE PRINCIPAL AMOUNT OF \$140,000; PROVIDING FOR THE DESIGNATION, PURPOSE, DATE, MATURITIES, EXECUTION, REGISTRATION, AND REDEMPTION OF THE BONDS; FIXING THE DATE, TIME, AND PLACE OF SALE OF THE BONDS; PROVIDING FOR THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE BONDS BY THE ANNUAL LEVY OF TAXES; CREATING CERTAIN FUNDS AND ACCOUNTS; AND PROVIDING CERTAIN COVENANTS WITH THE OWNERS OF THE BONDS

WHEREAS, The City of Clark Fork (the "City"), of Bonner County, Idaho, is a municipal corporation duly organized and operating under the laws of the State of Idaho; and

WHEREAS, the City Council (the "Council") of the City, by adoption of Ordinance No. 189 on July 21, 1987, ordered a special election to be held within the City on August 27, 1987, for the purpose of submitting to the electors of the City the question of whether or not the City should be authorized to incur an indebtedness and issue its general obligation bonds in the principal amount of not to exceed \$140,000 to provide funds for certain capital street improvements as set forth in Ordinance No. 189; and

WHEREAS, at said special election, duly noticed, held, and conducted within the City on August 27, 1987, the requisite two-thirds majority of the qualified electors of the City approved the incurring of indebtedness in said amount and for said purpose, and the issuance of general obligation bonds of the City therefor, and the Council desires to provide for the issuance and sale of said bonds.

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

Section 1: BONDS AUTHORIZED

General obligation bonds of the City, in fully registered form, designated "City of Clark Fork General Obligation Bonds, Series 1987" (the "Bonds"), in the aggregate principal amount of \$140,000, are hereby authorized to be issued, sold, and delivered pursuant to the municipal bond laws of the State of Idaho, particularly Sections 50-1019 through 50-1026A, inclusive, and Title 57, Idaho Code.

Section 2: PURPOSE

The Bonds are being issued for the purpose of providing funds to pay the cost of acquisition and construction of capital

improvements to the streets of the City, consisting generally of drainage, grading, and surfacing of streets and improvements relating thereto, together with the costs of engineering, legal and fiscal services, and other costs and fees incident thereto.

Section 3: DESCRIPTION OF BONDS

The Bonds shall be in denominations of \$5,000 each or integral multiples thereof, shall be dated November 1, 1987, shall be issued only in fully registered form, and shall be substantially in the form set forth in Exhibit "A" attached hereto and by this reference incorporated herein. The Bonds shall be numbered separately in a consecutive series, in the manner and with any additional designation as the Bond Registrar (hereinafter defined) deems necessary for the purposes of identification. Interest on the Bonds shall be calculated on the basis of a 360-day year and twelve 30-day months. The Bonds shall mature on November first of each year in the amounts set forth in the following schedule:

<u>Maturity Date</u>	<u>Principal Amount</u>
November 1, 1993	\$ 10,000
November 1, 1994	10,000
November 1, 1995	10,000
November 1, 1996	10,000
November 1, 1997	15,000
November 1, 1998	15,000
November 1, 1999	15,000
November 1, 2000	15,000
November 1, 2001	20,000
November 1, 2002	20,000

Section 4: INTEREST ON BONDS

All of the Bonds shall bear interest at a rate or rates of not to exceed eleven percent (11%) per annum or at any lower rate or rates as shall be stated in the successful bid proposal for the Bonds, which interest shall be payable on November 1, 1988, and semiannually on each May first and November first thereafter, until their respective dates of maturity or prior redemption. Bidders will be permitted to bid different rates of interest. The maximum differential between the highest and lowest rate shall not exceed three percent (3%) per annum. All Bonds maturing at the same time shall bear the same rate of interest.

Section 5: PAYMENT OF BONDS

Both the principal of and interest on the Bonds shall be payable in lawful money of the United States of America to the registered owners thereof, whose names and addresses shall appear

on the registration records of the City (the "Bond Register"), maintained by the Bond Registrar.

Principal of each Bond shall be paid to the registered owner thereof, upon presentation and surrender of such Bond by the registered owner at the principal corporate trust office of the Bond Registrar, on or after the date of maturity or prior redemption.

Payment of each installment of interest shall be made to the registered owner whose name appears on the Bond Register on the fifteenth day of the calendar month next preceding the interest payment date, and shall be paid by check or draft of the Bond Registrar mailed to such registered owner on the due date at the address appearing on the Bond Register, or at such other address as may be furnished in writing by such registered owner to the Bond Registrar.

Section 6: EXECUTION OF BONDS

Without unreasonable delay, the City shall cause the Bonds to be prepared, executed, and delivered, which Bonds shall be lithographed or printed with engraved or lithographed borders. The Bonds shall be signed by the Mayor, countersigned by the City Treasurer, and attested by the City Clerk (all of which signatures shall be by facsimile), and shall have a facsimile of the seal of the City imprinted thereon. The Bonds shall then be delivered to the Bond Registrar for authentication.

Until the Bonds are prepared, the City may, if deemed necessary by the Mayor, utilize a temporary bond which shall be typewritten, and which shall be delivered to the purchaser of the Bonds in lieu of definitive bonds, subject to the same provisions, limitations, and conditions as the Bonds. The temporary bond shall be dated as of the date of the Bonds, shall be in the denomination of \$140,000, shall be numbered T-1, shall be substantially of the tenor of the Bonds, but with such omissions, insertions, and variations as may be appropriate to temporary bonds, and shall be manually signed by the Mayor, the Treasurer, the Clerk, and the Bond Registrar, and shall have the seal of the City impressed thereon.

In case any of the officers who shall have signed or countersigned any of the Bonds shall cease to be such officer or officers of the City before the Bonds so signed or countersigned shall have been authenticated or delivered by the Bond Registrar, or issued by the City, such Bonds may nevertheless be authenticated, delivered, and issued and, upon such authentication, delivery, and issue, shall be as binding upon the City as though those who signed and countersigned the same had continued to be such officers of the City. Any Bond may also be signed and countersigned on behalf of the City by such persons as at the

actual date of execution of such Bonds shall be the proper officers of the City although at the original date of such Bond any such person shall not have been such officer of the City.

Only such of the Bonds as shall bear thereon a certificate of authentication in the form set forth in Exhibit "A," manually executed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this Ordinance, and such certificate of authentication shall be conclusive evidence that the Bonds so authenticated have been duly executed, authenticated, and delivered hereunder and are entitled to the benefits of this Ordinance.

Section 7: BOND REGISTRAR

The Corporate Trust Department of The Idaho First National Bank, Boise, Idaho, is hereby appointed as bond registrar, transfer agent, and authenticating and paying agent, and is herein referred to as the "Bond Registrar." The Bond Registrar shall keep, or cause to be kept, at its principal corporate trust office, sufficient books for the registration and transfer of the Bonds which shall at all times be open to inspection by the City. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver the Bonds issued or transferred in accordance with the provisions of such Bonds and this Ordinance and to carry out all of the Bond Registrar's powers and duties under this Ordinance.

The Bond Registrar shall be responsible for its representations contained in the Certificate of Authentication on the Bonds. The Bond Registrar may become the owner of the Bonds with the same rights as it would have if it were not the Bond Registrar.

The Bonds may be transferred only upon the books for the registration and transfer of Bonds, upon the surrender thereof at the principal corporate trust office of the Bond Registrar, together with a form of transfer duly executed by the Registered Owner or his attorney duly authorized in writing substantially in the form set forth in the form of Bond referred to in Section 3 hereof. Upon the transfer of any Bond, there shall be issued in the name of the transferee or transferees a new fully registered Bond of the same denomination, maturity, and interest rate as the surrendered Bond. The new Bond shall bear the same date as the date of the surrendered Bond, but shall bear interest from the immediately preceding interest payment date to which interest has been paid or duly provided for. This section is intended to provide for a system of registration as provided by Title 57, Chapter 9, Idaho Code.

The Bond Registrar shall not be required to exchange or transfer any Bond within fifteen (15) days of an interest payment

date or, in the case of any redemption of Bonds, within fifteen (15) days of the redemption date.

Section 8: REDEMPTION

Bonds maturing on or before November 1, 1997, shall not be subject to call or redemption prior to their stated dates of maturity. On any interest payment date on or after November 1, 1997, at the election of the City, the Bonds maturing on or after November 1, 1998, shall be subject to redemption, in whole or in part, in inverse order of maturity (and by lot selected by the Bond Registrar within a maturity), upon notice as hereinafter provided, at par plus accrued interest to the date of redemption.

Notice of redemption of any Bonds shall be given by mailing of notice by the Bond Registrar to the Registered Owner of any Bond being called for redemption not less than thirty nor more than forty-five days prior to the redemption date by first class mail, postage prepaid, at the address appearing on the Bond Register, or at such other address as may be furnished in writing by such Registered Owner to the Bond Registrar. The foregoing requirements shall be deemed to be complied with when notice is mailed as provided herein, regardless of whether or not it is actually received by the owner of such Bond. The Bonds so called for redemption shall cease to accrue interest on the specified redemption date, provided funds for such redemption are on deposit at the place of payment at such time, and shall not be deemed to be outstanding as of such redemption date.

Section 9: DATE OF SALE

The Bonds shall be sold at public sale on October 6, 1987. The Council shall meet at 7:30 P.M., Pacific Daylight Time, on said date, at City Hall, Clark Fork, Idaho, for the purpose of receiving sealed bids for the purchase of the Bonds. The bids will be publicly opened, examined, and declared at such time and place, and considered at the meeting of the Council on said date. All bids shall be accompanied by a good faith deposit in the amount of \$7,000, in the form of a cashier's or certified check payable to the Treasurer of the City. At said meeting, the Council shall accept the bid providing the lowest net interest cost to the City, and shall return the deposits of all other bidders. Said sale shall be held, and notice thereof given, in accordance with Title 57, Chapter 2, Idaho Code.

Section 10: NOTICE OF SALE

The Notice of Sale, as prepared by the City's bond counsel, in conjunction with the City's financial consultant, substantially in the form attached hereto as Exhibit "B" and by this reference incorporated herein, is hereby approved. The Mayor and Clerk are hereby directed to execute the Notice of Sale on

behalf of the City, and to call for bids for the sale of the Bonds, such bids to be received on October 6, 1987, all in the manner more particularly set forth in the Notice of Sale. The Notice of Sale shall be published in a newspaper of general circulation once a week for three (3) successive weeks, the first publication being at least twenty-one (21) full days prior to the date of sale, counting the date of publication as the first of such twenty-one days. The City's financial consultant is authorized and directed to cause a Notice of Sale and an Official Statement pertaining to the sale of the Bonds, upon prior approval of the Council, to be distributed to such municipal bond broker-dealers, such banking institutions, and to such other persons as may be interested in purchasing the Bonds herein offered for sale. The expanded Notice of Sale substantially in the form attached hereto as Exhibit "C" is hereby approved for use in conjunction with the Official Statement.

Section 11: CAPITAL IMPROVEMENT FUND

There is hereby created and shall be maintained in the office of the Treasurer of the City, a fund and account separate and distinct from all other funds of the City, to be known as the "City of Clark Fork Capital Improvement Fund" (the "Capital Improvement Fund"), or such other designation as conforms to banking requirements and good accounting practices, into which shall be deposited all of the proceeds of the sale of the Bonds, except accrued interest, if any, which shall be deposited into the Bond Fund, hereinafter created. The Bond proceeds shall be used to pay for the costs of the capital improvements heretofore authorized. In the event there are funds remaining in said Capital Improvement Fund after all expenditures for improvements as set forth hereinabove, any surplus funds shall be deposited into the Bond Fund and used for the payment of principal of and interest on the outstanding Bonds as the same shall accrue.

Section 12: TAX LEVY

The Bonds are general obligations of the City, and as such the full faith and credit of the City are hereby pledged for their payment. The officers now or hereafter charged by law with the duty of levying taxes for the payment of said Bonds and interest thereon shall, in the manner provided by law, make annual levies, unlimited as to rate or amount, upon all of the taxable property within said City sufficient in amount to meet the annual payments of principal and the semiannual payments of interest maturing and accruing as set forth in Sections 3 and 4 hereinabove.

Section 13: GENERAL OBLIGATION BOND FUND

The proceeds of taxes levied without limitation as to rate or amount to pay the principal of and interest on the Bonds,

as set forth above, shall be kept by the Treasurer of the City in a special fund, which is hereby created, separate and apart from all other funds, and which is hereby designated "City of Clark Fork General Obligation Bonds, Series 1987, Bond Fund" (the "Bond Fund"), or such other designation conforming to banking requirements and good accounting practices, which Bond Fund shall be used for no other purpose than the payment of the principal of and interest on the Bonds as the same fall due. Said Bond Fund shall be maintained by the City Treasurer until the principal of and interest on said Bonds have been paid in full. Not less than 15 days prior to any payment date of interest, or principal and interest, as the case may be, the Treasurer shall cause to be transferred from the Bond Fund to the Bond Registrar the amount of interest, or principal and interest, then falling due.

Section 14: LOST, STOLEN, MUTILATED OR DESTROYED BONDS

In case any Bond shall be lost, stolen, mutilated, or destroyed, the Bond Registrar may authenticate and deliver a new Bond of like date, denomination, number, interest rate, maturity, tenor, and effect to the Registered Owner thereof upon the Registered Owner's paying the expenses and charges of the City in connection therewith and upon his filing with the Bond Registrar and the City evidence satisfactory to the Bond Registrar and the City that such Bond was actually lost, stolen, mutilated or destroyed, and of his ownership thereof, and upon furnishing the Bond Registrar and the City with indemnity satisfactory to the Bond Registrar and the City.

Section 15: PROVISION FOR DEFEASANCE OF THE BONDS

In the event that money or direct obligations of, or obligations guaranteed by, the United States of America, as provided by Section 57-504, Idaho Code, as it now reads or is hereafter amended, maturing or having guaranteed redemption prices at the option of the owner at such time or times and bearing interest to be earned thereon in such amounts as are sufficient (together with any resulting cash balances) to redeem and retire the Bonds in accordance with their terms, are hereafter irrevocably set aside in a special account and pledged to effect such redemption and retirement, then no further payments need be made into the Bond Fund for the payment of the principal of and interest on the Bonds, and such Bonds and interest accrued thereon shall then cease to be entitled to any lien, benefit or security of this Ordinance, except the right to receive the funds so set aside and pledged, and such Bonds and interest accrued thereon shall no longer be deemed to be outstanding hereunder.

Section 16: COVENANTS OF THE CITY

The City further covenants and agrees:

A. The Bonds are qualified tax-exempt obligations within the meaning and for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986 (the "Code"), and the City will not designate more than \$10,000,000, including the Bonds, 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 City has general taxing powers. The Bonds are not "private activity bonds" within the meaning of Section 141 of the Code. 95% or more of the net proceeds of the Bonds are to be used for the local governmental activities of the City. The City has no subordinate entities. The City has not issued, and will not issue, tax-exempt obligations in calendar year 1987 in a face amount which exceeds \$5,000,000. Accordingly, under Section 148(f)(4)(C) of the Code, the City is not required to pay rebates to the United States under Section 148(f) of the Code.

D. The City will take no action which would cause the Bonds to become arbitrage bonds within the meaning of Section 148 of the Code.

E. The City will comply with the information reporting requirements of Section 149(e) of the Code.

F. The City has no other general obligation bonds outstanding. The Bonds do not exceed, nor will the City issue, while any Bonds are outstanding, additional general obligation bonds in an amount which, together with any Bonds then outstanding, will exceed, in aggregate principal amount, two percent (2%) of the market value for assessment purposes of real and personal property in the City within the meaning of Section 50-1019, Idaho Code.

Section 17: RATIFICATION

All actions (not inconsistent with the provisions of this Ordinance) heretofore taken by the Council and its employees, with respect to the acquisition, construction and installation of the capital improvements, and the issuance, sale and delivery of the Bonds, are hereby in all respects ratified, approved, and confirmed.

Section 18: SEVERABILITY

If any sentence, phrase, paragraph, section, or subsection of this Ordinance shall be declared by any court of competent jurisdiction to be contrary to law, then the same shall be deemed separable from the remainder of this Ordinance and shall in no way affect the validity of the other provisions of, or of any Bonds issued pursuant to, this Ordinance.

Section 19: REPEALER

All ordinances or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed, and shall have no further force or effect.

Section 20: EFFECTIVE DATE

This Ordinance shall be effective from and after its passage.

DATED this 8th day of September, 1987.

CITY OF CLARK FORK
Bonner County, Idaho

By Albert E. Schenck
Mayor

ATTEST:

Betty L. Lutte
City Clerk

(S E A L)

MCMkaj329