ORDINANCE NO. 146-87

COPY

AN ORDINANCE OF BONNEVILLE COUNTY, IDAHO, AUTHORIZING THE ISSUANCE OF $11,384.28 PRINCIPAL AMOUNT OF ITS LOCAL IMPROVEMENT DISTRICT NO. 5 1987 SERIES B BOND; PROVIDING THE AMOUNT, DATE, DESIGNATION, AND FORM OF SAID BOND; PROVIDING FOR THE REGISTRATION AND AUTHENTICATION OF SAID BOND; AUTHORIZING THE SALE OF SAID BOND BY NEGOTIATED SALE; CREATING A BOND FUND AND INTEREST FUND; PROVIDING THAT INTEREST ON THE BOND SHALL BE PAID ANNUALLY; PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

BONNEVILLE COUNTY, IDAHO

LOCAL IMPROVEMENT DISTRICT NO. 5

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF BONNEVILLE COUNTY, IDAHO, AS FOLLOWS:

WHEREAS, Bonneville County, Idaho, (hereinafter the "County"), is a political subdivision organized and existing pursuant to the Constitution and laws of the State of Idaho; and

WHEREAS, said County is authorized by Idaho Code, Title 50, Chapter 17, to issue local improvement district bonds for the purpose of paying the cost of improvements and betterments within local improvement districts of the County; and

WHEREAS, the Board of Commissioners of the County (the "Board") has heretofore, by Ordinance No. 137-85, adopted on July 2, 1985, duly created Local Improvement District No. 5 ("LID No. 5") for the purpose of making certain water improvements therein; and

WHEREAS, the improvements provided for in Ordinance No. 137-85, are complete and have been accepted by the County; and

WHEREAS, said improvements include certain improvements which were eligible for financing by Farmers Home Administration and improvements which were ineligible for such financing; and

WHEREAS, by Ordinance No. 143-87, adopted on February 13, 1987, the Board confirmed the final assessment roll which consisted of two assessments: Assessment A, the cost of eligible improvements, in the total amount of $57,200.15, and Assessment B, the cost of ineligible improvements in the total amount of $19,290.03;

WHEREAS, the County has determined to issue bonds in two Series for the respective assessments designated 1987 Series A Bond and 1987 Series B Bonds; and

WHEREAS, a total of $7,905.75 of the assessments on the assessment roll for Assessment Roll B has been prepaid by property owners; and

WHEREAS, the County desires to issue its Local Improvement District No. 5 1987 Series B Bond for the cost of the ineligible improvement; and

WHEREAS, after applying the amount of prepaid assessments pertaining to Assessment Roll B to the payment of the cost and expenses of the improvements in LID No. 5 and to the payment of all expenses incidental thereto, the Board deems it necessary for the County to issue a Local Improvement District No. 5 1987 Series B Bond in the amount of $11,384.28 to finance the balance of such cost and expense; and

WHEREAS, The Bank of Commerce, Idaho Falls, Idaho, has offered to purchase the Bond herein authorized under the terms and conditions as set forth in this Ordinance;

NOW, THEREFORE, BE IT FURTHER ORDAINED, AS FOLLOWS:

Section 1: BOND AUTHORIZED

The Local Improvement District No. 5 1987 Series B Bond (the "1987 Series B Bond") in the principal amount of $11,384.28 is hereby authorized to be issued, sold, and delivered. The 1987 Series B Bond is issued in the principal amount of the cost of effecting the ineligible improvements, including the contract price and the cost and expenses of engineering, legal, and all other costs incidental to said improvements, including the costs of issuance of the 1987 Series B Bond, publications, and interim financing, less the prepayment of assessments.

Section 2: DESCRIPTION OF BOND

The 1987 Series B Bond shall be dated as of the date of its delivery, shall be in the aggregate principal amount of $11,384.28 and shall bear interest on the unpaid balance at the rate of nine percent (9.00%) per annum from the date of the 1987 Series B Bond until paid. Said 1987 Series B Bond shall be payable in annual amortized installments of principal and interest. The first installment of principal and interest will be due on the 1st day of March, 1988, and annually on the first day of March in each successive year thereafter. The final annual installment may be in such greater or lesser sum as is necessary to fully pay said 1987 Series B Bond. Both principal of and interest on the 1987 Series B Bond shall be fully paid within ten (10) years from its date.

The 1987 Series B Bond shall be issued substantially in the form attached hereto marked Exhibit "A", and by reference incorporated herein.

Section 3: EXECUTION

The 1987 Series B Bond shall be signed by the manual or facsimile signature of the Chairman, countersigned by the manual or facsimile signature of the Treasurer, and attested by the manual or facsimile signature of the Clerk, and shall be sealed with the corporate seal of the County impressed or imprinted thereon. Said manual or facsimile signatures shall be effective so long as the 1987 Series B Bond is outstanding, irrespective of the fact that any of the persons holding such offices may no longer be in office prior to the issuance of the 1987 Series B Bond herein authorized. The 1987 Series B Bond bearing the manual or facsimile signatures of such officers shall be valid when authenticated and delivered by the Bond Registrar in accordance with the terms hereof. The 1987 Series B Bond may also be signed and attested on behalf of the County by such persons as at the actual date of execution of the 1987 Series B Bond shall be the proper officers of the County, although at the original date of such 1987 Series B Bond such person shall not have been such officers of the County.

Prior to delivery of the 1987 Series B Bond hereunder, the Certificate of Authentication shall be manually executed by the Bond Registrar. Only such 1987 Series B Bond as shall bear thereon a Certificate of Authentication, manually executed by the Bond Registrar, shall be valid or become obligatory for any purpose or be entitled to any security or benefit under this Ordinance. Such Certificate of Authentication shall be conclusive evidence that the 1987 Series B Bond so authenticated has been duly executed, authenticated, and delivered hereunder and is entitled to the benefits of this Ordinance.

Section 4: PAYMENT OF PRINCIPAL AND INTEREST

Both principal of and interest on the 1987 Series B Bond shall be payable in lawful money of the United States of America, in equal amortized installments of principal and interest, to the registered owner or owners thereof, whose names and addresses shall appear on the registration books of the County (the "Bond Register") maintained by the Bond Registrar (hereinafter defined) at the address of such owner shown on the Bond Register, or at such other address as designated in writing to the County Treasurer by the registered owner.

Section 5: BOND REGISTRAR

The Treasurer of the County is hereby appointed as Bond Registrar and shall keep, or cause to be kept, at the office of the County, sufficient books for the registration and transfer of the 1987 Series B Bond. The Bond Registrar is authorized, on behalf of the County, to authenticate and deliver the 1987 Series B Bond transferred or exchanged in accordance with the provisions of the 1987 Series B Bond and this Ordinance, and to carry out all of the Bond Registrar's powers and duties under this Ordinance.

All moneys constituting payment of interest on said unpaid installments of assessments for LID No. 5 are to be deposited into a special fund, designated "Bonneville County Local Improvement District No. 5 Interest Fund" (the "Interest Fund"), which has heretofore been created by Ordinance 145-87, and shall be used and applied for the purpose of paying the interest on the 1987 Series A Bond heretofore authorized and the Series B Bond herein authorized and for no other purpose whatsoever, and as security for such payment the Interest Fund is hereby pledged.

Both principal of and interest on the 1987 Series B Bond are payable only out of said Bond Fund and Interest Fund, or out of the Local Improvement Guarantee Fund, as heretofore created by Ordinance No. 11, adopted on November 11, 1974, to the extent of such fund and not otherwise.

Moneys in the Bond Fund and Interest Fund for LID No. 5 shall be deposited in such bank or banks as are designated as depositories of public moneys for the funds of the County under the depository laws of the State of Idaho for the deposit of public funds or investments as provided by law. Interest received on such funds to be deposited or invested shall be placed to the credit of the fund from which it was earned.

Section 8: BOND DESIGNATED QUALIFIED TAX-EXEMPT OBLIGATION

The County hereby designates the 1987 Series B Bond as a "qualified tax-exempt obligation} pursuant to Section 265(b) of the Internal Revenue Code 1986 (hereinafter the "Code"). The County does not expect to issue tax-exempt obligations in an aggregate principal amount in excess of $10,000,000 during the calendar year 1987.

Section 9: ARBITRAGE; SPECIAL TAX COVENANTS

The County shall comply with the provisions of this Section unless, in the written opinion of Preston, Thorgrimson, Ellis & Holman or other nationally recognized bond counsel to the County, such compliance is not required in order to maintain the exemption of the interest on the 1987 Series B Bond from federal income taxation.

The County hereby covenant that it will not make any use of the proceeds of sale of the 1987 Series B Bond or any other funds of the County which may be deemed to be proceeds of such 1987 Series B Bond pursuant to Section 148 of the Code which will cause the 1987 Series B Bond to be an "arbitrage bond" within the meaning of said Section. The County will comply with the requirements of Section 148 of the Code (or any successor provision thereof applicable to the 1987 Series B Bond) throughout the term of the 1987 Series B Bond.

The County hereby further covenants that it will not take any action or permit any action to be taken that would cause the 1987 Series B Bond to constitute a "private activity bond" under Section 141 of the Code.

The County hereby represents that it has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is a bond issuer whose arbitrage certifications may not be relied upon.

Section 10: EXEMPTION FROM ARBITRAGE REBATE REQUIREMENTS

The County hereby covenants and represents that it does not reasonably expect to issue more than $5,000,000 of tax-exempt obligations during the 1987 calendar year. Accordingly, the County is not required to comply with the arbitrage rebate rules by virtue of Section 148(f)(4)(C) of the Code.

Section 11: PRIVATE PERSON USE LIMITATION

The County covenants that so long as the Bonds are outstanding, it will not permit:

(a) More than 10% of the Net Proceeds of the Bonds to be used for any Private Person Use; and

(b) More than 10% of the principal or interest payments on the Bonds in a Bond Year to be (under the terms of this Ordinance or any underlying arrangement) directly or indirectly: (i) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or (ii) derived from payments (whether or not made to the County) in respect of property, or borrowed money, used or to be used for any Private Person Use.

The County further covenants that, if:

(c) More than 5% of the Net Proceeds of the Bonds are to be used for any Private Person Use; and

(d) More than 5% of the principal or interest payments on the Bonds in a Bond Year are (under the terms of this Ordinance or any underlying arrangement) directly or indirectly: (i) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or (ii) derived from payments (whether or not made to the County) in respect of property, or borrowed money, used or to be used for any Private Person Use.

then, (i) any Private Person Use of the Project described in subsection (c) hereof or Private Person Use payments described in subsection (d) hereof that is in excess of the 5% limitations described in such subsections (c) or (d) will be for a Private Person Use that is related to the state or local governmental use of the Project, and (ii) any Private Person Use will not exceed the amount of Net Proceeds of the Notes used for the state or local governmental use portion of the Project to which the Private Person Use of such portion

of the Project relates. The County further covenants that it will comply with any limitations on the use of the Project by other than state and local governmental users that are necessary, in the opinion of bond counsel, to preserve the tax exemption of the interest on the Bonds.

Section 12: PRIVATE LOAN LIMITATION

The County covenants that so long as the Bonds are outstanding, it will not permit Bond proceeds in excess of the lesser of:

(a) 5% of the Net Proceeds of the Bonds, or

(b) $5,000,000

of proceeds of the Bonds, to be used (directly or indirectly) to make loans (other than loans that enable a borrower to finance a governmental tax or assessment of general application for a specific essential governmental function) to a Private Person.

Section 13: FEDERAL GUARANTY PROHIBITION

The County covenants that so long as the Bonds are outstanding, it will not take any action or permit or suffer any action to be taken if the result thereof would be to cause the Bonds to the "federally guaranteed" within the meaning of Section 149(b) of the Code and any Regulations promulgated thereunder.

Section 14: SALE OF BOND

The sale of the 1987 Series B Bond to The Bank of Commerce, Idaho Falls, Idaho, is hereby approved. The United States of America, Farmers Home Administration, has requested, and the County has agreed, that the obligation of LID No. 5 thereunder shall be represented in the form of a single, registered, transferable bond without coupons. The registered owner, at its expense, shall have the right to convert said 1987 Series B Bond to fully registered serial bonds.

Section 15: PUBLICATION OF ORDINANCE

Pursuant to Idaho Code Sections 50-1727 and 50-901 A, a summary of this Ordinance shall be published once in the official newspaper of the County. No contest or proceeding to question the validity or legality of this Ordinance, or of any ordinance, resolution, or proceeding heretofore taken with respect to LID No. 5, or of the 1987 Series B Bond authorized hereby, shall be brought in any court by any person for any cause whatsoever after the expiration of thirty (30) days from the publication of this Ordinance, and after such time the validity, legality, and regularity of this Ordinance and any ordinance, resolution, or proceedings with respect to LID No. 5, or the 1987 Series B Bond authorized hereby, shall be conclusively presumed.

Section 16: 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 17: EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after its passage, approval, and publication.

DATED this 26th day of June, 1987.

BONNEVILLE COUNTY, IDAHO

_____
Chairman, Board of Commissioners

ATTEST:

_____
Clerk

(S E A L)

* * * * * * * * * * * * * * * * * * * *

I, the undersigned, the Clerk of Bonneville County, Idaho, hereby certify that the foregoing Ordinance is a full, true, and correct copy of an Ordinance duly adopted at a regular meeting of the Board of Commissioners of said County, duly and regularly held at the regular meeting place thereof on June 26, 1987, of which meeting all members of said Board had due notice and at which a majority thereof were present; and that at said meeting said Ordinance was adopted by the following vote:

AYES, and in favor thereof, Commissioners:

NAYS, Commissioners:

ABSENT, Commissioners:

ABSTAIN, Commissioners:

I further certify that I have carefully compared the same with the original Ordinance on file and of record in my office; that said Ordinance is a full, true, and correct copy of the original Ordinance adopted at said meeting; and that said Ordinance has not been amended, modified, or rescinded since the date of its adoption, and is now in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the official seal of said County on June 26, 1987.

_____
Clerk

(S E A L)

(Face of Bond)

UNITED STATES OF AMERICA
STATE OF IDAHO

COUNTY OF BONNEVILLE
LOCAL IMPROVEMENT DISTRICT NO. 5 1987 SERIES B BOND

(The County has designated this Bond as a
Qualified Tax-Exempt Obligation)

REGISTERED REGISTERED

Number_____ $_____

KNOW ALL MEN BY THESE PRESENTS: That Bonneville County, Idaho, (the "County"), a duly organized and existing political subdivision of the State of Idaho, for value received, hereby promises to pay to the registered owner hereof, the principal sum of

ELEVEN THOUSAND THREE HUNDRED EIGHTY FOUR AND 28/100 DOLLARS

($11,384.28) in lawful money of the United States of America, with interest on the unpaid balance at the rate of nine percent (9.00%) per annum. This 1987 Series B Bond shall be paid in annual amortized installments of principal and interest in the amount of $1,774.55, due on March 1, 1988, and annually on March first of each year thereafter, for a period of ten (10) years from the date of the 1987 Series B Bond or until the total principal of and interest accrued herein is fully paid. The final installment may be in such lesser or greater amount as is necessary to pay the balance of principal and interest then remaining due.

This 1987 Series B 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 County Treasurer, who is the Bond Registrar, and each registration is to be noted therein by the Bond Registrar. This 1987 Series B Bond is transferrable only upon said book, by notation thereon, by the registered owner hereof in person or by his attorney duly authorized in writing.

Both principal of and interest on this 1987 Series B Bond shall be payable in lawful money of the United States of America, to the registered owner hereof, at the address of such owner shown on the registration book of the County Treasurer or at such other address as designated in writing to the County Treasurer by the Registered Owner. Any owner of this 1987 Series B Bond subsequent to its original owner is hereby placed on notice of all payments of both principal of and interest on this 1987 Series B 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 1987 Series B Bond as of the date of transfer to them and hereby release the County from all obligations as to all principal and interest paid by the County prior to such date.

The Board of Commissioners, as the agent for said Local Improvement District No. 5, created by Ordinance No. 137-85, adopted on July 2, 1985, as amended by Ordinance No. 143-87 adopted on February 13, 1987, has caused this 1987 Series B Bond to be issued in the name of the County as a 1987 Series B Bond of said Local Improvement District No. 5, said 1987 Series B Bond, or the proceeds thereof, to be applied in payment of water improvements constructed within Local Improvement District No. 5. This 1987 Series B Bond is issued pursuant to Chapter 17, Title 50, Idaho Code, the Municipal Bond Law of the State of Idaho (being Idaho Code, Title 57, Chapter 2), Idaho Code Section 57-904(4), and also pursuant to Ordinance No. 146-87, adopted on June 26, 1987, (the "Bond Ordinance").

Payment of principal of and interest on this 1987 Series B Bond is to be borne by owners of property within Local Improvement District No. 5 from special assessments levied on Assessment Roll B upon all property benefited by the improvements made therein. The registered owner of this 1987 Series B Bond shall look only to the Bond Fund and Interest Fund and Local Improvement Guarantee Fund (as hereinafter defined) for the payment of either the principal of or the interest on this 1987 Series B Bond. The principal sum of this 1987 Series B Bond shall be payable from a separate fund, under the control of the County Treasurer and designated "Bonneville County Local Improvement District No. 5 Bond Fund" (the "Bond Fund"), pledged solely for the payment of the principal of the 1987 Series A Bond and the 1987 Series B Bond and consisting of all moneys constituting the payment of principal of assessments unpaid at the time of the issuance of this 1987 Series B Bond. Interest hereon shall be payable from a separate fund under the control of the County Treasurer and designated "Bonneville County Local Improvement District No. 5 Interest Fund" (the "Interest Fund"), pledged for the payment of the interest on the 1987 Series A Bond and this 1987 Series B Bond, consisting of all moneys constituting the payment of interest on assessments unpaid at the time of the issuance of this 1987 Series B Bond. Both Funds have been created by the Bond Ordinance. In the event said Bond Fund and Interest Fund shall be insufficient to pay the principal and the interest thereon as they become due, the deficiency shall be paid out of the County's Local Improvement Guarantee Fund created by Ordinance No. 11, adopted on November 11, 1979, to the extent of such Fund.

Section 50-1723, Idaho Code, reads as follows:

> "LIABILITY OF MUNICIPALITY. 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 by assessments against the property within any local improvement district as herein provided and to the extent

of the local improvement guarantee fund which may be established by any such municipality under the provisions of this code, but the municipality shall be held 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 bonds as herein provided. The owners and holders of such bonds shall be entitled to complete enforcement of all assessments made for the payment of such bonds. A copy of this section shall be plainly written, printed or engraved on the face of each bond so issued."

The County has reserved the right, at its option, to redeem, on any annual payment date, the principal amount outstanding, in whole, or, in the manner hereinafter provided, in part, at any time while this 1987 Series B Bond is held by The Bank of Commerce, Idaho Falls, Idaho, or any subsequent transferee, if there is sufficient money in the Bond Fund and Interest Fund over and above the amounts necessary to pay currently maturing installments of principal and interest. Partial redemption shall be made in the amount of or in multiples of $100.00. No partial redemption shall extend or postpone the due date of any subsequent installment. Any such redemption shall be made without penalty or additional interest or charges. Interest on this 1987 Series B Bond shall cease to accrue as to the amount of principal being redeemed after the date fixed for redemption if notice has been properly given as provided in the Bond Ordinance and funds equal to the amount of redemption have been deposited at the place of payment at that time.

This 1987 Series B Bond, upon the surrender hereof at the Office of the County Treasurer, may, at the option of the registered owner at his expense, be exchanged for serial bonds, in fully registered form, in the aggregate principal amount then remaining unpaid, bearing the same interest rate, maturing annually on March 1 of each of the remaining years of the original term of this 1987 Series B 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 the Bond Ordinance.

The assessments authorized by the Assessment Roll B in Local Improvement District No. 5, confirmed by Ordinance No. 142-87, adopted on February 13, 1987, are a lien upon the property assessed and have been pledged to pay the principal of and interest on this 1987 Series B Bond, pursuant to Chapter 17, Title 50, Idaho Code, being the Local Improvement District Code of Idaho, and pursuant also to the ordinances and resolutions of the County.

IT IS HEREBY CERTIFIED, RECITED, AND DECLARED that all acts and things required to exist, to happen and to be performed precedent to and in the issuance of this 1987 Series B Bond, necessary to constitute the same a legal, binding and valid special obligation of the County, on behalf of Local Improvement District No. 5, in accordance with the tenor and terms of said 1987 Series B Bond, have existed,

have happened and have been performed in due time, form and manner; and that the aforesaid special assessments have been legally levied and that this 1987 Series B Bond does not exceed the amount of unpaid assessments.

IN WITNESS WHEREOF, Bonneville County, Idaho, acting through its Board of Commissioners, has caused this Local Improvement District No. 5 Bond to be signed by the manual signature of the Chairman of the Board, countersigned by the manual signature of the County Treasurer, and attested by the manual signature of the Clerk, under its corporate seal, all as of the 30th day of June, 1987.

BONNEVILLE COUNTY, IDAHO

_____
Chairman

_____
County Treasurer

ATTEST:

_____
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.

Date of Registration	Name and Address of Registered Owner	Signature of Bond Registrar
	The Bank of Commerce Idaho Falls, Idaho	

CERTIFICATE OF AUTHENTICATION

This Bond is the Bonneville County, Local Improvement District No. 5 1987 Series B Bond, described in the within-mentioned Bond Ordinance, and has been duly registered by me in my office in the Registration Book kept for that purpose.

Date of Authentication: _____

BOND REGISTRAR

_____
TREASURER, Bonneville County, Idaho