

ORDINANCE NO. 395

AN ORDINANCE AUTHORIZING THE ISSUANCE OF SPECIAL IMPROVEMENT BONDS IN THE PRINCIPAL AMOUNT OF \$83,000 OF THE TOWN OF BERTHOUD, COLORADO, FOR SPECIAL IMPROVEMENT DISTRICT NO. 73-1; PRESCRIBING THE FORM OF THE BONDS, AND PROVIDING FOR THE PAYMENT OF THE BONDS AND THE INTEREST THEREON, AND DECLARING AN EMERGENCY.

WHEREAS, the Board of Trustees has, by Ordinance No. 392, passed and adopted on July 9, 1974, created Special Improvement District No. 73-1, for the purpose of constructing and installing street paving, curb and gutter and drainage improvements within the Town; and

WHEREAS, Notice to Contractors to submit bids for the construction of the improvements in the District has been duly published and the contract for such construction has been awarded to Flatiron Paving Company; and

WHEREAS, Notice of Sale of \$83,000 of Special Improvement Bonds for said District has been duly published and the contract for the sale of the bonds has been awarded to Hanifin, Endoff & Samford, Inc.; and

WHEREAS, the Board of Trustees has determined that the cost of the construction of improvements, together with necessary incidental costs, shall not exceed the amount of \$83,000, and that bonds of the Town for said District should be issued in such amount; and

WHEREAS, it is now necessary to provide for the issuance of said bonds and the form and payment thereof;

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, COLORADO:

Section 1. Bond Details. By virtue of and pursuant to the Laws of the State of Colorado, Special Improvement Bonds of the Town of Berthoud, for Special Improvement District No. 73-1 shall be issued for the purpose of paying for local improvements to be constructed in said District. The bonds shall be in the principal amount of \$83,000, shall be dated October 1, 1974, and consist of 83 bonds in the denomination of \$1,000 each, numbered 1 to 83, inclusive. The bonds shall be payable to bearer and shall be due and payable on October 1, 1984, subject to call and prior payment in direct numerical order on any interest payment date, upon payment of par and accrued interest. Notice of such prior redemption

shall be published once a week for three consecutive weeks (4 times) in a newspaper of general circulation in the Town. The notice shall specify by number the bonds so called, and all bonds shall be paid in their numerical order. The holder of any such bonds may at any time furnish his post office address to the Town Treasurer, and in such case, a copy of the notice shall be mailed by the Town Treasurer to the bondholder, at such address, on or before the first day of such publication.

The bonds shall bear interest as evidenced by "A" coupons attached to said bonds, payable on April 1, 1975, and semi-annually thereafter on April 1 and October 1, each year, as follows:

<u>Bond Numbers</u>	<u>Amount</u>	<u>"A" Interest Rate</u>
1 to 17, incl.	\$ 17,000	7.00%
18 to 27, incl.	10,000	7.25%
28 to 37, incl.	10,000	7.50%
38 to 47, incl.	10,000	7.625%
48 to 57, incl.	10,000	7.75%
58 to 67, incl.	10,000	8.00%
68 to 71, incl.	4,000	7.00%
72 to 75, incl.	4,000	7.00%
76 to 79, incl.	4,000	7.00%
80 to 83, incl.	4,000	7.00%

In addition to the "A" interest rate set forth above, bonds numbered 1 to 83, inclusive, shall bear additional interest as evidenced by supplemental coupons designated "B" payable on April 1, 1975 and October 1, 1975 at the rate and for the period from November 1, 1974 to the date indicated below, as follows:

<u>Bond Numbers</u>	<u>"B" Interest Rate</u>	<u>"B" Interest To</u>
1 to 17, incl.	2.625%	October 1, 1975
18 to 27, incl.	"	"
28 to 37, incl.	"	"
38 to 47, incl.	"	"
48 to 57, incl.	"	"
58 to 67, incl.	"	"
68 to 71, incl.	"	"
72 to 75, incl.	"	"
76 to 79, incl.	"	"
80 to 83, incl.	"	"

The net effective interest rate of this issue of bonds is 7.969 % per annum.

The principal of and interest on said bonds shall be payable at the Office of the Town Treasurer, in Berthoud, Colorado.

Section 2. Execution of Bonds and Interest Coupons.
The bonds shall be signed with the facsimile signature of the Mayor of the Town, sealed with a facsimile of the seal, attested by the manual signature of the Town Clerk, counter-signed with the facsimile signature of the Town Treasurer,

and the interest coupons attached thereto shall be signed with the facsimile signature of the Town Clerk. When issued as aforesaid as part of said bonds, the interest coupons shall be the binding obligations of the Town according to their import.

The bonds and interest coupons, bearing the signatures of the officers in office at the time of the signing thereof, shall be the valid and binding obligations of the Town, notwithstanding that before the delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon shall have ceased to fill their respective offices.

Section 3. Form of Bonds and Interest Coupons. The bonds and interest coupons to be attached thereto shall be in substantially the following form:

(Form of Bond)

UNITED STATES OF AMERICA

STATE OF COLORADO

COUNTY OF LARIMER

TOWN OF BERTHOUD

SPECIAL IMPROVEMENT DISTRICT NO. 73-1
SPECIAL IMPROVEMENT BOND

No. _____

\$1,000

The Town of Berthoud, in the County of Larimer and State of Colorado, for value received, hereby promises to pay to the bearer hereof, solely out of the special fund herein-after designated but not otherwise, the principal sum of

ONE THOUSAND DOLLARS

in lawful money of the United States of America, on the 1st day of October, 1984, with interest thereon as evidenced by interest coupons designated "A" at the rate of _____

_____ per centum (_____%)

per annum from date until payment, and additional interest as evidenced by interest coupons designated "B" at the rate of

_____ per centum (_____%)

per annum for the period from _____ 1, 1974, to

_____, 19_____, inclusive, all such interest payable on April 1, 1975 and semi-annually thereafter on the 1st day of April and the 1st day of October each year, both principal and interest being payable at the Office of the Town Treasurer, in Berthoud, upon presentation and surrender of the attached coupons and this Bond as they severally become due or are called for payment.

This Bond is subject to call and redemption in direct numerical order of the issue of which it is one, on any interest payment date, upon payment of par and accrued interest to the date of redemption. Notice of such prior redemption shall be published once a week for three consecutive weeks in a newspaper of general circulation in the Town of Berthoud, prior to the date of redemption. After the redemption date so designated, interest on the bonds so called shall cease.

This Bond is one of a series issued for the purpose of paying the costs of constructing and installing street paving, curb and gutter and necessary drainage improvements, in Special Improvement District No. 73-1, in the Town of Berthoud, Colorado, by virtue of and in full conformity with the Constitution and Laws of the State of Colorado, and Ordinance No. _____ of the Town, passed and approved on September 10, 1974.

Payment of this Bond and the interest thereon shall be made only from and as security for such payment there is pledged, a special fund designated as the "Special Improvement District No. 73-1 Bond and Interest Fund" which Fund shall contain initially any monies in the construction account remaining after the cost of improvements has been paid in full and thereafter to contain the monies collected on account of the assessments to be levied against the property included within the District and specially benefited by the construction and installation of improvements therein.

It is hereby certified and recited that the total issue of bonds of the Town for the District, including this Bond, does not exceed the amount authorized by law; that every requirement of law relating to the creation of Special Improvement District No. 73-1, the construction of said local improvements and the issuance of this Bond has been fully complied with by the proper officers of the Town, and that all conditions required to exist and things required to be done precedent to and in the issuance of this Bond to render the same lawful and valid, have happened, been properly done and performed, and did exist in regular and due time, form and manner, as required by law.

This obligation is not to be considered or taken to be within or any part of the limitation imposed by law as to the indebtedness of the Town, and shall not be a general obligation of the Town.

For the payment of this Bond and the interest thereon, the Town pledges all of its lawful corporate powers.

IN TESTIMONY WHEREOF, the Town of Berthoud has caused this Bond to be signed with the facsimile signature of the Mayor of the Town, attested by the manual signature of the Town Clerk, countersigned with the facsimile signature of the Town Treasurer, sealed with a facsimile of the corporate seal of the Town, and the interest coupons attached hereto be signed with the facsimile signature of the Town Clerk, as of the 1st day of October, 1974.

TOWN OF BERTHOUD, COLORADO

(FACSIMILE)
(S E A L)

By: _____ (Facsimile Signature)

Mayor

ATTEST:

(Manual Signature)

Town Clerk

(Facsimile Signature)

Town Treasurer

(Form of Interest Coupon)

No. _____

\$ _____

✓ April,

On the 1st day of October, 19____, unless the Bond to which this coupon is attached has been called for prior redemption, the Town of Berthoud, in the County of Larimer and State of Colorado, will pay to the bearer the amount shown hereon in lawful money of the United States of America, solely out of the Special Improvement District No. 73-1 Bond and Interest Fund, at the Office of the Town Treasurer, in Berthoud, Colorado, being interest then due on its Special Improvement Bond dated October 1, 1974, bearing

No. _____

(Facsimile Signature)

Town Clerk

Section 4. Application of Bond Proceeds. The proceeds of the bonds shall be applied only to pay the costs and expenses of constructing the improvements in the District and all other costs and expenses incident thereto. Neither the purchaser of the bonds nor the holder of any of them shall be in any way responsible for the application of the proceeds of said bonds by the Town or any of its officers. In the event that all of the proceeds of said bonds are not required to pay such costs and expenses, any remaining amount shall be used for the purpose of calling in and paying the principal of and interest on said bonds.

All or any portion of the bond proceeds may be temporarily invested, or reinvested, pending such use, in securities or obligations which are lawful investments for such municipalities in the State of Colorado. It is hereby covenanted and agreed by the Town that the temporary investment or reinvestment of the bond proceeds, or any portion thereof, shall be of such nature and extent, and for such period, that the bonds of the Town shall not become "arbitrage bonds" within the meaning of Section 103(d) of the Internal Revenue Code, and pertinent regulations, and such proceeds, if so invested or reinvested, shall be subject to the limitations and restrictions of said Section 103(d), as the same now exists or may later be amended, and shall further be subject to any applicable regulations of the Internal Revenue Service.

Section 5. Special Improvement District No. 73-1 Bond and Interest Fund. The bonds and the interest thereon shall be payable solely from the local improvement fund, designated as the "Special Improvement District No. 73-1 Bond and Interest Fund", which shall contain initially any monies in the construction account remaining after the cost of improvements has been paid in full and thereafter to contain the monies collected on account of the assessments to be levied against the property within the District and specially benefited by the construction of improvements therein. Whenever the Town Treasurer has funds in the treasury to the credit of Special Improvement District No. 73-1, exceeding six months' interest on the unpaid principal of the bonds issued and outstanding, bonds shall be called in by advertisement in a newspaper of general circulation in the Town, in accordance with Section 1 of this Ordinance.

After the expiration of the period for cash payments of assessments in full, the Town shall, to the extent possible, pay each year not less than 10% of the total amount of bonds outstanding after the payment of the bonds with the proceeds of such cash payments of assessments in full.

Section 6. Assessment of Costs. Upon completion of the local improvements, or upon completion from time to time of any part thereof, or whenever the total cost can be definitely ascertained, the Board of Trustees shall cause to be prepared a statement showing the whole cost of the improvements, the portion thereof to be paid by the Town, if any, and apportion the cost upon each lot or tract of land to be assessed for the construction of improvements.

Section 7. Repealer. All ordinances, or parts thereof in conflict herewith are hereby repealed.

Section 8. Recording and Authentication. This Ordinance, after its passage, shall be recorded in a book kept for that purpose, shall be authenticated by the signatures of the Mayor and Town Clerk and be published in the official newspaper of the Town, in accordance with law.

Section 9. Declaration of Emergency. By reason of the fact that it is necessary to proceed with the construction and installation of improvements as soon as possible when weather conditions are favorable, and that it is necessary to issue bonds in order to pay the costs of construction and installation which will hereafter become due, it is hereby declared that this ordinance is necessary for the preservation of the public peace, health or safety, shall be passed and approved as an emergency ordinance, and become effective five days after the ordinance has been published.

ADOPTED AND APPROVED, This 10th day of September, 1974.

(S E A L)

R.B. Fickel
Mayor

ATTEST:

Carol A. Mays
Town Clerk