

ORDINANCE NO. 351

AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE TOWN OF BERTHOUD, COLORADO, SPECIAL IMPROVEMENT DISTRICT NO. 69-1 BONDS: PROVIDING FOR THE PAYMENT OF SAID BONDS AND THE INTEREST THEREON; AND DECLARING AN EMERGENCY.

WHEREAS, for the purpose of constructing and installing street paving, curb and gutter and necessary drainage improvements, together with necessary incidentals on certain streets and avenues, Special Improvement District No. 69-1, in the Town of Berthoud, Colorado, has been duly created by Ordinance No. 343, of said Town, passed and adopted on the 22nd day of September, 1970; and

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

WHEREAS, Notice of Sale of \$128,000 of bonds of the Town for said District has been duly published, and the contract for the sale of the bonds has been awarded to Coughlin & Co.

; 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 \$ 147,280.00, and that bonds of the Town for said District should be issued in the amount of \$128,000; and

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

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

Section 1. By virtue of and pursuant to the Laws of the State of Colorado, bonds of the Town of Berthoud, Special Improvement District No. 69-1 shall be issued for the purpose of paying for

local improvements constructed in said District. The bonds shall be in the principal amount of \$128,000, shall be dated as of April 1, 1971, and shall consist of 128 bonds in the denomination of \$1,000 each, numbered 1 to 128, inclusive. The bonds shall be payable to bearer, and shall be due and payable on April 1, 1981, subject to call and prior payment on any interest payment date, in direct numerical order upon payment of par and accrued interest. Notice of such prior redemption shall be published in a newspaper of general circulation in Berthoud, Colorado, once a week for three consecutive weeks prior to such redemption date. In addition, a copy of such Notice shall be mailed at the time of first publication to the original purchaser of the Bonds.

Section 2. Said bonds shall bear interest as evidence by "A" coupons attached to said bonds, payable on October 1, 1971, and semi-annually thereafter on April 1 and October 1 each year, as follows:

<u>Bond Numbers</u>	<u>Amount</u>	<u>"A" Coupon Interest Rate</u>
1 to 48, incl.	\$48,000	3.25%
49 to 63, incl.	\$15,000	3.50%
64 to 73, incl.	\$10,000	3.75%
74 to 83, incl.	\$10,000	4.00%
84 to 93, incl.	\$10,000	4.00%
94 to 103, incl.	\$10,000	4.00%
104 to 113, incl.	\$10,000	4.25%
114 to 118, incl.	\$ 5,000	4.25%
119 to 123, incl.	\$ 5,000	4.50%
124 to 128, incl.	\$ 5,000	4.50%

In addition to the "A" interest rate set forth above, all of said bonds shall bear additional interest as evidenced by supplemental coupons designated "B", payable October 1, 1971, at the rate and for the period from May 1, 1971 to the dates indicated below, as follows:

<u>Bond Numbers</u>	<u>"B" Coupon Interest Rate</u>	<u>"B" Interest To</u>
1 to 48, incl.	\$12.90 per \$1000 bond	10-1-71
49 to 63, incl.		
64 to 73, incl.		
74 to 83, incl.		
84 to 93, incl.		
94 to 103, incl.		
104 to 113, incl.		
114 to 118, incl.		
119 to 123, incl.		
124 to 128, incl.		

The net effective interest rate of this issue of bonds is 4.39 2% per annum.

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

Said Bonds shall be signed by the manual signature of the Mayor, attested by the manual signature of the Town Clerk and countersigned by the manual signature of the Town Treasurer, with the impression of the seal of the Town affixed thereto, and the interest coupons attached 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.

Should any officer whose manual or facsimile signature appears on said bonds or the coupons attached thereto cease to be such officer before delivery of the bonds to the purchaser, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes.

Section 3. Said bonds and the 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. 69-1
BOND

No. _____ \$1,000

The Town of Berthoud, in the County of Larimer and State of Colorado, for value received, acknowledges itself indebted and hereby promises to pay to the bearer hereof, out of the special fund or funds hereinafter 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 April, 1981, with interest thereon as evidenced by interest coupons designated "A" at the rate of _____

per centum (____%) per annum for 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 _____, 1971, to _____, inclusive, all such interest payable on October 1, 1971 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, Colorado, 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, upon notice published in a newspaper of general circulation in the Town, as more particularly set forth in the Ordinance authorizing this Bond.

This Bond is issued for the purpose of paying the costs of constructing and installing street paving, curb, gutter and drainage improvements, together with necessary incidentals in Special Improvement District No. 69-1, in the Town of Berthoud, Colorado, by virtue of and in full conformity with Chapter 89, Article 2, Colorado Revised Statutes 1963, as amended, and an Ordinance of the Town duly adopted, approved, published and made a law of said Town prior to the issuance hereof.

This Bond is payable solely out of the proceeds of special assessments to be levied upon real estate situated in the Town of Berthoud, Colorado, in Special Improvement District No. 69-1, specially benefited by said improvements, which assessments so to be levied, with accrued interest, will be liens on said real estate in the respective amounts to be apportioned thereto and later assessed by an ordinance of the Town.

It is hereby certified and recited that the total issue of bonds of the Town for said 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. 69-1, the construction of 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.

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 by the manual signature of the Mayor, attested by the manual signature of the Town Clerk, with the impression of

the seal of the Town affixed hereto, and countersigned by the manual signature of the Town Treasurer, and the interest coupons attached hereto to be signed with the facsimile signature of the Town Clerk as of the 1st day of April, 1971.

TOWN OF BERTHOUD, COLORADO

(S E A L)

ATTEST: By (Do not sign)
Mayor

(Do not sign) COUNTERSIGNED:
Town Clerk (Do not sign)
Town Treasurer

28

(Form of Interest Coupon)

No. _____

\$ _____

April,

On the 1st day of October, 19____, the Town of Berthoud, in the County of Larimer and State of Colorado, will pay to bearer the amount shown hereon in lawful money of the United States of America, at the office of the Town Treasurer, in Berthoud, Colorado, being interest then due on its Bond issued for the construction of local improvements in Special Improvement District No. 69-1, Berthoud, Colorado, provided the Bond to which this coupon is attached shall not have been theretofore called for payment or paid.

Attached to Bond dated April 1, 1971, bearing

No. _____

(Facsimile Signature)

Town Clerk

Section 4. The proceeds of said bonds shall be applied only to pay the costs and expenses of constructing the improvements in said District and all other costs and expenses incident thereto. 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 paid into the special assessment fund for the purpose of calling in and paying the principal of and interest on said bonds.

The proceeds of the bonds herein authorized shall be used only for the purposes recited above, provided, however, that any portion of the bond proceeds may be temporarily invested pending such use in securities or obligations which are lawful investments for municipalities in the State of Colorado. The temporary investment of the bond proceeds, or any portion thereof, shall be of such nature and extent, and for such period, that the bonds shall not be or become arbitrage bonds within the meaning of Section 103(d) of the Internal Revenue Code, and pertinent regulations, and such proceeds, if so invested, shall be subject to the limitations and restrictions of said Section 103(d) (4), 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. Said bonds and the interest thereon shall be paid solely from special assessments to be levied on the real property in said District specially benefited by the construction of improvements therein. When there is on hand a sufficient amount to pay six months' interest on outstanding bonds of said District, the Town shall call for payment, on the next interest payment date, outstanding bonds in direct numerical order with funds available therefor. Notice of call and redemption shall be given by advertisement once a week for three consecutive weeks in a newspaper having general circulation in the Town. The notice shall specify by number the bonds called, and all such bonds shall be paid in their direct numerical order. The holder of any such bonds may at any time furnish his or her post office address to the Town Treasurer,

and in such case a copy of the advertisement shall be mailed by the Treasurer to the bondholder, at such address, on or before the first day of such publication.

Section 6. 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 of said District outstanding after the payment of the bonds with the proceeds of such cash payments of assessments in full.

Section 7. The Board of Trustees covenants that upon completion of the local improvements, or upon completion from time to time of any part thereof, and upon acceptance thereof by the Board, or whenever the total cost can be definitely ascertained, it will cause a statement showing the total cost of the improvements to be prepared and filed in the office of the Town Clerk. The Board of Trustees shall further cause assessments to be levied against the property included within the special improvement district and specially benefited by the construction and installation of such improvements.

Section 8. Should any part or provision of this Ordinance ever be judicially determined to be invalid or unenforceable, such determination shall not affect the remaining parts and provisions hereof, the intention being that each part and provision of this Ordinance is severable.

All ordinances or parts thereof in conflict with this Ordinance are hereby repealed.

Section 9. By reason of the fact that it is necessary to issue bonds to pay for the costs and expenses of constructing the improvements and that the completion at the earliest possible date of the improvements described in those Ordinance is necessary to the immediate preservation of the public property, health, peace and safety, it is hereby declared that an emergency exists and that this Ordinance shall take effect five days after publication.

Section 10. 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 shall be published in the Berthoud Bulletin, a newspaper published and having general circulation in said Town.

Section 11. After said bonds have been issued, this Ordinance shall be irrepealable until both the principal of and interest on said bonds shall be fully paid, satisfied and discharged.

PASSED AND ADOPTED, This 23rd day of February, 1971.

(S E A L)



Thomas O'Brien
Mayor

ATTEST:



Lyle Bauer
Town Clerk

It was thereupon moved by Trustee Dan Freddy, and seconded by Trustee Dick Holzmeister, that the foregoing Ordinance, read in full at this meeting as aforesaid, be passed and adopted and be published in full in the Berthoud Bulletin, a newspaper of general circulation published in Berthoud, Colorado, immediately following its passage.

The question being upon the adoption of said motion, the roll was called with the following result:

Those voting AYE:

Trustees:	John S. Angelos
	John E. Beck
	Thomas C. Bein
	John Erickson
	Norman Erickson
	Dan Freddy
	Dick Holzmeister

Those voting NAY:

____ members of the Board of Trustees having voted in favor of the motion, and said number being at least three-fourths of the members of the Board of Trustees, the presiding officer thereupon declared the motion carried and directed that the Ordinance be published as ordered.

After consideration of other business to come before the Board, the meeting was adjourned.

(S E A L)

Thomas C. Bein
Mayor

ATTEST:

Lynn Bauer
Town Clerk

STATE OF COLORADO)
)
COUNTY OF LARIMER) ss.
)
TOWN OF BERTHOUD)

I, Lynn Bauer, Town Clerk of the Town of Berthoud, Colorado, do hereby certify that the foregoing pages numbered 43 to 55, inclusive, constitute a true and correct copy of the proceedings taken by the Board of Trustees of said Town, at a special meeting thereof, held on Tuesday, the 23rd day of February, 1971, so far as said proceedings relate to an ordinance authorizing bonds of the Town of Berthoud, Special Improvement District No. 69-1; that said ordinance has been authenticated by the signatures of the Mayor, as presiding officer of the Board of Trustees and by myself, as Clerk of the Town of Berthoud, and recorded in a book kept for that purpose in my office. The ordinance has been published in full in the Berthoud Bulletin, a newspaper published in the Town, in the issue dated _____, 1971, as evidenced by an affidavit of publication attached hereto.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed the seal of said Town, this _____ day of _____, 1971.

(S E A L)

Lynn Bauer
Town Clerk