

ORDINANCE NO. 316

AN ORDINANCE PROVIDING FOR THE ISSUANCE BY THE TOWN OF BERTHOUD, COLORADO, OF ITS NEGOTIABLE COUPON BONDS IN THE PRINCIPAL AMOUNT OF \$149,000, TO BE DESIGNATED "REFUNDING WATER BONDS", FOR THE PURPOSE OF REFUNDING A LIKE AMOUNT OF OUTSTANDING BONDED IN-DEBTEDNESS OF SAID TOWN; PROVIDING FOR THE DEPOSIT OF FUNDS IN AN ESCROW ACCOUNT TO EFFECT SUCH REFUNDING; PRESCRIBING THE FORM OF SAID REFUNDING BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX TO PAY SAID BONDS, PRINCIPAL AND INTEREST; AND DECLARING AN EMERGENCY.

WHEREAS, the Town of Berthoud, Colorado, has outstanding its negotiable coupon bonds, more particularly described in a Resolution and Certificate of Determination heretofore adopted on January 27, 1966, which descriptions are incorporated herein by specific reference, of the issues dated and designated as follows:

<u>Date and Designation</u>	<u>Amount Outstanding</u>	<u>Hereinafter Referred to as:</u>
1. October 1, 1948 Refunding Water Bonds	\$69,000	Bonds 1948
2. April 1, 1959 Water Extension Bonds	16,000	Bonds 1959
3. April 1, 1960 Water Extension Bonds	30,000	Bonds 1960
4. July 1, 1961 Water Extension Bonds	34,000	Bonds 1961

and

WHEREAS, Said bonds may be redeemed and refunded and a substantial savings in Net Interest Cost and reduction in Net Effective Interest Rate thereby obtained; and

WHEREAS, by a Resolution duly adopted on the 27<sup>th</sup> day of January, 1966, the Board of Trustees of the Town of Berthoud, Colorado, determined to issue, in accordance with the Laws of the

State of Colorado, particularly Colorado Revised Statutes 1963, Chapter 139, Article 44, new bonds, each to be designated "Refunding Water Bond", the same to be sold at not less than their par value and the proceeds thereof used for the purpose of refunding and paying said outstanding bonds, the amount of said Refunding Bonds so to be issued as aforesaid being the sum of \$149,000, and the Certificate of such Determination having been heretofore duly made and entered in and upon the records of said Town, as required by law;

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

Section 1. That by virtue and in pursuance of said Statute, there shall be issued negotiable coupon bonds of said Town, each to be designated "Refunding Water Bond", in the principal amount of \$149,000, for the purpose of refunding a like amount of bonded indebtedness of said Town which the Board of Trustees of the Town has determined to refund, as provided herein.

Section 2. That the Mayor and Town Clerk of said Town be and they are hereby authorized and directed to have prepared negotiable coupon Refunding Water Bonds of said Town, in said aggregate amount of \$149,000.

Section 3. That said bonds hereby authorized shall be negotiable in form, payable to bearer, shall be dated October 1, 1965, shall consist of 149 bonds in the denomination of \$1,000 each, numbered 1 to 149, inclusive, shall bear interest at the rate of 3.60% per annum, payable April 1, 1966, and semi-annually thereafter on the 1st day of April and the 1st day of October each year and shall mature on April 1, as follows:

<u>Amount</u>	<u>Maturity</u>
\$14,000	1967
15,000	1968
16,000	1969
17,000	1970
17,000	1971
18,000	1972
18,000	1973
34,000	1974

Said bonds shall not be callable for redemption prior to maturity.

The principal of and interest on said bonds shall be payable in lawful money of the United States of America, at the Berthoud National Bank, in Berthoud, Colorado.

Said bonds shall be signed by the Mayor, with a facsimile of the seal of the Town affixed thereto, attested by the facsimile signature of the Town Clerk and countersigned by the facsimile signature of the Town Treasurer. The interest accruing on said bonds shall be evidenced by interest coupons thereto attached, bearing the facsimile signature of the Town Treasurer, and when so executed, such coupons shall be the binding obligations of the Town according to their import. In addition there shall be a certificate relating to the registration of said bonds printed thereon, which certificate shall be signed by the facsimile signature of the Town Clerk and shall bear a facsimile of the seal of said Town. Should any officer whose signature or facsimile signature appears on said bonds or the coupons thereto attached cease to be such officer before delivery of the bonds to the purchaser, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes.

Section 4. Said bonds and 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  
REFUNDING WATER BOND

No. \_\_\_\_\_ \$1,000

The Town of Berthoud, in the County of Larimer and State of Colorado, for value received, hereby acknowledges itself indebted and promises to pay to the bearer hereof the sum of

ONE THOUSAND DOLLARS

in lawful money of the United States of America, on the 1st day of April, 19\_\_\_\_, with interest thereon from the date hereof at the rate of three and sixty-hundredths per centum (3.60%) per annum, payable April 1, 1966, and semi-annually thereafter on the 1st day of April and the 1st day of October each year, as evidenced by interest coupons hereto attached, both principal and interest being payable at the Berthoud National Bank, in Berthoud, Colorado, upon presentation of said coupons and this Bond, respectively.

This Bond is issued by the Town of Berthoud, Colorado, for the purpose of paying, redeeming and refunding lawful and valid outstanding bonded water indebtedness of said Town, under, by virtue of and in full conformity with the provisions of the Constitution and Laws of the State of Colorado, more particularly being Chapter 139, Article 44, Colorado Revised Statutes 1963, and all other laws thereunto enabling, and pursuant to an Ordinance duly adopted by the Board of Trustees of said Town prior to the issuance of this Bond.

It is hereby certified and recited that all acts and things required to be done and conditions and things required to

exist 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, and that the total debt of said Town, including that of this Bond, exceeds neither the statutory nor the constitutional limitations of the State of Colorado; that said total debt is not increased by the issuance hereof; and that provision has been made for the levy and collection of an annual tax on all the taxable property in said Town sufficient to pay the interest on and principal of this Bond when the same become due.

The full faith and credit of the Town of Berthoud, Colorado, are hereby pledged for the punctual payment of the principal of and the interest on this Bond.

IN WITNESS WHEREOF, the Town of Berthoud, Larimer County, Colorado, has caused this Bond to be signed by the Mayor of said Town, sealed with a facsimile of the corporate seal thereof, attested by the facsimile signature of the Town Clerk, countersigned by the facsimile signature of the Town Treasurer, and has caused the annexed interest coupons to be executed with the facsimile signature of its Town Treasurer, as of the 1st day of October, 1965.

(Do not sign)  
\_\_\_\_\_  
Mayor

(FACSIMILE)  
( S E A L )

ATTEST:

COUNTERSIGNED:

(Facsimile Signature)  
\_\_\_\_\_  
Town Treasurer

(Facsimile Signature)  
\_\_\_\_\_  
Town Clerk

7d  
- 12 -

(Form of Coupon)

No. \_\_\_\_\_ \$ \_\_\_\_\_

On the 1st day of April, 19\_\_\_\_, the Town of Berthoud,  
October,  
in the County of Larimer and State of Colorado, will pay to bearer

DOLLARS

in lawful money of the United States of America, at the Berthoud National Bank, in Berthoud, Colorado, being six months' interest on its Refunding Water Bond dated October 1, 1965, bearing

No. \_\_\_\_\_

(Facsimile Signature)  
Town Treasurer

TOWN CLERK'S CERTIFICATE

The undersigned, the duly appointed, qualified and acting Clerk of the Town of Berthoud, Larimer County, Colorado, hereby certifies that this Bond has been duly registered in a book kept for that purpose and that the law under which this Bond is issued provides that when so registered, its legality shall not be open to contest by the Town which has issued it or any person or corporation in behalf of such Town for any reason whatever.

IN WITNESS WHEREOF, I have caused a facsimile of my signature and a facsimile of the official seal of said Town to be affixed at Berthoud, Colorado, as of the 1st day of October, 1965.

(FACSIMILE)  
(S E A L)

(Facsimile Signature)  
Town Clerk

Section 5. That said Refunding Water Bonds, before delivery to the purchasers thereof, shall be registered by the Town Clerk in a book kept for that purpose, and said Clerk is hereby instructed to perform such registration as a part of the duties of that office. Such registration shall note the principal amount, the date of issuance, maturities and rates of interest of said bonds.

Section 6. Said Refunding Water Bonds, when executed and registered, as provided by law, shall be delivered to the purchaser thereof, in accordance with the contract of purchase therefor, and the proceeds derived therefrom shall be used exclusively for the purpose recited in said bonds; but neither the purchaser of said bonds nor the subsequent holder of any of them shall be in any way responsible for the application of the proceeds of said bonds by said Town, or any of its officers or employees.

Section 7. If necessary, the interest due on said Refunding Bonds on April 1, 1966, may be advanced from any available funds of the Town. For the purpose of reimbursing said funds and paying the interest on said bonds as it shall thereafter become due and providing for the ultimate payment of said bonds, there shall be levied on all the taxable property in said Town, in addition to all other taxes, direct annual taxes in the years 1966 to 1973, inclusive, sufficient to produce the interest on all of said bonds outstanding, and the principal thereof, as the same become due and payable, respectively.

Said taxes, when collected, shall be deposited in a special fund to be known as "Refunding Water Bond Fund, October 1, 1965", and such Fund shall be applied solely to the purpose of the payment of the interest on and principal of said Refunding

Water Bonds and for no other purpose whatever, until the bonds authorized by this Ordinance, both principal and interest, shall have been fully paid, satisfied and discharged. Notwithstanding the foregoing provisions for tax levies, the Town may apply to the payment of said bonds and the interest thereon any or all of the revenues of said waterworks system, after the payment of reasonable costs of maintenance and operation, and upon the application of such revenues as aforesaid, the levy or levies herein provided may thereupon to that extent be diminished. The sums herein provided to meet the interest on said bonds and to discharge the principal thereof when due, are hereby appropriated for that purpose, and said amounts for each year shall also be included in the annual budget and the appropriation bills to be adopted and passed by the Board of Trustees of said Town in each year, respectively.

Section 8. It shall be the duty of the Board of Trustees of said Town, annually, at the time and in the manner provided by law for levying other Town taxes, if such action shall be necessary to effectuate the provisions of this Ordinance, to ratify and carry out the provisions hereof with reference to the levying and collection of taxes; and such taxes when collected shall be kept for and applied only to the payment of the interest on and principal of said bonds, as hereinabove specified.

Section 9. That the provisions of this Ordinance and each of the bonds and the interest coupons issued pursuant thereto shall constitute, and the same are hereby declared to be a binding and irrevocable contract between the said Town and the holder from time to time of each of said bonds and the interest coupons thereto attached.

Section 10. The proceeds of such Refunding Water Bonds, being an amount of not less than \$149,000, shall be deposited by the Town in a special fund and separate trust account, designated as the "Town of Berthoud General Obligation Water Bond, Refunding Escrow Account" (herein sometimes referred to as the "Refunding Escrow Account"), said Account to be established and maintained at The First National Bank in Fort Collins, Fort Collins, Colorado, a commercial bank duly organized and existing under the Laws of the United States of America, being a member of the Federal Deposit Insurance Corporation, having full and complete trust powers (hereinafter sometimes referred to as the "Bank").

The accrued interest, if any, on said Refunding Water Bonds from their date to the date of issuance and delivery thereof shall be deposited with the Berthoud National Bank, Berthoud, Colorado, the Paying Agent for said Refunding Water Bonds.

The accrued interest, if any, on the Outstanding Water Bonds to be refunded, from the last interest payment date of each of said issues to the date of delivery of the Refunding Water Bonds, shall be deposited by the Town with the Bank in said Refunding Escrow Account.

There shall also be deposited by the Town with the Bank in said Refunding Escrow Account the sum of \$12,900.00, for the purpose of supplementing the amount set forth above required to be deposited into the Refunding Escrow Account. The sum of \$12,900.00 is hereby appropriated from any fund or funds available for such purpose.

Section 11. Said Refunding Escrow Account, including therein the proceeds of the Refunding Water Bonds, the accrued

interest on the Outstanding Water Bonds and the supplemental deposit, as referred to above, when invested by the Bank will at all times be at least sufficient to pay the interest on and principal of the Outstanding Water Bonds of the Town being refunded, under and in accordance with the following schedule:

(A) Outstanding Bonds of the following issues, maturing and numbered as indicated below, shall be paid and retired at their respective maturity dates, according to their original terms:

<u>Issue</u>	<u>Bonds Numbered</u>	<u>Maturity</u>
Bonds 1948	82 to 150, incl.	1966 to 1973, incl.
Bonds 1959	20 to 35, incl.	1966 to 1969, incl.
Bonds 1960	11 to 25, incl.	1966 to 1970, incl.

(B) Outstanding Bonds of the following issues, maturing and numbered as indicated below, shall be called for redemption prior to their respective maturities and shall be paid on the Prior Redemption Dates, as follows:

<u>Issue</u>	<u>Bonds Numbered</u>	<u>Maturity</u>	<u>Prior Redemption Date and Price</u>
Bonds 1960	26 to 40, incl.	1971 to 1973, incl.	April 1, 1970 Par
Bonds 1961	1 to 34, incl.	1974 and 1975	April 1, 1974 Par

(C) Interest on said Outstanding Bonds which matures subsequent to the date hereof shall be paid semi-annually each year as the same accrues according to the original terms of said bonds until said bonds mature or until the Prior Redemption Date whichever is the earlier date.

Section 12. The Bank shall invest the funds on deposit in the Refunding Escrow Account in direct obligations of the United States of America ONLY, and shall fully secure any cash balance in said Account in the manner required by law for other trust funds.

Section 13. If, for any reason, at any time, the funds on hand in such Refunding Escrow Account shall be insufficient to meet such payments as the same shall be about to become due and payable, the Town shall forthwith deposit in such Refunding Escrow Account such additional funds as may be required fully to meet the amount so about to become due and payable.

Section 14. The Bank shall from time to time redeem all or a portion of the Direct United States obligations in said Refunding Escrow Account, in sufficient amounts so that the proceeds therefrom and the interest thereon as the same accrue will be sufficient to meet the interest requirements on the Outstanding Water Bonds as such interest accrues and to pay or call in and redeem said bonds at their respective maturities or on the Prior Redemption Date, according to the schedule hereinabove set forth.

Section 15. The Mayor and Town Clerk and Treasurer shall, and they are hereby authorized and directed to take all necessary or appropriate action toward the execution of a proper Escrow Agreement with the Bank concerning the deposits in, investments of and disbursements from said Refunding Escrow Account, and such other agreements as may be necessary or desirable to effectuate the provisions of this Resolution and comply with the requirements of law.

Section 16. The Town Clerk is hereby authorized and directed and he shall give notice of prior redemption and refunding of said Outstanding Water Bonds at the time of such refunding and again in the manner required by law before the Prior Redemption Date herein established. Unless additional and more extensive notice is required by law, the Notice shall be given by publication in some newspaper published in the Town, or, if there be no such newspaper, then in some newspaper published in the

County in which the Town is located, and which newspaper is customarily used by said Town for legal notices. At the time of such refunding, said Notice shall be published one time at or about the date on which the Refunding Water Bonds are issued and delivered. The Notice shall again be published before the Prior Redemption Date, in such a newspaper, by insertion in at least one edition thereof, such publication to be not less than thirty (30) days before said Prior Redemption Date. Said Notice shall contain all the details required by law and must adequately describe the bonds to be called and redeemed, the date on which the same will occur and shall state that after the date for payment and redemption, interest on said bonds will cease.

In addition to the Notice hereinabove specified Notice shall be given to the following by certified or registered mail not less than 30 days before each of said Prior Redemption Dates:

Boettcher and Company	828 Seventeenth Street Denver, Colorado 80202
Bosworth, Sullivan & Company, Inc.	660 Seventeenth Street Denver, Colorado 80202
Denver Consolidated Bond Call	c/o Coughlin and Company, Inc. First National Bank Building Denver, Colorado 80202

Section 17. If any court of competent jurisdiction should ever determine that any part of this Ordinance is invalid or unenforceable, such determination shall not affect the remaining parts hereof, the intention being to make the provisions herein severable.

Section 18. That after said Refunding Bonds are issued this Ordinance shall not be altered or repealed until the bonds hereby authorized shall have been fully paid, as to both principal and interest.

Section 19. That all ordinances, or resolutions, or parts thereof, in conflict with the provisions hereof, be and the same are hereby repealed.

Section 20. That it is necessary for the refunding proceedings herein provided to be completed as soon as possible in order that the said Town may reduce the interest costs on said indebtedness; therefore, it is hereby declared that an emergency exists and that this Ordinance is necessary for the immediate preservation of the public peace, health and safety, and it shall become effective five (5) days after its publication.

Section 21. This Ordinance, immediately upon its passage, shall be recorded in the Book of Ordinances of said Town kept for that purpose, authenticated by the signatures of the Mayor and Town Clerk and shall be published in the Berthoud Bulletin, a newspaper of general circulation in said Town.

ADOPTED AND APPROVED This 29<sup>th</sup> day of January, 1966.

( S E A L )

ATTEST:

Ammona Williams  
Town Clerk

John Warner  
Mayor

It was thereupon moved by Trustee Fletcher and seconded by Trustee Jones that all the rules of this Board which unless suspended might prevent the final passage and adoption of this Ordinance at this meeting, be and the same are hereby suspended.

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

Those voting AYE:

Trustees:	
	John Beck
	Rolland Fletcher, Sr.
	Ross Jacobs
	Don Jones
	L. O. McClung
	<u>John Ward</u> <i>Absent</i>

Those voting NAY: None

5 members of the Board of Trustees having voted in favor of said motion, the presiding officer thereupon declared said motion carried.

Thereupon Trustee Beck moved that said Ordinance, heretofore introduced and read in full at this meeting, be passed and adopted as read. Trustee McClung seconded the motion and the question being upon the final passage and adoption of said Ordinance, the roll was called with the following result:

Those voting AYE:

Trustees:	
	John Beck
	Rolland Fletcher, Sr.
	Ross Jacobs
	Don Jones
	L. O. McClung
	<u>John Ward</u> <i>Absent</i>

Those voting NAY: None

5 members of the Council having voted in favor of the passage and adoption of said Ordinance, said number being at least three-fourths of all the Board members, the presiding officer thereupon declared said Ordinance duly passed and adopted.

On motion duly adopted, it was ordered that said Ordinance be numbered 316 and that, after its approval by the Mayor and attestation by the Town Clerk, it be published in the Berthoud Bulletin, a newspaper of general circulation in the Town of Berthoud, and be recorded by the Town Clerk in the Ordinance Book, according to law.

( S E A L )

ATTEST:

Amora Williams  
Town Clerk

Al Waring  
Mayor

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

I, Armona Williams, Town Clerk of the Town of Berthoud, Colorado, do hereby certify that the foregoing pages numbered 1 to 22, inclusive, constitute a true and correct copy of the record of the proceedings of the Board of Trustees of the Town of Berthoud, Colorado, taken at a special meeting thereof, held at the Town Hall, in said Town, being the regular meeting place of said Trustees, on Thursday, the 27<sup>th</sup> day of January, 1966, insofar as said proceedings relate to a Resolution and an Ordinance, copies of which are therein set forth; that said copies of said Resolution and Ordinance contained in said minutes are true and correct copies of the originals of said Resolution and Ordinance, as acted upon at said meeting; that, pursuant to instructions, the undersigned Town Clerk has caused said Ordinance to be published in the Berthoud Bulletin in its issue of February 3, 1966, and that an Affidavit of such publication is hereto attached.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal at Berthoud, Colorado, this 4<sup>th</sup> day of February, 1966.

( S E A L )

Armona Williams  
Town Clerk