

ORDINANCE NO. #496

AN ORDINANCE TO CONTRACT AN INDEBTEDNESS ON BEHALF OF THE TOWN OF BERTHOUD, COLORADO, AND UPON THE CREDIT THEREOF BY ISSUING GENERAL OBLIGATION BONDS OF THE TOWN IN THE PRINCIPAL AMOUNT OF \$315,000 FOR THE PURPOSE OF SUPPLYING THE TOWN WITH WATER BY EXTENDING AND IMPROVING THE EXISTING WATERWORKS SYSTEM OF THE TOWN; PRESCRIBING THE FORM OF SAID BONDS; AND PROVIDING FOR THE LEVY OF TAXES TO PAY THE SAME.

WHEREAS, the Town of Berthoud presently owns, operates and maintains a municipal waterworks system for the Town and its inhabitants; and

WHEREAS, the Board of Trustees has determined to extend and improve the waterworks system in order to supply the Town and the inhabitants thereof with a proper and adequate supply of water; and

WHEREAS, there are not sufficient funds in the treasury of the Town to pay the costs and expenses of supplying the Town with water and the Board of Trustees deems it advisable and necessary to authorize the issuance of general obligation negotiable coupon bonds of the Town in the amount of \$315,000 for that purpose;

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

Section 1. BOND DETAILS. That for the purpose of paying the costs and expenses of supplying the Town of Berthoud with water by extending and improving the existing waterworks system of the Town, the Town shall issue its general obligation negotiable coupon bonds in the principal amount of \$315,000, each to be designated "General Obligation Water Bond", dated July 1, 1980, consisting of 63 bonds in the denomination of \$5,000 each, numbered 1 to 63 inclusive, payable in lawful money of the United States of America, to bear interest from and after date at the rates set forth below, payable on January 1, 1981, and semiannually thereafter on the 1st day of January and the 1st day of July, each year, as evidenced by interest coupons attached to said bonds, and maturing serially on July 1, as follows:

<u>Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
1989	\$25,000	9.00%
1990	25,000	9.10%
1991	50,000	9.20%
1992	50,000	9.30%
1993	50,000	9.40%
1994	50,000	9.50%
1995	65,000	9.50%

Bonds of this issue maturing on or before July 1, 1990, shall not be redeemable in advance of their respective maturities. Those Bonds maturing on July 1, 1991 and thereafter, shall be redeemable prior to maturity at the option of the Town on July 1, 1990, and on any interest payment date thereafter, in inverse numerical order, upon payment of par plus accrued interest, without redemption premium.

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

The net effective interest rate of this issue of bonds is 9.75% per annum.

Section 2. FORM AND EXECUTION OF BONDS AND INTEREST

COUPONS. That the Bonds shall be signed by the facsimile signature of the Mayor, shall be sealed with a facsimile of the seal of the Town, shall be attested by the facsimile signature of the Town Clerk, shall be countersigned by the manual signature of the Town Treasurer, and shall be recorded in a book kept by the Town Treasurer for that purpose. All interest coupons shall bear the facsimile signature of the Treasurer of the Town, and when issued as part of said bonds, shall be the lawful promises and obligations of the Town, securing the payment of said interest as it becomes due. Should any officer whose manual or facsimile signature appears on said bonds, or the interest 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.

That the bonds and the interest coupons 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  
GENERAL OBLIGATION WATER BOND

NO. \_\_\_\_\_ \$5,000

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 the principal sum of

FIVE THOUSAND DOLLARS

on the 1st day of July, 19\_\_\_\_, with interest thereon at the rate of \_\_\_\_\_ per centum (\_\_\_\_%) per annum, payable on January 1, 1981, and semi-annually thereafter on the 1st day of January and the 1st day of July, each year, both principal and interest being payable in lawful money of the United States of America, at the Berthoud National Bank, in Berthoud, Colorado, upon presentation and surrender of the attached coupons and this Bond as they severally become due.

Bonds of this issue maturing on or before July 1, 1990, are not redeemable prior to their respective maturities. Those Bonds maturing on July 1, 1991 and thereafter, are redeemable prior to maturity at the option of the Town on July 1, 1990, and on any interest payment date thereafter, in inverse numerical order, upon payment of par plus accrued interest, without redemption premium.

This Bond is issued by the Board of Trustees of the Town of Berthoud, Colorado, for the purpose of supplying water to the Town and its inhabitants, by extending and improving the waterworks system of the Town, under the authority of and in full conformity with the Constitution of the State of Colorado, the provisions of Title 31, Article 15, Part 3, Colorado Revised Statutes 1973, as amended, and all other laws thereunto enabling, and pursuant to an Ordinance of the Town duly adopted, published and made a law of the Town prior to the issuance of this Bond.

It is hereby certified and recited that all the requirements of law have been fully complied with by the proper officers of the Town in the issuance of this Bond; that the total debt of the Town, including that of this Bond, does not exceed any limit of indebtedness prescribed by the Constitution or Laws of the State of Colorado, and that provision has been made for the levy and collection of a general ad valorem tax on all the taxable property in said Town, sufficient to pay the interest on and the principal of this Bond as the same respectively 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 TESTIMONY WHEREOF, the Board of Trustees of the Town of Berthoud, Colorado, has caused this Bond to be signed by the facsimile signature of the Mayor of the Town, sealed with a facsimile of the seal of the Town, attested by the facsimile signature of the Town Clerk, countersigned by the manual signature of the Town Treasurer, and the attached interest coupons to be signed with the facsimile signature of the Town Treasurer, as of the 1st day of July, 1980.

TOWN OF BERTHOUD, COLORADO

(FACSIMILE  
S E A L )

(Do Not Sign)  
(Facsimile Signature)  
\_\_\_\_\_  
Mayor

ATTESTED:

(Do Not Sign)  
(Facsimile Signature)  
\_\_\_\_\_  
Town Clerk

COUNTERSIGNED:

(Do Not Sign)  
(Manual Signature)  
\_\_\_\_\_  
Town Treasurer

(Form of Interest Coupon)

NO. \_\_\_\_\_

\$ \_\_\_\_\_

January,

On the 1st day of July, 19\_\_\_\_, unless the Bond to which this coupon is attached, if redeemable, has been called for prior redemption, 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 Berthoud National Bank, in Berthoud, Colorado, being interest then due on its General Obligation Water Bond, dated July 1, 1980, bearing No. \_\_\_\_\_

(Do Not Sign)

(Facsimile Signature)

Town Treasurer

Section 3. DISPOSITION OF BOND PROCEEDS. That said bonds, when executed as provided by law, shall be delivered to the purchaser thereof in accordance with its contract of purchase. The proceeds of the bonds herein authorized shall be used only for the purpose of paying the costs and expenses of supplying the Town of Berthoud with water and for no other purpose whatever. Neither the Purchaser of the bonds nor the subsequent holder of any of them shall be responsible for the application or disposal by the Town, or any of its officers, of any of the funds derived from the sale thereof.

All or any appropriate portion of the bond proceeds may be temporarily invested or reinvested pending such use in securities or obligations which are lawful investments for such towns 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 shall not be or become arbitrage bonds within the meaning of Section 103(c) of the Internal Revenue Code of 1954, as amended, and pertinent regulations, and such proceeds, if so invested or reinvested, shall be subject to the limitations and restrictions of said Section 103(c), and pertinent regulations as the same now exists or may later be amended.

Section 4. PAYMENT OF PRINCIPAL AND INTEREST. That if necessary, the interest to become due on said bonds on January 1, 1981, shall be advanced from the water fund or other funds of the Town which are lawfully available therefor. For the purpose of reimbursing said fund(s), and for paying the interest accruing on the bonds promptly as the same becomes due, and for providing for the ultimate payment and redemption of the bonds, there shall be levied on all of the taxable property in the Town, in addition to all other taxes, a general ad valorem tax in each of the years 1980 to 1994, inclusive, sufficient to make such reimbursement and to pay the principal of and interest on the outstanding bonds as the same become due and payable. Said taxes when collected shall be deposited in a special fund to be known as the "Town of Berthoud Water Bond Fund, 1980", and such Fund shall be applied solely to the purpose of the payment of the interest on and the principal of the bonds and for no other purpose whatever, until the indebtedness so contracted under this Ordinance, both principal and interest, shall have been fully paid, satisfied and discharged. Nothing herein contained shall be so construed as to prevent the Town from applying any other funds or revenues that may be in the Town treasury and available for that purpose, to the payment of the interest or principal, as the same respectively accrue and mature, and upon any such payments, the levy or levies herein provided may thereupon be diminished to that extent.

An amount necessary to pay all costs and expenses incidental to the issuance of said bonds and the amounts herein-before provided to pay the interest on said bonds and to discharge the principal thereof when due, are hereby appropriated for that purpose, and said amount 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 the Town in each year, respectively.

It shall be the duty of the Board of Trustees of the 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 the Board shall levy, certify and collect said taxes in the manner provided by law for the purpose of creating a fund for the payment of the principal of the bonds and interest thereon, and said taxes, when collected, shall be kept for and applied only to the payment of the interest and principal of the bonds as hereinabove specified.

Section 5. ESTABLISHMENT OF RATES AND CHARGES FOR SERVICES. That notwithstanding the foregoing provisions for tax levies, the Town hereby further covenants and agrees to establish, maintain, collect and enforce a schedule of rates, fees, tolls and charges for connection to and use of the waterworks system of the Town, which schedule shall be sufficient to assure that the revenue thereby produced, together with the proceeds of general ad valorem taxes and any other legally available funds, shall pay all reasonable costs and expenses of operating and maintaining the waterworks system and to pay the interest on and principal of the General Obligation Water Bonds, herein authorized, promptly as the same become due and payable, respectively.

Section 6. DEFEASANCE. That when all principal, interest, and prior redemption premiums, if any, in connection with the bonds hereby authorized have been duly paid, the pledge and lien and all obligations hereunder shall thereby be discharged and the bonds shall no longer be deemed to be outstanding within the meaning of this Ordinance. There shall be deemed to be such due payment when the Town has placed in escrow and in trust with a commercial bank located within or without the State of Colorado, and exercising trust powers, an amount sufficient (including the known minimum yield from Federal Securities in which such amount may be initially invested) to meet all requirements of principal, interest and prior redemption premium, if any, as the same become due, to their final maturities or upon designated prior redemption dates. The Federal Securities shall become due at or prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the

Town and such bank at the time of the creation of the escrow, or the Federal Securities shall be subject to redemption at the option of the holders thereof to assure such availability as so needed to meet such schedule. The term "Federal Securities" within the meaning of this section shall include only direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States of America.

Section 7. REPEALER. That all ordinances or parts thereof in conflict with this Ordinance are hereby repealed.

Section 8. RATIFICATION AND APPROVAL OF PRIOR ACTION. That all actions heretofore taken by the officers of the Town and members of the Board of Trustees, not inconsistent with the provisions of this Ordinance relating to the authorization, issuance, and delivery of said bonds, be and the same are hereby ratified, approved, and confirmed.

Section 9. SEVERABILITY. That should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such determination shall not affect, impair or invalidate the remaining provisions hereof, the intention being that the various provisions hereof are severable.

Section 10. RECORDING AND AUTHENTICATION. That this Ordinance, as adopted by the Board of Trustees, shall be numbered and filed by the Town Clerk in the official records of the Town, which records shall be authenticated by the signatures of the Mayor and said Town Clerk, shall be published as required by law, and shall take effect 30 days after publication of this Ordinance.

Section 11. ORDINANCE IRREPEALABLE. That after said bonds are issued, this Ordinance shall be and remain irrepealable until said bonds and the interest thereon shall have been fully paid, satisfied and discharged.

INTRODUCED, ADOPTED AND APPROVED This 10th day of June, 1980.

( S E A L )

  
Barbara Olds  
Mayor

ATTESTED:

  
Jayne Wilkinson  
Town Clerk

It was then moved by Trustee Ralph Zrubek and seconded by Trustee O. J. Thompson that all 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 and the suspension of the rules, the roll was called with the following result:

Those voting YES:

Trustees:	Roger Banzhaf
	Louise Bein
	Russell Henderson
	Tom Jones
	O.J. Thompson
	Ralph Zrubek

Those voting NO: None

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

Trustee O. J. Thompson then moved that the Ordinance be passed and adopted. Trustee Ralph Zrubek seconded the motion.

The question being upon the passage and adoption of the Ordinance, the roll was called with the following result:

Those voting YES:

Trustees:	Roger Banzhaf
	Louise Bein
	Russell Henderson
	Tom Jones
	O.J. Thompson
	Ralph Zrubek

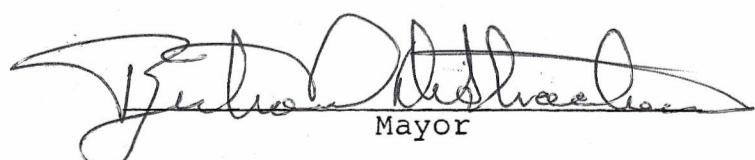
Those voting NO: Louise Bein

The presiding officer thereupon declared that 4 members of the Board of Trustees having voted in favor thereof, the motion was carried and the Ordinance duly passed and adopted.

On motion duly adopted, it was ordered that the Ordinance be numbered 496, and after approval by the Mayor, be published in the Loveland Daily Reporter-Herald, a newspaper of general circulation within the Town of Berthoud.

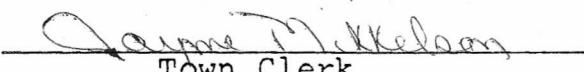
After consideration of other business to come before the Board of Trustees, the meeting was adjourned.

( S E A L )



BERTHOD, Mayor

ATTESTED:



James M. Nelson  
Town Clerk

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

I, Jayme Mikkelsen, Town Clerk of the Town of Berthoud, Larimer County, Colorado, do hereby certify that the foregoing pages numbered 1 to 10, inclusive, constitute a true and correct copy of the record of proceedings of the Board of Trustees of the Town, taken at a regular meeting thereof, held at the Town Hall, 328 Massachusetts, in Berthoud, Colorado, the regular meeting place of the Board, on Tuesday, the 10th day of June, 1980, insofar as said proceedings relate to the passage and adoption of an Ordinance therein set forth, concerning the issuance of General Obligation Water Bonds of the Town in the principal amount of \$315,000.

That attached hereto is an Affidavit of Publication of said Ordinance as passed and adopted by the Board of Trustees at said meeting; that the original Ordinance has been duly authenticated by the signatures of the Mayor and myself, as Clerk of the Town, sealed with the corporate seal of the Town, and signed and recorded in the Book of Ordinances of the Town kept for that purpose in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Town of Berthoud, Colorado, this 10 day of June, 1980.

( S E A L )

Jayme M. Mikkelsen  
Town Clerk