

ORDINANCE NO. 545

AN ORDINANCE AUTHORIZING THE ISSUANCE OF SPECIAL ASSESSMENT BONDS OF THE TOWN OF BERTHOUD, COLORADO, FOR SPECIAL IMPROVEMENT DISTRICT NO. 1983-1, FOR THE CONSTRUCTION AND INSTALLATION OF STREET PAVING, CURB, GUTTER AND SIDEWALK IMPROVEMENTS, TOGETHER WITH NECESSARY INCIDENTALS, IN SAID DISTRICT; PRESCRIBING THE FORM OF THE 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, gutter and sidewalk improvements, together with necessary incidentals (the "Project"), Special Improvement District No. 1983-1 (the "District"), in the Town of Berthoud (the "Town") has been duly created by Ordinance No. 543, adopted and approved on June 21, 1983; and

WHEREAS, the Board of Trustees has determined that the cost of the Project which will be assessed against the property included within the District shall not exceed the amount of \$350,000, and that Bonds of the Town for the District should be issued in this amount, and

WHEREAS, by reason of the fact that it is necessary to sell the Bonds immediately in order to issue such Bonds at the interest rates herein set forth, and by reason of the fact that it is necessary to obtain money for the construction of the Project in time to accomplish the Project within the present construction season, this Ordinance is hereby declared to be necessary to the immediate preservation of the public health and safety, and shall take effect upon adoption pursuant to S31-16-105, C.R.S.; 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 Title 31, Article 25, Part 5, C.R.S., and all other laws thereunto enabling, Special Assessment Bonds of the Town for Special Improvement District No. 1983-1 shall be issued for the purpose of paying part of the costs of the Project. The Bonds shall be in the total principal amount of \$350,000, shall be dated October 1, 1983, and shall consist of 350 bonds in the denomination of \$1,000 each. The Bonds shall be issued only as fully registered bonds without coupons, and shall mature on October 1, 1994, 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 will be given in the manner set forth in Section 11 hereof.

The Bonds shall bear interest at the rates set forth below, payable semiannually on each April 1 and October 1, commencing on April 1, 1984;

<u>Amount</u>	<u>Bond Numbers</u>	<u>"A"</u> Interest Rate
\$75,000	1 to 75, incl.	
50,000	76 to 125, incl.	
25,000	126 to 150, incl.	
25,000	151 to 175, incl.	
25,000	176 to 200, incl.	
\$25,000	201 to 225, incl.	
25,000	226 to 250, incl.	
25,000	251 to 275, incl.	
25,000	276 to 300, incl.	
25,000	301 to 325, incl.	
25,000	326 to 350, incl.	

In addition to the "A" interest rate indicated above, all Bonds shall bear additional "B" interest at the rate of 2% per annum, for the period from October 1, 1983 to October 1, 1984, inclusive, or to the redemption date of the Bond, whichever is the earlier date, and payable on April 1, 1984 and October 1, 1984. Such "B" interest shall be evidenced by an appropriate instrument, which shall be fully registered.

The maximum net effective interest rate of this issue of Bonds shall be 11% per annum.

Section 2. Paying Agent and Bond Registrar. The principal of the Bonds shall be payable in lawful money of the United States of America at the office of the Town Treasurer, in Berthoud, Colorado (the "Bond Registrar"), or its successor, to the registered owner of each Bond upon presentation thereof. Notwithstanding anything contained in this Ordinance to the contrary, interest on the Bonds shall be payable to the person in whose name such Bond is registered, at his or her address as it appears on the registration books maintained by or on behalf of the Town, at the close of business on the Record date, such date being the fifteenth (15th) day of the calendar month next preceding the interest payment date, irrespective of any transfer or exchange of such Bond subsequent to such Record Date and prior to such interest payment date. Such payment shall be paid by check or draft of the Bond Registrar.

SECTION 3. Execution of Bonds. The Bonds shall be signed with the facsimile signature of the Mayor, sealed with a facsimile of the seal of the Town, and attested and countersigned by the facsimile signature of the Town Clerk-Treasurer. Should any officer whose facsimile signature appears on said Bonds cease to be such officer before delivery of the Bonds to the purchaser, such facsimile signature shall nevertheless be valid and sufficient for all purposes.

SECTION 4. Form of Bonds. The Bonds shall be in substantially the following form:

(Form of Bond)

No. R-_____

\$ _____

(Front of Bond)

UNITED STATES OF AMERICA
STATE OF COLORADO
COUNTY OF LARIMER
TOWN OF BERTHOUD

SPECIAL IMPROVEMENT DISTRICT NO. 1983-1, SPECIAL ASSESSMENT BOND

The Town of Berthoud, Larimer County, Colorado, for value received, hereby promises to pay out of the special fund hereinafter designated, but not otherwise, to _____, or registered assigns, the principal sum of ONE THOUSAND DOLLARS in lawful money of the United State of America, on the 1st day of October, 1994, and in like manner to pay interest on such principal amount (computed on the basis of a 360 day year or twelve 30-day months) from the interest payment date next preceding the date of registration and authentication of this Bond, unless this Bond is registered and authenticated prior to April 1, 1984, in which event this Bond shall bear "A" interest from October 1, 1983, at the rate of _____ per centum (____%) per annum, commencing on April 1, 1984, and semiannually thereafter on October 1 and April 1 each year, until such principal amount is paid, unless this Bond shall have been previously called for redemption and payment shall have been duly provided for. In addition to the "A" interest rate set forth above, this Bond shall bear supplemental "B" interest, at the rate of 2% per annum, for the period from October 1, 1983 to October 1, 1984, inclusive, or to the redemption date of the Bond, whichever is the earlier date, and payable on April 1, 1984 and October 1, 1984. Such "B" interest shall be evidenced by a separate instrument which shall be fully registered. Principal of this Bond is payable in lawful money of the United States of America at the office of the Town Treasurer, in Berthoud, Colorado, as bond registrar and paying agent (the "Bond Registrar").

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. Payment of each installment of interest shall be made to the registered owner hereof whose name shall appear on the registration books of the Town maintained by the Bond Registrar at the close of business on the fifteenth (15th) day of the calendar month next preceding the interest payment date and shall be paid by check or draft of the Bond Registrar mailed to such registered owner at his or her address as it appears on such registration books or at such other address as may be furnished in writing by such registered owner to the Bond Registrar.

This Bond is issued for the purpose of paying part of the costs of constructing and installing street paving, curb, gutter and sidewalk improvements, together with necessary incidentals (the "Project"), in Special Improvement District No. 1983-1 (the "District"), in the Town of Berthoud, Colorado, by virtue of and in full conformity with the Constitution and laws of the State of Colorado, and an Ordinance of the Town duly adopted, approved, published, and made a law of said Town prior to the issuance hereof.

Payment of this Bond and the interest thereon shall be made from, and as security for such payment there is pledged, a special fund designated as "Special Improvement District No. 1983-1 Principal and Interest Fund", which Fund shall contain initially any monies in the construction account remaining after the costs of the Project have been paid in full, and thereafter to contain the proceeds from special assessments to be levied against the property included within the District and specially benefited by the construction and installation of improvements therein. The assessments to be levied will constitute a lien on and against each lot or tract of land in the respective amounts to be apportioned by an ordinance of the Town.

In addition, Section 31-25-534, C.R.S., and the Ordinance authorizing this Bond, provide that whenever three-fourths (3/4) of the Bonds issued for the construction of improvements under Title 31, Article 25, Part 5, C.R.S., have been paid and cancelled, and for any reason the remaining assessments are not paid in time to pay the remaining Bonds for the District and the interest due thereon, the Town of Berthoud shall pay the Bonds when due and the interest due thereon and reimburse itself by collecting the unpaid assessments due the District.

This Bond does not constitute a debt of the Town of Berthoud within the meaning of any constitutional or statutory limitation or provision, and shall not be considered or held to be a general obligation of the Town.

It is hereby certified and recited that all requirements of law have been fully complied with by the proper officers of the Town in the issuance of this Bond, and that the total amount of this issue does not exceed the cost and expense of said improvements or any limitation prescribed by law.

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

REFERENCE IS HEREBY MADE TO FURTHER PROVISIONS OF THIS BOND SET FORTH ON THE REVERSE HEREOF WHICH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF FULLY SET FORTH IN THIS PLACE.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Ordinance authorizing this Bond until the certificate of authentication hereon shall have been signed by the Bond Registrar.

IN WITNESS WHEREOF, the Town of Berthoud has caused this Bond to be executed in its name by the facsimile signature of the Mayor, sealed with a facsimile of the Town seal, and attested and countersigned by the facsimile signature of the Town Clerk-Treasurer, all as of the 1st day of October, 1983.

TOWN OF BERTHOUD,
STATE OF COLORADO

(FACSIMILE
SEAL)

By: (Facsimile Signature)
Mayor

ATTESTED AND COUNTERSIGNED:

(Facsimile Signature)
Town Clerk-Treasurer

(Form of Trustee's Certificate of Authentication)

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the issue described in the within mentioned Bond Ordinance.

Date of Registration
and Authentication:

Town Treasurer,
Town of Berthoud, Colorado,
as Bond Registrar

By Authorized Officer

(Back of Bond)

ADDITIONAL PROVISIONS

Then the Town Treasurer has funds in the "Special Improvement District No. 1983-1 Principal and Interest Fund" exceeding six months' interest on the unpaid principal of the Bonds outstanding, he or she shall call in, by advertisement once a week for three consecutive weeks in some newspaper of general circulation in the Town, a suitable number of such Bonds for payment. At the expiration of thirty days from the first publication of such notice, interest on the Bonds so called shall cease. The notice shall specify by number the Bonds so called, and all such Bonds shall be paid in their numerical order. In addition, a copy of the advertisement shall be mailed by the Bond Registrar on behalf of the Town Treasurer to the Bondholder at the address shown on the registration books maintained by the Bond Registrar. Failure to give such notice by mailing to any Bondholder, or any defect therein, shall not affect the validity of any proceeding for the redemption of other bonds.

If the date for payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday, or a day on which banking institutions in the city where the corporate trust office of the Bond Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or a day on which such banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the nominal date of payment.

The Bonds are issuable only in the form of registered bonds without coupons in the denomination of \$1,000 each. The Town and the Bond Registrar shall not be required (a) to issue or transfer any bonds during a period beginning at the opening of business on the fifteenth (15th) day of the calendar month next preceding any interest payment date or during the period beginning on any date of selection of Bonds to be redeemed and ending at the close of business on the interest payment date or day on which the applicable notice of redemption is given, or (b) to transfer any Bonds selected or called for redemption in whole or in part. The Town and the Bond Registrar may deem and treat the registered owner hereof as the absolute owner hereof (whether or not this Bond shall be overdue) for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes, and neither the Town nor the Bond Registrar shall be affected by any notice to the contrary.

The Bond is transferable by the registered owner hereof in person or by his or her attorney duly authorized in writing, at the principal office of the Bond Registrar, but only in the manner, subject to the limitations, and upon payment of the charges provided in the Bond Ordinance, and upon surrender and cancellation of this Bond. Bonds may be transferred upon the registration books upon delivery to the Bond Registrar of the Bonds, accompanied by a written instrument or instruments of transfer in form and with guaranty of signature satisfactory to the Town and the Bond Registrar, duly executed by the owner of the Bonds to be transferred or his attorney-in-fact or legal representative, containing written instructions as to the details of the transfer of such bonds, along with the social security number or federal employer identification number of such transferee and, if such transferee is a trust, the name and social security number of the settlor of the proposed transferee. In all cases of the transfer of a Bond, the Bond Registrar shall enter the transfer of ownership in the registration books and shall authenticate and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of authorized denomination or denominations of the same maturity and interest rate for the aggregate principal amount which the registered owner is entitled to receive at the

earliest practicable time. The Town or the Bond Registrar may charge the owner of such Bond for every such transfer of a Bond an amount sufficient to reimburse them for their reasonable fees and any tax, fee, or other governmental charge required to be paid with respect to such transfer, and may require that such amount be paid before any such Bond shall be transferred.

(Form of Transfer)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto _____

PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF ASSIGNEE

(Name and Address of Assignee)

the within Bond and does hereby irrevocably constitute and appoint _____, attorney, to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Signature guaranteed:

(Bank, Trust Company, or Firm)

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

Section 5. Authentication. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication on such Bond substantially in the form hereinabove set forth shall have been duly executed by the Bond Registrar, and such executed certificate of the Bond Registrar upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Ordinance. The Bond Registrar's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Bond Registrar, but it shall not be necessary that the same officer or signatory sign the certificate of authentication on all of the Bonds issued hereunder.

Section 6. Delivery of Bonds. Upon the execution and delivery of this Ordinance, the Town shall execute and deliver the Bonds to the Bond Registrar, and the Bond Registrar shall authenticate the Bonds and deliver them to the purchasers thereof as directed by the Town.

Section 7. Registration and Transfer of Bonds; Persons Treated as Owners. (a) The Bond Registrar shall maintain the books of the Town for the registration of ownership of each Bond as provided in this Ordinance. The Bond Registrar shall accept a Bond for registration of ownership only if ownership thereof is to be registered in the name of an individual, a corporation, a partnership, or a trust, and only upon receipt of the name and address of each owner, the social security number of each individual, the tax identification number of each corporation, partnership, or trust, and the social security numbers of the settlor and beneficiaries of each trust.

(b) Bonds may be transferred upon the registration books upon surrender of the Bonds to the Bond Registrar, accompanied by a written instrument or instruments of transfer in form and with guaranty of signature satisfactory to the Town and the Bond Registrar, duly executed by the owner of the Bonds to be transferred or his attorney-in-fact or legal representative, containing written instructions as to the details of the transfer of such Bonds, along with the social security number or federal employer identification number of such transferee and, if such transferee is a trust, the name and social security number of the settlor of the proposed transferee. In the event that a Bond is to be registered in the name of a nominee, the requisite information shall be provided for the principal rather than such moninee. No transfer of any Bond shall be effective until entered on the registration books.

(c) In all cases of the transfer of a Bond, the Bond Registrar shall enter the transfer of ownership in the registration books and shall authenticate and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of authorized denomination or denominations of the same maturity and interest rate for the aggregate principal amount which the registered owner is entitled to receive at the earliest practicable time in accordance with the provisions of this Ordinance. The Town or the Bond Registrar may charge the owner of such Bond for every such transfer of a Bond an amount sufficient to reimburse them for their reasonable fees and any tax, fee, or other governmental charge required to be paid with respect to such transfer, and may require that such amount to be paid before any such Bond shall be transferred.

(d) The Town and Bond Registrar shall not be required (i) to issue or transfer any Bonds during a period beginning at the close of business on the fifteenth (15th) day of the calendar month next preceding either any interest payment date or the period beginning on any date of selection of Bonds to be redeemed and ending at the close of business on the interest payment date or day on which the applicable notice of redemption is given, or (ii) to transfer any Bonds selected or called for redemption in whole or in part.

(e) New Bonds delivered upon any transfer shall be secured by this Ordinance and shall be entitled to all of the security and benefits hereof to the same extent as the Bonds surrendered.

(f) The Town, the Bond Registrar, and any additional paying agent or bond registrar may treat the registered owner of any Bond as the absolute owner thereof for the purpose of receiving payment of or on account of principal and interest and for all other purposes, whether or not such Bond shall be overdue, and any notice to the contrary shall not be binding upon the Town or the Bond Registrar.

(g) The Town reserves the right to replace the Bond Registrar at any time, and to divide the functions of bond registrar, paying agent, and transfer agent between or among any corporation, person, or bank lawfully authorized to perform such functions. If the Town does replace the Bond Registrar or so divide such functions, it hereby covenants to cause notice of such replacement or division to be sent to the Bondholders at the address shown on the registration books not less than thirty days after such replacement or division.

Section 8. Destruction of Bonds. Whenever any Bond shall be delivered to the Bond Registrar for cancellation pursuant to this Ordinance and upon payment of the principal amount and interest represented thereby, such Bond shall be cancelled and destroyed by the Bond Registrar and counterparts of a certificate of destruction evidencing such destruction shall be furnished by the Bond Registrar to the Town.

Section 9. Disposition of Bond Proceeds. The proceeds of the Bonds shall be applied only to pay the costs and expenses of constructing the Project. In the event that all of the proceeds of the Bonds are not required to pay such costs and expenses, any remaining amount shall be paid into the "Special Improvement District No. 1983-1 Principal and Interest Fund" hereinafter created, for the purpose of calling in and paying the principal of and interest on the Bonds. Neither the purchasers of the Bonds nor any subsequent holder of the same shall be responsible for the application of the proceeds of the Bonds by the Town or any of its officers.

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 shall not 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 exist or may later be amended.

Section 10. Special Improvement District No. 1983-1 Principal 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. 1983-1 Principal and Interest Fund", which shall contain initially any monies in the construction account remaining after the costs of the Project have been paid in full, and thereafter to contain the proceeds from special assessments to be levied against the property within the District and specially benefited by the construction of improvements therein.

An amount necessary to pay interest becoming due on the Bonds to and including April 1, 1984, shall be deposited to the Bond and Interest Fund and held for the payment of interest due during such period of time.

Section 11. Manner of Redemption. When the Town Treasurer has funds in the "Special Improvement District No. 1983-1 Principal and Interest Fund" exceeding six months' interest on the unpaid principal of the Bonds outstanding, he or she shall call in, by advertisement once a week for three consecutive weeks in some newspaper of general circulation in the Town, a suitable number of such Bonds for payment. At the expiration of thirty days from the first publication of such notice, interest on the Bonds so called shall cease. The notice shall specify by number the Bonds so called, and all such Bonds shall be paid in their numerical order. In addition, a copy of the advertisement shall be mailed by the Bond Registrar on behalf of the Town Treasurer to the Bondholder at the address shown on the registration books maintained by the Bond Registrar. Failure to give such notice by mailing to any Bondholder, or any defect therein, shall not affect the validity of any proceeding for the redemption of other bonds.

Section 12. Additional Security for the Payment of Principal and Interest. In accordance with Section 31-25-534, C.R.S., whenever three-fourths (3/4) of the Bonds of this issue have been paid and cancelled, and for any reason the remaining assessments are not paid in time to pay the remaining Bonds and the interest thereon, then the Town shall pay said Bonds when due and the interest due thereon and reimburse itself by collecting the unpaid assessments due the District.

Section 13. Assessment of Costs. The Board covenants that upon completion of the Project, 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 Treasurer. The Board 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 the Project, in accordance with law.

Section 14. Acceptance of Purchase Contract. That the Board of Trustees does hereby determine to accept the Bond Purchase Contract as submitted by Boettcher and Company, of Denver, Colorado, and to sell said bonds herein authorized to said Purchaser upon the terms, conditions, and provisions as set forth in said Contract, a copy of which is hereto attached as "Exhibit A".

Section 15. Severability. That if any one or more sections or parts of this Ordinance shall be adjudged unenforceable or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, it being the intention that the various provisions hereof are severable.

Section 16. Repealer. All Ordinances or parts thereof in conflict with this Ordinance are hereby repealed.

Section 17. Ordinance Irrepealable. 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.

Section 18. Emergency Declaration. By reason of the fact that it is necessary to sell the Bonds immediately in order to issue such Bonds at the interest rates herein set forth, and by reason of the fact that it is necessary to obtain money for the construction of the Project in time to accomplish the Project within the present construction season, this Ordinance is hereby declared to be necessary to the immediate preservation of the public health and safety, and shall take effect upon adoption pursuant to S31-16-105, C.R.S.

Section 19. Publication. Upon passage, this Ordinance shall be numbered and recorded, and the adoption and publication shall be authenticated by the signature of the Mayor and the Town Clerk, and by the Certificate of Publication.

INTRODUCED, PASSED, AND ADOPTED AS AN EMERGENCY ORDINANCE, This 23rd day of August, 1983.

(S E A L)

Mayor

ATTEST:

Town Clerk