

ORDINANCE NO. 746

OF THE TOWN OF BERTHOUD, COLORADO, CALLING AN ELECTION ON NOVEMBER 5, 1996 TO AUTHORIZE THE ISSUANCE OF SPECIAL ASSESSMENT BONDS FOR THE TOWN'S SPECIAL IMPROVEMENT DISTRICT NO. 1996-1 TO PAY FOR THE CONSTRUCTION, INSTALLATION AND COMPLETION OF CERTAIN IMPROVEMENTS TO FOURTH STREET, THIRD STREET, BUNYAN AVENUE, TURNER AVENUE, CAPITOL AVENUE, FRANKLIN AVENUE AND LAKE AVENUE IN THE TOWN, AND DETERMINING THE BALLOT TITLE AND TEXT OF THE QUESTION TO BE SUBMITTED AT SUCH ELECTION.

WHEREAS, the Board of Trustees (the "Board") of the Town of Berthoud, Colorado (the "Town"), anticipates that it will find and determine that there exists the necessity for the creation of a special improvement district within the Town, to be designated as the Town of Berthoud, Colorado, Special Improvement District No. 1996-1 (the "District") for the construction, installation and completion of certain improvements to Fourth Street, Third Street, Bunyan Avenue, Turner Avenue, Capitol Avenue, Franklin Avenue and Lake Avenue in the Town (the "Project"), pursuant to part 5 of article 25 of title 31, Colorado Revised Statutes; and

WHEREAS, there are not sufficient funds on hand in the treasury of the Town, and the Board does not anticipate that existing sources of revenue will be sufficient to generate the moneys necessary, in order to undertake the Project; and

WHEREAS, the Board has determined that the Project will necessitate the issuance of special assessment bonds by the Town in an amount not to exceed \$750,000 and that the issuance of such amount of special assessment bonds should be presented by the Board to the registered electors of the Town in the form of a question authorizing the issuance of special assessment bonds in an amount not to exceed \$750,000; and

WHEREAS, in order to proceed with the Project in the next 12 months, the question of issuing such special assessment bonds must be submitted to the registered electors of the Town at a special election to be held on November 5, 1996; and

WHEREAS, the final date to certify any ballot question to the Larimer County Clerk and Recorder for the special election to be held on November 5, 1996 is September 10, 1996; and

WHEREAS, the Board has determined that it is necessary to the immediate preservation of the public health and safety that a question of issuing such special assessment bonds be submitted to the registered electors of the Town at a special election to be held on November 5, 1996.

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

1. That a special election should be held on Tuesday, November 5, 1996, in conjunction with the general election in the State of Colorado, at which election there shall be submitted to the registered electors of the Town a question authorizing the issuance by the Town of special assessment bonds of the District in an amount not to exceed \$750,000. Pursuant to § 31-25-534(3) and (4), Colorado Revised Statutes, the Board hereby determines that all registered electors of the Town shall be eligible to vote on the question. The question shall be in substantially the following form:

Ballot Title and Text of Question:

"SHALL TOWN OF BERTHOUD'S DEBT (FOR SPECIAL IMPROVEMENT DISTRICT NO. 1996-1) BE INCREASED \$750,000 WITH A REPAYMENT COST OF \$1,080,000 OR SUCH LESSER AMOUNT AS MAY BE NECESSARY, FOR THE PURPOSE OF CONSTRUCTING, INSTALLING AND COMPLETING CERTAIN IMPROVEMENTS TO FOURTH STREET, THIRD STREET, BUNYAN AVENUE, TURNER AVENUE, CAPITOL AVENUE, FRANKLIN AVENUE AND LAKE AVENUE (THE "PROJECT") IN THE TOWN BY THE ISSUANCE OF SPECIAL ASSESSMENT BONDS AND ANY REFUNDINGS THEREOF (THE "BONDS") PAYABLE FROM SPECIAL ASSESSMENTS IMPOSED UPON PROPERTIES IN THE DISTRICT SPECIALLY BENEFITTED BY THE PROJECT, SUCH BONDS TO BEAR INTEREST AT A MAXIMUM NET EFFECTIVE INTEREST RATE NOT TO EXCEED 8.0% AND MATURE, BE SUBJECT TO REDEMPTION, WITH OR WITHOUT PREMIUM, AND BE ISSUED, DATED AND SOLD AT, ABOVE OR BELOW PAR, AND AT SUCH TIME OR TIMES AND IN SUCH MANNER AS THE BOARD OF TRUSTEES OF THE TOWN MAY DETERMINE; AND IN CONNECTION THEREWITH, (I) TO IMPOSE SPECIAL ASSESSMENTS AGAINST THE PROPERTIES WITHIN THE DISTRICT IN AN AMOUNT SUFFICIENT TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS, (II) TO PLEDGE A PORTION OF THE TOWN'S 1% SALES AND USE TAX, PREVIOUSLY COLLECTED FOR THE PROJECT, TO PAY THE REMAINING BONDS AND THE INTEREST THEREON WHENEVER THREE-FOURTHS OF THE BONDS HAVE BEEN PAID, AND (III) TO COLLECT AND SPEND THE PROCEEDS OF THE BONDS AND THE REVENUES FROM SUCH ASSESSMENTS AND ANY EARNINGS FROM THE INVESTMENT OF SUCH PROCEEDS AND REVENUES WITHOUT LIMITATION BY THE REVENUE OR SPENDING LIMITS OF, AND WITHOUT AFFECTING THE TOWN'S ABILITY TO COLLECT AND SPEND ANY OTHER REVENUES OR FUNDS UNDER, ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?"

2. On or before September 10, 1996, the question shall be certified to the County Clerk and Recorder of Larimer County for the election to be held on November 5, 1996.

3. The election shall be conducted, as a coordinated precinct election in Larimer County pursuant to the provisions of articles 1 to 13 of title 1, Colorado Revised Statutes (the "Uniform Election Code"). The election shall also be conducted pursuant to the provisions of an Intergovernmental Agreement (the "Intergovernmental Agreement") between the Town and the Larimer County Clerk and Recorder, concerning the conduct of the election as a coordinated election under the Uniform Election Code. The Mayor or, in the absence thereof, the Mayor Pro Tem of the Town is hereby authorized to execute and deliver, for and on behalf of the Town, the Intergovernmental Agreement.

4. The precincts and polling places for the election shall be the Larimer County general election precincts and the designated polling places therein, as established by the Larimer County Clerk and Recorder within the boundaries of the Town.

5. All acts required or permitted by the Uniform Election Code relevant to voting by early voters' ballots, absentee ballots and emergency absentee ballots, which are to be performed by the designated election official, shall be performed by the Larimer County Clerk and Recorder.

6. The Town Clerk shall cause a Notice of Election to be published in accordance with the Uniform Election Code.

7. No later than October 11, 1996, the Town Clerk shall submit to the Larimer County Clerk and Recorder, in the form, if any, specified by the Larimer County Clerk and Recorder, the Notice of Election required by Article X, Section 20(3)(b) of the Colorado Constitution.

8. For purposes of § 1-11-203.5, Colorado Revised Statutes, the ballot title for the question contained in this Ordinance is hereby determined to be the text of the question itself.

9. The officers and employees of the Town are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance in accordance with Colorado law.

10. Any authority to contract indebtedness, if conferred by the results of the election, shall be deemed and considered a continuing authority to contract such indebtedness so authorized at one time, or from time to time, and neither the partial exercise of the authority so conferred, nor any lapse of time, shall be considered as exhausting or limiting the full authority so conferred.

11. All actions not inconsistent with the provisions of this Ordinance, heretofore taken by the trustees, officers and employees of the Town, directed toward holding the election for the purposes stated herein are hereby ratified, approved and confirmed.

12. All prior acts, orders, ordinances or resolutions, or parts thereof, by the Town in conflict with this Ordinance are hereby repealed, except that this repealer shall not be construed to revive any act, order, ordinance or resolution, or part thereof, heretofore repealed.

13. If any section, paragraph, clause or provision of this Ordinance shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Ordinance, it being the intention that the various parts hereof are severable.

The Board of Trustees of the Town of Berthoud herewith finds, determines, and designates that this Ordinance shall take effect and be in force 30 days after publication.

This Ordinance was read, passed and ordered published by the Board of Trustees of the Town of Berthoud at its meeting the 27th day of August 1996.

TOWN OF BERTHOUD

[SEAL]

Richard D. Stachowiak
Mayor

ATTEST:

Mark Couedir
Town Clerk

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