

ORDINANCE NO. 8
SERIES 2006

AN ORDINANCE AUTHORIZING THE ISSUANCE OF AND SALE BY THE TOWN OF CRESTED BUTTE, COLORADO OF INDUSTRIAL DEVELOPMENT REVENUE REFUNDING AND IMPROVEMENT BONDS (CRESTED BUTTE ACADEMY PROJECT) SERIES 2006A AND OF INDUSTRIAL DEVELOPMENT REVENUE REFUNDING AND IMPROVEMENT BONDS (CRESTED BUTTE ACADEMY PROJECT) SERIES 2006B IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$4,000,000 FOR THE PURPOSE OF FINANCING THE ACQUISITION OF CERTAIN PROPERTY BY CRESTED BUTTE ACADEMY AND CURRENTLY REFUNDING INDUSTRIAL DEVELOPMENT BONDS ISSUED BY THE TOWN IN 2004 FOR THE BENEFIT OF CRESTED BUTTE ACADEMY; APPROVING AND AUTHORIZING THE EXECUTION OF A FINANCING AGREEMENT, AN INDENTURE OF TRUST AND OTHER DOCUMENTS WITH RESPECT TO SUCH BONDS; MAKING FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT AND THE BONDS; AUTHORIZING THE ASSIGNMENT OF THE TOWN'S RIGHTS (EXCEPT FOR UNASSIGNED RIGHTS) UNDER THE FINANCING AGREEMENT AND OTHER DOCUMENTS TO WELLS FARGO BANK, NATIONAL ASSOCIATION, AS TRUSTEE UNDER THE INDENTURE; AND REPEALING ALL ACTION HERETOFORE TAKEN IN CONFLICT HEREWITH.

WHEREAS, the Town of Crested Butte, Colorado, Colorado (the "Town") is a legally and regularly created, established, organized and validly existing home rule town, municipal corporation and political subdivision under the provisions of Article XX of the Constitution of the State of Colorado (the "State") and the home rule charter of the Town (the "Charter"); and

WHEREAS, the Town is authorized to issue its revenue securities pursuant to Article 10.4 of the Charter payable solely from revenues derived from the operation of the project or capital improvements acquired with the securities' proceeds or from other projects or improvements, so long as the full faith and credit of the Town is not pledged for the payment of such securities; and

WHEREAS, the Town has previously issued its Industrial Development Revenue Bonds (Crested Butte Academy Project) Series 2004A and its Taxable Industrial Development Revenue Bonds (Crested Butte Academy Project) Series 2004B (together, the "Prior Bonds"), and loaned the proceeds of such Prior Bonds to Crested Butte Academy, a Colorado nonprofit corporation (the "Borrower") pursuant to a Financing Agreement, dated as of August 1, 2004, by and among the Town, the Borrower and Community Banks of Colorado; and

WHEREAS, the Borrower operates a non-profit sports oriented co-educational, college preparatory boarding and day school serving students in grades 8-12 (the "School") within the boundaries of the Town; and

WHEREAS, representatives of the Borrower have requested that the Town issue its industrial development revenue bonds pursuant to the terms of the Charter to finance (i) the current refunding of the Prior Bonds; (ii) the acquisition of an existing hotel property (the "Property") located within the boundaries of the Town at 10 Whiterock Avenue, which Property the Borrower plans to convert to housing for students of the Borrower; (iii) the funding of a debt service reserve fund with respect to the Bonds (as defined below) and (iv) paying the costs of issuance of the Bonds (collectively, the "Project"); and

WHEREAS, the Town has considered the request of the Borrower and has concluded that the Project will assist the Borrower in continuing its operations within the Town, promoting the public health, welfare, safety, convenience and prosperity of the Town, and that the Town should issue its industrial development revenue bonds under the Charter to finance the cost of the Project, subject to the conditions set forth herein; and

WHEREAS, the Town will issue, sell and deliver its Town of Crested Butte, Colorado Industrial Development Revenue Refunding and Improvement Bonds (Crested Butte Academy Project) Series 2006A (the "Series 2006A Bonds") and its Town of Crested Butte, Colorado Industrial Development Revenue Refunding and Improvement Bonds (Crested Butte Academy Project) Series 2006B (the "Series 2006B Bonds," and together with the Series 2006A Bonds, the "Bonds") in an aggregate principal amount of not to exceed \$4,000,000, and loan the proceeds thereof to the Borrower, pursuant to the terms of a Financing Agreement, dated as of April 1, 2006 (the "Financing Agreement") among the Town, the Borrower and Wells Fargo Bank, National Association, as trustee (the "Trustee") under an Indenture of Trust, dated as of April 1, 2006 (the "Indenture"), between the Town and the Trustee, to pay the cost of financing the Project; and

WHEREAS, as security for the performance and observance by the Borrower of its obligations under the Financing Agreement, the Borrower shall execute and deliver a promissory note (the "Note") and a Deed of Trust, Security Agreement, Financing Statement and Assignment of Rents and Revenues (the "Deed of Trust") mortgaging and conveying to the Town, subject only to Permitted Encumbrances, in trust, the land and improvements constituting the School and the Property (together, the "Financed Facility"), pledging the revenues and granting by the Borrower to the Trustee a perfected security interest in the equipment constituting a part of the Financed Facility, subject only to Permitted Encumbrances; and

WHEREAS, the Bonds shall be privately placed pursuant to a Bond Placement Agreement, dated as of April __, 2006 (the "Bond Placement Agreement"), by and among the Town, the Borrower and Stifel, Nicolaus & Company, Incorporated, Hanifen Imhoff Division (the "Placement Agent"); and

WHEREAS, the Town is authorized by the Supplemental Public Securities Act, Article 57 of Title 11 of Colorado Revised Statutes, as amended (the "Public Securities Act"), to delegate to any of its members, chief executive officer, or chief financial officer the authority to sign a contract for the purchase of securities or to accept a binding bid for securities and, in addition, may delegate the following determinations to such member or officer without any requirement that the issuing authority approve such determinations: (a) the rate of interest on securities; (b) the conditions on which and the prices at which the applicable securities may be

redeemed before maturity; (c) the existence and amount of any capitalized interest or reserve funds; (d) the price at which the securities will be sold; (e) the principal amount and denominations of the securities; (f) the amount of principal maturing in any particular year; and (g) the dates on which principal and interest shall be paid; and

WHEREAS, the Town hereby determines that it is in the Town's best interest to delegate to its Town Manager (the "Town Manager") certain of the specific powers enumerated in the Public Securities Act as more specifically provided in this Ordinance; and

WHEREAS, there have been presented to the Town Council at this meeting (i) the proposed form of the Financing Agreement, (ii) the proposed form of the Bond Placement Agreement, (iii) the proposed form of the Note, (iv) the Proposed form of the Deed of Trust and (v) the proposed form of the Indenture;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO:

Section 1. Legal Authorization. The Town is a legally, duly and regularly created, established, organized and validly existing home rule town, municipal corporation and political subdivision under the provisions of Article XX of the Constitution of the State and the Charter of the Town, and is authorized under the Charter to issue and sell its revenue bonds, such as the Bonds, for the purpose, in the manner and upon the terms and conditions set forth in this Ordinance, in the Indenture and in the Financing Agreement.

Section 2. Findings. The Town Council has heretofore determined, and does hereby determine, based upon the representations of the Academy, as follows:

(a) The issuance of the Bonds will effectuate the public purposes of the Town, among other things, providing educational facilities within the Town and promoting the public health, welfare, safety, convenience and prosperity of the Town.

(b) The Bonds are to be special, limited obligations of the Town payable solely out of the income, revenues and receipts specifically pledged pursuant to the Indenture and the Financing Agreement. The Bonds, the premium, if any, and the interest thereon shall never constitute a debt or indebtedness of the Town within the meaning of any provision or limitation of the State Constitution, State statutes or the Charter, and shall not constitute nor give rise to a pecuniary liability of the Town or a charge against its general credit or taxing power and shall not constitute a "multiple fiscal year direct or indirect debt or other financial obligation" of the Town under Article X, Section 20 of the Colorado Constitution. Neither the State of Colorado nor any political subdivision thereof shall be obligated to pay the principal of, premium, if any, or interest on the Bonds or other costs incident thereto. The Bonds do not constitute a debt, loan, credit or pledge of the faith and credit or taxing power of the State, the Town or any political subdivision thereof.

Section 3. Authorization and Issuance of Bonds. To defray the cost of the Project (including incidental expenses incurred in issuing the Bonds), there is hereby authorized and created two series of industrial development revenue bonds designated "Town of Crested Butte, Colorado, Industrial Development Revenue Refunding and Improvement Bonds (Crested Butte

Academy Project) Series 2006A" and "Town of Crested Butte, Colorado, Industrial Development Revenue Refunding and Improvement Bonds (Crested Butte Academy Project) Series 2006B" in an aggregate principal amount not to exceed \$4,000,000. Subject to the determination of the Town Manager, the issuance of the Bonds shall be in such principal amounts, bearing such dates and interest rates and such Bonds shall mature as set forth in the Indenture. The Bonds shall be payable, shall be subject to redemption or purchase in lieu of redemption prior to maturity and shall be in substantially the form as provided in the Indenture. Furthermore, the Bonds shall be payable at such place and in such form, shall carry such registration privileges, shall be executed, and shall contain such terms and conditions, as set forth in the Indenture. The maximum net effective interest rate on the Bonds shall not exceed 8.00% per annum. Section 11-57-204 of the Public Securities Act provides that a public entity, including the Town, may elect in an act of issuance to apply all or any of the provisions of the Public Securities Act. The Town hereby elects to apply all of the Public Securities Act to the Bonds.

Section 4. Sale of Bonds. The placement and purchase of the Bonds pursuant to the terms of the Bond Placement Agreement be, and the same are in all respects, hereby approved, authorized and confirmed, and the Mayor (or Deputy Mayor) is hereby authorized and directed to execute the Bonds, the Town Clerk is hereby authorized and directed to affix the seal of the Town and to attest the Bonds, and each is hereby authorized to deliver the Bonds for and on behalf of the Town to the initial purchasers thereof pursuant to the Indenture and upon receipt of an investment letter, substantially in the form attached to the Indenture, executed by the initial purchasers. The Bonds shall be sold to the initial purchasers for the purchase price as set forth in the Indenture (subject to the limitations set forth herein).

Section 5. Delegation. Pursuant to the terms of the Public Securities Act, the Town Manager is hereby delegated the authority to establish: (i) the interest rate or rates of the Bonds and the payment dates therefore, provided that the net effective interest rate for the Bonds shall not exceed 8.00%; (ii) the prior redemption provisions for the Bonds, provided, any redemption premium thereon shall not exceed 4% of the principal amount to be redeemed; (iii) the original issue discount or premium thereon shall not exceed 3% of the aggregate principal amount of the Bonds; and (iv) the dates on which the Bonds shall mature, including the amounts to mature in each year, provided that, the final maturity date for any Bond shall not be later than August 15, 2026.

Section 6. Approval and Authorization of Documents. The Financing Agreement, the Bond Placement Agreement and the Indenture be and the same are in all respects hereby approved, authorized and confirmed, and the Mayor (or Deputy Mayor) is hereby authorized and directed to execute and the Town Clerk is hereby authorized and directed to affix the seal of the Town and to attest the Financing Agreement, the Bond Placement Agreement and the Indenture in substantially the form and content as presented to the Town on this date, subject to the approval of bond counsel to the Town with respect to the Financing Agreement, but with such changes, modifications, additions and deletions therein as they shall deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all changes, modifications, additions and deletions from the forms thereof as presented to the Town on this date.

Section 7. All Actions Heretofore Taken. All actions (not inconsistent with the provisions of this Ordinance) heretofore taken by the Town Council and the officers of the Town directed toward the issuance and sale of the Bonds are hereby ratified, approved and confirmed.

Section 8. Authority to Execute and Deliver Additional Documents. The officers, employees and agents of the Town shall take all action in conformity with the Charter necessary or reasonably required to effectuate the issuance of the Bonds and shall take all action necessary or desirable in conformity with the Charter to finance the costs of the Project to be financed with proceeds of the Bonds and for carrying out, giving effect to and consummating the transactions contemplated by this Ordinance, the Financing Agreement, the Bond Placement Agreement and the Indenture, including without limitation the execution, delivery and filing of any documents, statements or reports with the United States Internal Revenue Service or with the Secretary of the United States Treasury or his or her delegate necessary to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes, the execution of any letter of representation or similar document required of any securities depository, and the execution and delivery of any closing documents to be delivered in connection with the sale and delivery of the Bonds.

Section 9. Bonds are Limited Obligations. The Bonds shall be special, limited obligations of the Town payable solely from the receipts and revenues of the Town under the Financing Agreement that are specifically pledged therefore; the Bonds shall never constitute a debt or indebtedness of the Town, the State or any county, municipality or political subdivision of the State within the meaning of any provision or limitation of the Constitution or statutes of the State or the Charter or of any political subdivision of the State; and the Bonds shall never constitute nor give rise to any pecuniary liability of, or a charge against the general credit or taxing powers of, the Town, the State or any county, municipality or political subdivision of the State. The Bonds shall not constitute a "multiple fiscal year direct or indirect debt or other financial obligation" of the Town under Article X, Section 20 of the Colorado Constitution.

Section 10. No Pecuniary Liability. Nothing contained in this Ordinance concerning the Bonds, or in the Bonds, the Indenture or the Financing Agreement, shall give rise to a pecuniary liability of, or a charge upon the general credit or taxing powers of, the Town, the State or any county, municipality or political subdivision of the State. The breach by any party of any agreement contained in this Ordinance, the Bonds, the Indenture or the Financing Agreement shall not impose any pecuniary liability upon, or any charge upon, the general credit or taxing powers of, the Town, the State or any county, municipality or political subdivision of the State, none of which has the power to pay out of its general fund, or otherwise contribute, any part of the cost of financing the Project, or power to operate the School or the Property as a business or in any manner.

Section 11. Supplemental Ordinances. The Town may, subject to the terms and conditions of the Indenture and the Financing Agreement, pass and execute ordinances supplemental to this Ordinance which shall not be inconsistent with the terms and provisions hereof.

Section 12. Limitation of Rights. With the exception of any rights herein expressly conferred, nothing expressed or mentioned in or to be implied from the Ordinance or the Bonds

is intended or shall be construed to give to any person, other than the Town, the Borrower, the Trustee or the initial purchasers, any legal or equitable right, remedy or claim under or with respect to this Ordinance or any covenants, conditions and provisions herein contained; this Ordinance and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the Town, the Borrower, the Trustee and the initial purchasers as herein provided.

Section 13. Pledge of Revenues. The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Bonds as provided herein, and in the Indenture, Financing Agreement and the Deed of Trust shall be governed by Section 11-57-208 of the Public Securities Act and this Ordinance. The pledged revenues for the payment of the Bonds, as received by or otherwise credited to the Town, shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge on the revenues shall have priority over any or all other obligations and liabilities of the Town. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the Town irrespective of whether such persons have notice of such liens.

Section 14. Immunity of Officers. Pursuant to Section 11-57-209 of the Public Securities Act, if a member of the Town Council, or any officer or agent of the Town acts in good faith, no civil recourse shall be available against such council member, officer, or agent for payment of the principal of or interest on the Bonds. No recourse for the payment of any part of the principal of, premium, if any, or interest on the Bonds for the satisfaction of any liability arising from, founded upon or existing by reason of the issue, purchase or ownership of the Bonds shall be had against any official, officer, council member or agent of the Town or the State, all such liability to be expressly released and waived as a condition of and as a part of the consideration for the issue, sale and purchase of the Bonds.

Section 15. Designation as Qualified Tax Exempt Obligations. For purposes of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended, the Bonds are deemed designated "qualified tax-exempt obligations."

Section 16. Limitations on Actions. In accordance with the Public Securities Act, no action shall be brought questioning the legality of any contract, financing agreement, mortgage, trust indenture, proceeding relating to the Bonds or the Bonds, or the Project on and after thirty days from the effective date of this Ordinance.

Section 17. Counterparts. This Ordinance may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 18. Captions. The captions or headings in this Ordinance are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.

Section 19. Validity of Bonds. Each Bond shall contain a recital that such Bond is issued pursuant to the Charter and the Public Securities Act, and such recital shall be conclusive evidence of its validity and of the regularity of its issuance.

Section 20. Irrepealability. After any of the Bonds are issued, this Ordinance shall be and remain irrepealable until the Bonds and the interest thereon shall have been fully paid, canceled and discharged.

Section 21. Severability. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

INTRODUCED, PASSED ON FIRST READING, APPROVED AND ORDERED
PUBLISHED IN FULL this 13th day of March, 2006.

TOWN OF CRESTED BUTTE, COLORADO

Mayor Pro-Tem

Attest:

Town Clerk

INTRODUCED, PASSED ON SECOND READING, APPROVED AND
ORDERED PUBLISHED IN FULL this 3rd day of April, 2004.

TOWN OF CRESTED BUTTE, COLORADO

Mayor Pro-Tem

Attest:

Town Clerk

STATE OF COLORADO)
 COUNTY OF GUNNISON) SS.
 TOWN OF CRESTED BUTTE)

I, Eileen Hughes, the Town Clerk of the Town of Crested Butte, Colorado (the "Town") and Clerk to the Town Council of the Town (the "Council"), do hereby certify that:

The foregoing pages are a true, correct and complete copy of an ordinance (the "Ordinance") which was introduced and read by title and passed on first reading, and publication of a notice of a public hearing thereon was ordered by the Council, at a special meeting thereof held on March 13, 2006 and was duly adopted and ordered posted in three public locations and a summary thereof to be published by the Council at a regular meeting thereof held on April 3, 2006, which Ordinance has not been revoked, rescinded or repealed and is in full force and effect on the date hereof.

At the meeting of March 13, 2006 councilmember _____ moved and councilmember _____ seconded to set the Ordinance for public hearing on April 3, 2006, by an affirmative vote of the majority members of the council as follows:

Councilmember	Voting "Aye"	Voting "Nay"	Absent	Abstaining
Mayor, Alan Bernholtz				
Skip Berkshire				
Leah Williams				
Ron Chlipala				
Bill Coburn				
Billy Rankin				
Margot Levy				

At the meeting of April 3, 2006, a public hearing was held at which interested individuals were given an opportunity to express their views on the proposed bond financing. The Ordinance was duly moved and seconded and the Ordinance was finally passed on second reading at the meeting of April 3, 2006, by an affirmative vote of a majority of the members of the Council as follows:

Councilmember	Voting "Aye"	Voting "Nay"	Absent	Abstaining
Mayor, Alan Bernholtz				
Skip Berkshire				
Leah Williams				
Ron Chlipala				
Bill Coburn				
Billy Rankin				
Margot Levy				

The members of the Council were present at such meetings and voted on the passage of such Ordinance as set forth above.

The Ordinance was approved and authenticated by the signature of the Mayor, sealed with the Town seal, attested by the Town Clerk and recorded in the minutes of the Council.

There are no bylaws, rules or regulations of the Council which might prohibit the adoption of said Ordinance.

Notices of the meetings of March 13, 2006 and April 3, 2006 in the forms attached hereto as Exhibit A were posted in accordance with law

Notice of the public hearing for the Ordinance was published in the Crested Butte News, a weekly newspaper of general circulation in the Town, on March 17, 2006 and notice of the adoption of the Ordinance was posted in three public places and published in the Crested Butte News, on April 7, 2006 as required by the Town Charter. True and correct copies of the affidavits of publication are attached hereto as Exhibit B.

WITNESS my hand and the seal of the Town affixed this ___ day of April, 2006.

Town Clerk

(SEAL)