

## ORDINANCE NO. 96- 02 - 22 A

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BOND ORDINANCE OF GRANT COUNTY, NEW MEXICO PROVIDING FOR REFUNDING ITS \$8,745,000 IN OUTSTANDING PRINCIPAL AMOUNT GRANT COUNTY, NEW MEXICO, HOSPITAL FACILITY REVENUE BONDS (GILA REGIONAL MEDICAL CENTER PROJECT) SERIES 1986, ISSUED TO REFUND ITS HOSPITAL FACILITY REVENUE BONDS (HILLCREST GENERAL HOSPITAL PROJECT) SERIES 1982 AND THEREBY REFINANCE A 68-BED ACUTE CARE HOSPITAL FACILITY IN GRANT COUNTY, NEW MEXICO; AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GRANT COUNTY, NEW MEXICO, HOSPITAL REFUNDING REVENUE BONDS (GILA REGIONAL MEDICAL CENTER PROJECT) SERIES 1996, DATED MARCH 15, 1996, FOR SUCH PURPOSE; SUCH BONDS TO BE PAYABLE SOLELY FROM NET REVENUE DERIVED FROM THE FACILITY; AUTHORIZING THE EXECUTION OF AN INDENTURE OF TRUST AND PLEDGE AND OTHER DOCUMENTS; SETTING FORTH THE TERMS AND CONDITIONS UPON WHICH SUCH BONDS ARE TO BE ISSUED; AND PROVIDING FOR THE PRIVATE SALE OF SUCH BONDS ON A NEGOTIATED BASIS.

WHEREAS, Gila Regional Medical Center, a county hospital (the "Hospital"), is owned, maintained and operated by Grant County, New Mexico, a political subdivision of the State of New Mexico (the "County"), pursuant to Section 4-48B-5 of New Mexico Statutes Annotated 1978, granting the County the power to construct, purchase, own, maintain and operate hospitals and to purchase the necessary land therefor, and the Board of County Commissioners of the County has appointed the Board of Trustees of the Hospital to govern the Hospital pursuant to Sections 4-48B-5 and 4-48B-10 of the New Mexico Statutes Annotated 1978, and the Board of Trustees of the Hospital has the authority under said Sections to exercise all powers that the County is granted by the Hospital Funding Act, Article 48B of Chapter 4 of New Mexico Statutes Annotated 1978 for the operation of the Hospital except, among other things, the power to issue bonds; and

WHEREAS, the County issued its Hospital Facility Revenue Bonds (Hillcrest General Hospital Project), Series 1982, dated April 1, 1982, in the aggregate principal amount of \$7,500,000 (the "Series 1982 Bonds"), to pay part of the cost of acquiring, constructing, installing and equipping the land, buildings and equipment constituting the Hospital (the "Facility") pursuant to the provisions of the Hospital Funding Act, Chapter 4, Article 48B, New Mexico Statutes Annotated 1978, as amended, an Ordinance of the Board of County Commissioners of the County, and a Resolution of the Board of Trustees of the Hospital; and

WHEREAS, in order to refinance, pay and discharge the Series 1982 Bonds for the purpose of reducing interest costs, the County issued its Hospital Facility Refunding Revenue Bonds (Gila Regional Medical Center Project) Series 1986 (the "Refunded Bonds") in the original aggregate principal amount of \$9,990,000, of which \$8,745,000 is currently outstanding; and

23 Feb. 96 A.D. 1996  
 10:28  
 [Signature]  
 County Clerk

WHEREAS, the Refunded Bonds are secured by an Indenture of Trust and Pledge, dated July 1, 1986 (the "Series 1986 Indenture"), between the County and Hillcrest General Hospital, predecessor of the Hospital, and First National Bank in Albuquerque, as trustee (the "Series 1986 Trustee"); and

WHEREAS, the County is empowered by the provisions of New Mexico Statutes Annotated 1978, as amended, including Sections 4-37-1, 4-62-1, 4-62-2, 3-31-8, and 4-48B-5 thereof, to issue refunding revenue bonds for the purpose of refinancing, paying, and discharging all or any part of outstanding revenue bonds authorized by Sections 3-31-1 to 3-31-7, inclusive, of the New Mexico Statutes Annotated 1978, as amended, or by any other law (including Section 4-48B-5 of New Mexico Statutes Annotated 1978) for the purpose of reducing interest costs or effecting other economies, minimizing the costs of maintaining adequate hospital facilities within the County, and enabling the County to provide appropriate and adequate hospital facilities for the sick of the County; and

WHEREAS, in order to obtain funds to refund, refinance, pay, and discharge the Refunded Bonds for the purpose of further reducing the interest costs thereon, to shorten the maturity thereof and to pay the necessary expenses incidental thereto, the County will issue its Hospital Refunding Revenue Bonds (Gila Regional Medical Center Project) Series 1996, dated March 15, 1996, in the aggregate principal amount of \$9,330,000 (hereinafter referred to as the "Series 1996 Bonds"); and

WHEREAS, the lien of the Series 1986 Indenture on the security for the Refunded Bonds may be discharged pursuant to Article XIII of the Series 1986 Indenture so that the security for the Refunded Bonds may serve as security for the Series 1996 Bonds, and the County and the Board of Trustees of the Hospital will enter into an Escrow Agreement, dated as of March 15, 1996 (the "Escrow Agreement"), with the Series 1986 Trustee (a) pursuant to which they (i) will deposit moneys and direct obligations of the United States of America not redeemable by the issuer which shall be sufficient, if paid in full and in a timely manner, to pay when due the principal or redemption price, if applicable, and interest due and to become due on the Refunded Bonds on and prior to the redemption date or maturity date thereof, as the case may be, and (ii) will give the Series 1986 Trustee in form satisfactory to it irrevocable written instructions to publish as soon as practicable under the Series 1986 Indenture notice of redemption of the Refunded Bonds and (b) pursuant to which the Series 1986 Trustee will release all property serving as security for the Refunded Bonds, except the property deposited with the Series 1986 Trustee pursuant to the Escrow Agreement, from the lien and security interest of the Series 1986 Indenture, all in accordance with Article XIII of the Series 1986 Indenture, so that the lien of the Series 1986 Indenture will be fully and completely discharged and cancelled; and

WHEREAS, the Series 1996 Bonds will be issued by the County under an Indenture of Trust and Pledge, dated as of March 15, 1996 (the "Indenture"), among the County, the Board of Trustees of the Hospital and First Security Bank of New Mexico, N.A., as trustee (the "Trustee"), under the terms of which the Net Revenues (as defined in the Indenture) derived from the Hospital shall be pledged to the Trustee and a security interest shall be granted in all

moneys held by the Trustee in any fund established pursuant to the Indenture (except the rebate fund), as security for the payment of the Series 1996 Bonds and any Additional Bonds, hereinafter defined, of the County issued thereunder (the Series 1996 Bonds and any such Additional Bonds are hereinafter referred to as the "Bonds"); and

WHEREAS, it is anticipated that additional amounts may be necessary to improve the Hospital or to refund the Series 1996 Bonds, and as a result provisions should be made for the issuance of additional parity bonds (the "Additional Bonds") from time to time as specified in Article III of the Indenture; and

WHEREAS, as further security for the payment of the principal of and interest on the Bonds, the Board of Trustees of the Hospital and the County are purchasing, with Bond proceeds, a Financial Guaranty Insurance Policy (the "Policy") from Asset Guaranty Insurance Company, insuring such payments; and

WHEREAS, the Board of County Commissioners of the County has determined that entering into the Indenture is in the best interests of the County and of the inhabitants of the County, and the Board of County Commissioners of the County has found and does hereby declare that said undertaking is for a lawful, valid and necessary public purpose which will reduce interest costs to the County and which will minimize the costs of maintaining adequate hospital facilities within the County and which will provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the County and of the inhabitants of the County, and that said undertaking is necessary to enable the County to provide appropriate and adequate hospital facilities for the sick of the County; and

WHEREAS, the Board of County Commissioners of the County has decided to sell the Series 1996 Bonds privately on a negotiated basis; and

WHEREAS, copies of the forms of the following documents relating to the transactions described above have been filed with the County and are attached hereto as exhibits:

- EXHIBIT A— Indenture of Trust and Pledge among the County, the Board of Trustees of the Hospital and the Trustee, dated as of March 15, 1996 (the "Indenture");
- EXHIBIT B— Escrow Agreement by and among the County, the Board of Trustees of the Hospital and the Series 1986 Trustee, dated as of March 15, 1996 (the "Escrow Agreement");
- EXHIBIT C— Bond Purchase Agreement among the County, the Board of Trustees of the Hospital and Kiouss & Company, Inc. (the "Underwriter") for the sale of the Series 1996 Bonds (the "Bond Purchase Agreement");

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EXHIBIT D— Tax Regulatory Agreement among the County, the Board of Trustees of the Hospital and the Trustee, dated as of March 15, 1996 (the "Tax Regulatory Agreement"); and

EXHIBIT E— Draft of Official Statement to be delivered with the Series 1996 Bonds (the "Official Statement"); and

WHEREAS, pursuant to the direction of a majority of the Board of County Commissioners of the County, a Notice of Proposed Ordinance containing the title and a general summary of the subject matter of this Bond Ordinance was published in THE SILVER CITY DAILY PRESS, a newspaper of general circulation within the County, at least two weeks prior to this meeting, at which this Bond Ordinance is proposed for final passage, in accordance with law;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF GRANT COUNTY, NEW MEXICO AS FOLLOWS:

1. In order to reduce interest costs to the County and to shorten the maturity of the debt evidenced by the Refunded Bonds, minimize the cost of maintaining adequate hospital facilities within the County, and provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort and convenience of the County and of the inhabitants of the County and to enable the County to provide appropriate and adequate hospital facilities for the sick of the County, the County is hereby authorized to refinance, pay and discharge the Refunded Bonds, and all such assistance previously provided, including the acquisition of the commitment for the Policy and Compliance by the County with the requirements thereof, is hereby ratified and approved.

2. For the purpose of refinancing, paying and discharging the Refunded Bonds and, to the extent proceeds are available therefor, of paying expenses incidental to the refunding and the issuance of the Series 1996 Bonds as permitted by the Indenture, the issuance of refunding revenue bonds of the County to be known as "Grant County, New Mexico Hospital Refunding Revenue Bonds (Gila Regional Medical Center Project) Series 1996" (the "Series 1996 Bonds") is hereby authorized pursuant to the provisions of Article 48B of Chapter 4 of the New Mexico Statutes Annotated 1978 and the Indenture.

3. The Series 1996 Bonds shall be issued in the aggregate principal amount of \$9,330,000 as fully registered bonds without coupons in the denominations of \$5,000 or any integral multiple thereof and shall be dated March 15, 1996. The Series 1996 Bonds shall mature on the dates and in the principal amounts set forth below and shall bear interest from March 15, 1996, computed on the basis of a 360-day year consisting of twelve 30-day months, payable on August 1, 1996 and semiannually thereafter on February 1 and August 1 of each year, at the rates set forth below:

## Maturity Schedule

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| <u>Maturity Dates</u> | <u>Principal Amounts</u> | <u>Interest Rates</u> |
|-----------------------|--------------------------|-----------------------|
| August 1, 1996        | \$250,000                | 3.600%                |
| February 1, 1997      | 325,000                  | 3.850%                |
| August 1, 1997        | 325,000                  | 3.850%                |
| February 1, 1998      | 325,000                  | 4.050%                |
| August 1, 1998        | 350,000                  | 4.050%                |
| February 1, 1999      | 360,000                  | 4.250%                |
| August 1, 1999        | 350,000                  | 4.250%                |
| February 1, 2000      | 350,000                  | 4.400%                |
| August 1, 2000        | 385,000                  | 4.400%                |
| August 1, 2004        | 3,310,000                | 5.000%                |
| August 1, 2007        | 3,000,000                | 5.125%                |

4. The form of the Series 1996 Bonds and the provisions for signatures, authentication, payment, exchange, transfer, registration and redemption shall be as set forth in the Indenture hereinafter authorized. The Bonds shall never constitute an indebtedness or general obligation of Grant County, the State of New Mexico, or any other political subdivision of the State of New Mexico, within the meaning of any state constitutional provision or statutory limitation, and shall never constitute nor give rise to a pecuniary liability of the foregoing or a charge against the general credit or taxing powers of said County, State or political subdivision. The Bonds shall be payable solely from the Net Revenues and the security (each as defined in the Indenture) pledged to the payment thereof by this Bond Ordinance, and the registered owners of the Bonds may not look to any other fund of the County for the payment of the principal of, premium, if any, or interest on the Bonds. Neither the members of the Board of County Commissioners of the County or of the Board of Trustees of the Hospital nor any person executing the Bonds shall be liable personally on the Bonds by reason of the issuance thereof.

5. The Net Revenues derived from the Hospital shall be designated and collected as provided in the Indenture, the Hospital shall be maintained and insured as provided in the Indenture, special funds derived from said Net Revenues shall be created and maintained as provided in the Indenture, and the rights and remedies available to the Trustee and the registered owners of the Bonds upon an event of default in payment of the principal of or the interest on the Bonds or in the performance of any agreement shall be as provided in the Indenture. All facilities and equipment described in the Indenture as constituting part of the Hospital (including all additions or alterations (as defined in the Indenture)) are hereby determined to be reasonably related to and shall constitute a part of the Hospital.

6. The rates for services rendered in connection with the Hospital shall be established as provided in the Indenture and will be determined to produce Net Revenues sufficient to pay at least all reasonable expenses of operating the Hospital, to pay all interest on the Bonds, and provide a sinking fund adequate to discharge the Bonds as they mature, and all of said Net

Revenues and other payments to be received under the Indenture are hereby irrevocably pledged to pay the principal of, premium, if any, and interest on the Bonds as the same become due and payable and in addition for such other purposes as are more fully set forth and provided for in the Indenture hereinafter authorized.

7. The Indenture, the Escrow Agreement, the Bond Purchase Agreement and the Tax Regulatory Agreement, attached hereto as Exhibits A, B, C and D, respectively, are hereby approved and adopted. The Indenture, the Escrow Agreement, the Bond Purchase Agreement and the Tax Regulatory Agreement, as executed, shall be in substantially the forms submitted to the Board of County Commissioners at this meeting, with such changes, insertions or omissions as may be approved by the Chairman, whose approval thereof shall be conclusively evidenced by the execution of each such instrument.

8 The information set forth in the Official Statement under the caption "THE COUNTY" is hereby approved. The County finds nothing objectionable in the Official Statement and does not object to the distribution of the Official Statement. The final Official Statement shall be in substantially the form submitted to the Board of County Commissioners at this meeting, with such changes, insertions or omissions as may be approved by the Chairman, whose approval thereof shall be conclusively evidenced by the execution of the Official Statement.

9 The execution and delivery of the Series 1996 Bonds to the Trustee for authentication, the acceptance and redelivery of the authenticated Series 1996 Bonds, and the delivery of the Series 1996 Bonds to or upon the order of the Underwriter against receipt by the Trustee hereinafter appointed of the purchase price set forth in the Bond Purchase Agreement (plus accrued interest) in payment therefor, are hereby authorized. The Bond Purchase Agreement provides that the Series 1996 Bonds will be sold at a private, negotiated sale pursuant to Sections 3-31-10 and 4-48B-20 of New Mexico Statutes Annotated 1978.

10. The First Security Bank of New Mexico, N.A. (the "Trustee") is hereby named trustee, paying agent and bond registrar under the Indenture for the Bonds. The Trustee is hereby authorized to perform such duties with respect to the registration, custody, conversion, exchange and transfer of the Bonds as are set forth in the Indenture. Registration records with respect to the Bonds shall be maintained by the Trustee in the manner provided in the Indenture at the principal corporate trust office of the Trustee.

11. The Chairman is hereby authorized and directed to execute on behalf of the County the Indenture, the Escrow Agreement, the Bond Purchase Agreement, the Tax Regulatory Agreement and the Bonds, and the County Clerk is hereby authorized to affix thereto and attest the seal of the County, provided that in no event shall any such attestation or affixation of the seal of the County be required as a prerequisite to the effectiveness thereof, and the Chairman and County Clerk are hereby authorized and directed to deliver such instruments and documents on behalf of the County and to execute and deliver all such instruments, documents or certificates, and to do and perform all such things and acts, as each shall deem

necessary or appropriate in furtherance of the issuance of the Bonds and the carrying out of the transactions authorized by this Bond Ordinance or contemplated by the instruments referred to this Bond Ordinance. The Bonds shall be executed on behalf of the County by its Chairman by his manual or facsimile signature and attested by the manual or facsimile signature of the County Clerk, and the official seal of the County shall be impressed or reproduced thereon. All such facsimile signatures and the reproduction of the official seal of the County on the Bonds shall have the same force and effect as if said officials had manually signed the Bonds and the official seal of the County had been impressed on the Bonds; provided that no Bond shall be valid or obligatory for any purpose unless and until the certificate of authentication contained in the form of the Bond shall have been duly executed by the manual signature of an authorized signer of the Trustee, as required by the terms of the Indenture.

12. The Chairman is authorized on behalf of the County to execute and deliver a certificate as to the reasonable expectations of the County regarding the amount and use of the proceeds of the Bonds, such certificate to be based on representations of the Hospital.

13. The Indenture, the Escrow Agreement, the Bond Purchase Agreement, the Tax Regulatory Agreement and the Official Statement, as approved by this Bond Ordinance, all of which are hereby incorporated in this Bond Ordinance by reference thereto, shall be placed on file at the office of the County Clerk of the County in Silver City, New Mexico and made available for public inspection by any interested party immediately following the passage and approval of this Bond Ordinance.

14. *Qualified Tax-Exempt Obligations.* The County, including any entities acting on behalf of or subordinate to the County, does not anticipate issuing more than \$10,000,000 of tax-exempt obligations during calendar year 1996, which is the calendar year in which the Series 1996 Bonds are being issued. No proceeds of the Series 1996 Bonds will be used in a manner which would cause the Series 1996 Bonds to be private activity bonds. Accordingly, the County hereby designates the Series 1996 Bonds as "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i) of the Code.

15. Except to the extent the same are in conflict with this Bond Ordinance, all prior resolutions and ordinances of the County relating to the Bonds are hereby ratified. All motions, orders, resolutions, ordinances and parts thereof in conflict herewith are hereby repealed.

16. This Bond Ordinance shall be immediately authenticated by the signature of the County Clerk and shall be recorded in the book kept by the County for the recording of ordinances.

17. The Notice of Adoption of Ordinance relating to the adoption of this Bond Ordinance, in the form attached hereto as Exhibit E, is hereby approved, and the Chairman is hereby authorized and directed to cause the same to be published once in THE SILVER CITY DAILY PRESS, a newspaper of general circulation in the County, following the recording of this Bond Ordinance in the book kept by the County for the recording of ordinances.

18. This Bond Ordinance shall become effective thirty (30) days after it has been recorded in the book kept by the County for the recording of ordinances. If any section, paragraph, clause, or provision hereof shall be held invalid, the invalidity thereof shall not affect the remaining provisions hereof.

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STATE OF NEW MEXICO

County of Grant

I hereby certify that this instrument was filed for record on the 23 day of Feb. A.D., 19 96 at 10:28 o'clock A.M. and duly recorded in book 204 of the records of Ordinances at page 11, 103-16

Witness my hand and seal of office

COUNTY CLERK, GRANT CO., N.M.

*[Signature]* Deputy



Adopted this 22nd day of February 1996.

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BOARD OF COUNTY COMMISSIONERS OF  
GRANT COUNTY, NEW MEXICO

By Maurice J. Serna  
Chairman

[SEAL]

ATTEST:

Rosa Madril Lopez  
County Clerk

By Mary Ann Garrillo Sedillo

By Chief Deputy Clerk