

RESOLUTION NO. R-08-28

RELATING TO THE GRANT COUNTY, NEW MEXICO STATE OF NEW MEXICO DEPARTMENT OF HEALTH LEASE APPROPRIATION BONDS (FT. BAYARD PROJECT), SERIES 2008 IN THE AGGREGATE PRINCIPAL AMOUNT OF \$60,000,000; ESTABLISHING THE NAME, PRINCIPAL AMOUNTS, MATURITY DATES, RATES OF INTEREST, REDEMPTION FEATURES AND PRICE WITH RESPECT TO SUCH BONDS IN ACCORDANCE WITH ORDINANCE NO. O-08-01 ADOPTED ON MARCH 27, 2008; APPROVING THE FORMS OF A BOND PURCHASE AGREEMENT, AN AGREEMENT CONCERNING CONTINUING DISCLOSURE, AN OFFICIAL STATEMENT RELATED TO SUCH BONDS IN ACCORDANCE WITH SUCH ORDINANCE; RATIFYING CERTAIN ACTIONS HERETOFORE TAKEN; AND REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION.

WHEREAS, on March 27, 2008, the Board of County Commissioners of Grant County, New Mexico (the "County") adopted Ordinance No. O-08-1 (the "Bond Ordinance") authorizing the issuance of the Bonds and providing for the adoption of a Sale Resolution setting forth certain details with respect to the Bonds, and approving the forms of certain documents related to the Bonds; and

WHEREAS, the Preliminary Official Statement dated September 2, 2008 (the "Preliminary Official Statement") concerning the Bonds and forms of a Bond Purchase Agreement (the "Bond Purchase Agreement") between RBC Capital Markets, acting on behalf of itself, Citi and Merrill Lynch & Co. (collectively, the "Underwriters"), and the County, a Trustee Agreement (the "Trustee Agreement") between the County and U.S. Bank National Association, as Trustee, a Continuing Disclosure Undertaking (the "Continuing Disclosure Undertaking") to be executed by the County and the Lessee and a Second Amendment (the "Second Amendment" to the Lease have been presented at this meeting,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF GRANT COUNTY, NEW MEXICO:

1. Definitions. Terms are used in this resolution as defined in the Bond Ordinance. Other terms are defined throughout this resolution. References in the Bond Ordinance to the "Lease" are deemed to be to the Lease as amended by the First and Second Amendments thereto.

2. Relation to Bond Ordinance. This is the Sale Resolution provided for in the Bond Ordinance.

3. Ratification. All action not inconsistent with the provisions of the Bond Ordinance and this resolution heretofore taken by the Board and the officials of the

County directed toward the sale and issuance of the Bonds, including without limitation the execution and delivery of the Second Amendment, is ratified, approved and confirmed.

4. Name of Bonds. The Bonds are designated "Grant County New Mexico State of New Mexico Department of Health Lease Appropriation Bonds (Ft. Bayard Project), Series 2008," notwithstanding the designation thereof in the Bond Ordinance.

5. Permitted Investments.

(a) Clause (d) of paragraph (ii) of the definition of "Permitted Investments" in the Bond Ordinance is amended to read in its entirety as follows: "any stripped securities assessed or rated "AAA" by Standard & Poor's Ratings Services and "Aaa" by Moody's Investors Service."

(b) Paragraph (iii) of the definition of "Permitted Investments" in the Bond Ordinance is amended to read in its entirety as follows:

bonds, debentures, notes or other evidences of indebtedness that are issued by any of the following agencies or such other like governmental or government-sponsored agencies which may be hereafter created: Federal Home Loan Mortgage Corporation; Federal National Mortgage Association; Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Financing Bank; Federal Home Loan Bank System; Export-Import Bank of the United States; Farmers Home Administration; Small Business Administration; Inter-American Development Bank; International Bank for Reconstruction and Development; Federal Land Banks; the Government National Mortgage Association; the Tennessee Valley Agency; or the Resolution Trust Funding Corporation

(c) Paragraph (ix) of the definition of "Permitted Investments" in the Bond Ordinance is amended to read in its entirety as follows:

investment agreements with a domestic or foreign bank or corporation (other than a life or property casualty insurance company) the long-term debt of which, or, in the case of a guaranteed corporation the long-term debt, or, in the case of a monoline financial guaranty insurance company, claims paying ability, of the guarantor is rated at least "AA-" by Standard & Poor's Ratings Services and "Aa3" by Moody's Investors Service; provided that, by the terms of the investment agreement:

(d) The following is added as paragraph (x) of the definition of "Permitted Investments" and the following paragraphs of that definition are renumbered accordingly:

repurchase agreements involving the purchase and sale of, and guaranteed investment contracts, the par value of which is collateralized by a perfected first pledge of, or security interest in, or the payments of which are unconditionally guaranteed by, securities described in paragraphs (i), (ii) or (iii), which collateral is held by the County, or for the benefit of the County, by a party other than the provider of the guaranteed investment contract or repurchase agreement, with a collateralized value of at least 102% of the par value of such repurchase agreement or guaranteed investment contract or 102% of the market value thereof, valued at intervals of no less than monthly and which collateral is not subject to any other pledge or security interest, entered into with any domestic bank, or domestic branch of a foreign bank, or any broker-dealer or any other entity, rated at least "A-" by Standard and Poor's Ratings Services and "A3" by Moody's Investors Service;

**6. Operating Expenses; Basic Rent.** Unless and until the Lease is terminated: (a) the County shall neither incur nor seek payment or reimbursement for any Operating Expenses; (b) therefore, the Basic Rent (as defined in the Lease) shall constitute the Net Revenues; (c) the County shall make no use of the Basic Rent other than causing the Lessee to pay the same directly to the Trustee for deposit into the Bond Account and the Reserve Account, as provided in the Bond Ordinance; and (d) amounts received by the Trustee as Additional Payments (as defined in the Lease) shall not be disbursed unless and until all current accumulations into the Bond Account have been satisfied.

**7. Trustee Fees and Expenses.** Trustee's fees and expenses shall not constitute Operating Expenses, and shall be paid directly by the Lessee to the Trustee as provided in the Lease.

**8. Payment of Purchase Price.** For the avoidance of doubt, that portion of the Purchase Price (as defined in the Lease) corresponding to the amount necessary to defease or redeem the Bonds will be paid to the Trustee for deposit in the Revenue Fund for transfer to the Redemption Account or, in the case of the final maturity of the Bonds, the Bond Account.

**9. Management Agreements.** Subsection (x) of Section 31 of the Bond Ordinance is deleted.

**10. Covenant Default.** For the avoidance of doubt, the reference in Section 34(c) of the Bond Ordinance to "any covenant, condition or agreement on its part to be observed or performed" means any covenant, condition or agreement in the Bond Ordinance to be observed or performed by the County.

**11. Bond Details.** The Bonds shall be issued in the aggregate principal amount of \$60,000,000 and shall mature on the dates and in the amounts, and bear interest at the rates per annum set forth below:

Maturity Date <u>(July 1)</u>	Principal Amount	Interest Rate
2011	\$1,060,000	3.000%
2012	1,095,000	3.250%
2013	1,130,000	3.500%
2014	1,170,000	3.750%
2015	1,215,000	5.750%
2016	1,285,000	5.750%
2017	1,355,000	5.750%
2018	1,435,000	4.000%
2019	1,490,000	5.000%
2020	1,565,000	5.500%
2021	1,655,000	5.500%
2022	1,745,000	5.500%
2023	1,840,000	5.500%
2024	1,940,000	5.500%
2025	2,045,000	4.750%
2026	2,145,000	4.750%
2027	2,245,000	4.750%
2028	2,355,000	4.875%
2031	7,805,000	5.250%
2033	5,900,000	5.000%
2038	17,525,000	5.000%

Accrued and unpaid interest on the Bonds shall be paid on January 1, 2009 and semiannually thereafter on January 1 and July 1 in each year. The date referred to in Section 16(e) of the Bond Ordinance for the first withdrawal from the Revenue Fund and deposit in the Bond Account shall be February 1, 2011.

12. Optional Redemption. Bonds maturing on or after July 1, 2019, shall be subject to prior redemption in whole or in part at the County's option on July 1, 2018 and on any date thereafter at par plus accrued interest to the redemption date. Notice of optional redemption of the Bonds may be a conditional notice insofar as the money or securities necessary to pay the redemption price of the Bonds are not required to be on deposit with the Trustee prior to the giving of notice of optional redemption of the Bonds.

13. Mandatory Redemption. The Bonds maturing on July 1, 2031 shall be redeemed at a price equal to the principal amount thereof plus accrued interest to the redemption date, on July 1 in the years and principal amounts set forth below:

Redemption Date <u>(July 1)</u>	Principal Amount Redeemed
2029	\$2,470,000
2030	\$2,600,000

2031*	\$2,735,000
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\* Maturity date; not a redemption.

The Bonds maturing on July 1, 2033 shall be redeemed at a price equal to the principal amount thereof plus accrued interest to the redemption date, on July 1 in the years and principal amounts set forth below:

Redemption Date <u>(July 1)</u>	Principal Amount <u>Redeemed</u>
2032	\$2,880,000
2033*	\$3,020,000

\* Maturity date; not a redemption.

The Bonds maturing on July 1, 2038 shall be redeemed at a price equal to the principal amount thereof plus accrued interest to the redemption date, on July 1 in the years and principal amounts set forth below:

Redemption Date <u>(July 1)</u>	Principal Amount <u>Redeemed</u>
2034	\$3,170,000
2035	\$3,330,000
2036	\$3,500,000
2037	\$3,670,000
2038*	\$3,855,000

\* Maturity date; not a redemption.

**14. Sale of Bonds.** The Bonds shall be sold to the Underwriters at a purchase price of \$59,967,353.97 (representing the aggregate principal amount of the Bonds (\$60,000,000.00), plus a net premium of \$418,986.55 and an underwriters' discount of \$451,632.58. In addition, the Underwriters will be reimbursed from the proceeds of the sale of the Bonds for certain costs of issuance, paid directly by the Underwriters. All of the Bonds shall be issued and so sold or none of the Bonds shall be issued and so sold. The net effective interest rate (as such term is defined in Section 6-14-3 NMSA 1978) for any maturity of the Bonds does not exceed 12% per year, as required by the Bond Ordinance.

**15. Official Statement.** The Preliminary Official Statement is deemed final as of its date, in the marketing of the Bonds by the Underwriters. The execution and delivery by the Chairman of the Board or the County Manager of a certificate to that effect and the use by the Underwriters of the Preliminary Official Statement in the offering and sale of the Bonds to the public are ratified, approved and confirmed. The

Chairman of the Board is authorized and directed to execute and deliver an Official Statement, substantially in the form of the Preliminary Official Statement but containing information consistent with this resolution, and with such other changes not inconsistent with the Bond Ordinance or this resolution as the Chairman of the Board may approve, such approval to be conclusively evidenced by his or her execution of the Official Statement.

16. Other Bond Documents. The form, terms and provisions of the Bond Purchase Agreement, the Trustee Agreement, the Second Amendment and the Continuing Disclosure Undertaking, in the forms presented at this meeting, are in all respects approved, authorized and confirmed. The Chairman of the Board and each other officer of the County is authorized and directed, singly or together, as they may deem appropriate, to execute and deliver the Bond Purchase Agreement, the Trustee Agreement, the Second Amendment and the Continuing Disclosure Undertaking in substantially such forms and with such changes not inconsistent with the Bond Ordinance or this resolution as he or she may approve, such approval to be conclusively evidenced by his or her execution of the same. Each of the officers of the County is authorized and directed to execute all certificates and closing documents necessary or appropriate, including without limitation such as may be related to the exclusion of interest on the Bonds from gross income of the owners thereof for federal income tax purposes, and to take all other action necessary or appropriate to effectuate the provisions of the Bond Ordinance and this resolution, including, without limitation the distribution of material relating to the Bonds and the printing of the Bonds and the Official Statement. All actions by officers of the County with respect to the execution and delivery of the Lease are ratified and confirmed.

17. Repealer Clause. All resolutions or parts of resolutions inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any resolution or part of any resolution heretofore repealed.

18. Amendment. This resolution may be amended only on the terms and conditions provided in the Bond Ordinance for the amendment of the Bond Ordinance.

19. Resolution Irrepealable. After any of the Bonds are issued, this resolution shall be and remain irrepealable until the Bonds and interest thereon shall be fully paid, cancelled and discharged as provided in the Bond Ordinance and this resolution, or there has been defeasance as provided in Section 32 of the Bond Ordinance.

20. Effective Date. This resolution shall, immediately upon its adoption, be authenticated by the signatures of the Chairman of the Board and the County Clerk and recorded and preserved by the County Clerk, and shall be in full force and effect thereafter.

21. Publication of Notice. The following notice shall be published one time in the *Silver City Daily Press* being a legal newspaper published and of general

circulation in the County, as soon as is practicable following the adoption of this resolution:

(Form of Notice of Adoption)

GRANT COUNTY, NEW MEXICO  
NOTICE OF ADOPTION OF RESOLUTION NO. R-08-28

NOTICE IS GIVEN of the adoption by the Board of County Commissioners of Grant County, New Mexico of its Resolution No. R-08-28 on September 11, 2008, relating to Grant County New Mexico State of New Mexico Department of Health Lease Appropriation Bonds (Ft. Bayard Project), Series 2008. The title of the Resolution is:

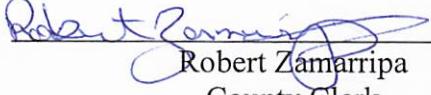
RELATING TO THE GRANT COUNTY, NEW MEXICO STATE OF NEW MEXICO DEPARTMENT OF HEALTH LEASE APPROPRIATION BONDS (FT. BAYARD PROJECT), SERIES 2008 IN THE AGGREGATE PRINCIPAL AMOUNT OF \$60,000,000; ESTABLISHING THE NAME, PRINCIPAL AMOUNTS, MATURITY DATES, RATES OF INTEREST, REDEMPTION FEATURES AND PRICE WITH RESPECT TO SUCH BONDS IN ACCORDANCE WITH ORDINANCE NO. O-08-01 ADOPTED ON MARCH 27, 2008; APPROVING THE FORMS OF A BOND PURCHASE AGREEMENT, AN AGREEMENT CONCERNING CONTINUING DISCLOSURE, AN OFFICIAL STATEMENT RELATED TO SUCH BONDS IN ACCORDANCE WITH SUCH ORDINANCE; RATIFYING CERTAIN ACTIONS HERETOFORE TAKEN; AND REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION.

A general summary of the Resolution is contained in its title.

A copy of the Resolution is on file and available for inspection during normal business hours at the office of the County Clerk at the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, New Mexico.

DATED: September 11, 2008.



  
Robert Zamarripa  
County Clerk

(End of Form of Notice of Adoption)

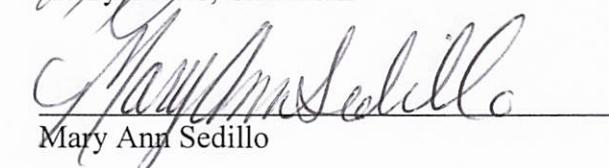
22. Interested Parties. Nothing in this resolution expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the County, the Trustee, the Underwriters and the Owners, any right, remedy or claim under or by reason of this resolution or any covenant, condition or stipulation hereof.

23. Governing Law. All rights and obligations of the parties with respect to this resolution shall be construed, enforced, and interpreted according to the law of the State.

PASSED AND ADOPTED THIS 11th DAY OF SEPTEMBER, 2008 BY A VOTE OF \_\_ FOR AND \_\_ AGAINST.



Henry Torres, Chairman



Mary Ann Sedillo



Jovita Gonzales, Member

