

COUNTY OF MADISON

ORDINANCE NO. 88-4

ORDINANCE OF THE FISCAL COURT OF THE COUNTY OF MADISON, KENTUCKY, AUTHORIZING THE EXECUTION OF DEEDS TO AND A LEASE AGREEMENT WITH THE MADISON COUNTY CAPITAL PROJECTS CORPORATION; AUTHORIZING THE EXECUTION OF ANY OTHER INSTRUMENTS NECESSARY TO CARRY OUT A PLAN OF FINANCING AND THE COST OF THE ACQUISITION AND CONSTRUCTION OF A DETENTION FACILITY AND THE REFINANCING OF OBLIGATIONS SECURED BY THE COURTHOUSE ANNEX; AND EVIDENCING THE AGREEMENT OF THE COUNTY TO ACCEPT A CONVEYANCE OF THE DETENTION FACILITY AND THE COURTHOUSE ANNEX FROM THE MADISON COUNTY CAPITAL PROJECTS CORPORATION AFTER THE RETIREMENT OF ALL BONDS ISSUED BY SAID CORPORATION TO FINANCE AND REFINANCE THE DETENTION FACILITY AND THE COURTHOUSE ANNEX.

WHEREAS, the County of Madison, Kentucky (the "County"), desires to finance the construction of a new detention facility (the "Detention Facility") and to refinance the outstanding County of Madison Public Courthouse Corporation First Mortgage Bonds - 1984 Series A secured by the existing courthouse annex (the "Courthouse Annex") [the Detention Facility and the Courthouse Annex being hereinafter collectively referred to as the "Project"], and

WHEREAS, the Madison County Capital Projects Corporation (the "Corporation"), has been duly organized under the laws of the Commonwealth of Kentucky, pursuant to a Resolution of this Fiscal Court to act as an agency and instrumentality of the County, in order to enable the Corporation to assist the County in financing the Project, pursuant to a plan of financing of the type approved by the Court of Appeals of Kentucky in the cases of Sizemore v. Clay County, 268 Ky. 712, 105 S.W.2d 841, and Baker v. City of Lexington, Ky., 273 S.W.2d 34, and

WHEREAS, it is contemplated that the Corporation will issue, sell and deliver \$3,705,000 of Madison County Capital Projects Corporation (Kentucky) First Mortgage Revenue and Refunding Bonds, Series 1988, dated November 1, 1988 (the "Series 1988 Bonds"), for the purpose of financing the cost, not otherwise provided, of the Project, and that the Corporation will lease said Project to the County, for an initial period ending June 30, 1989, with an exclusive option to the County to renew such lease for periods of one year at a time from year to year until April 1, 2009, at such rentals as will be sufficient to pay the principal and interest requirements of the Series 1988 Bonds, and

WHEREAS, it is necessary that the County execute (a) Deeds conveying the sites of the proposed Project to the Corporation, and (b) a Lease Agreement as to the Project, in which the Corporation is the Lessor and the County is the Lessee, and,

WHEREAS, under said plan of financing, the County will be entitled to obtain a reconveyance of said property, with all improvements thereon, after all of the Series 1988 Bonds have been retired,

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF MADISON, KENTUCKY, AS FOLLOWS:

1. That the Madison County Capital Projects Corporation, which has been heretofore authorized as a non-profit, non-stock corporation, and agency of the County, pursuant to an adopted Resolution of this Fiscal Court, shall be and is authorized to proceed as an agency of the County under the "holding company" plan of financing described in the preamble hereto, and to authorize the issuance, sale, and delivery of \$3,705,000 principal amount of its Series 1988 Bonds, secured by a mortgage lien and revenue pledge against the Project, the cost of which, not otherwise provided, is to be financed through the application of the proceeds of the Series 1988 Bonds.

2. That the County shall execute Deeds to the Corporation conveying the land and properties upon which the Project is located and to be constructed, such Deeds to be in the customary form, the legality of the form to be subject to the approval of the County Attorney.

3. That the proposed form of Lease Agreement (the "Lease") between the County and the Corporation, a copy of which Lease has been examined and considered by this Fiscal Court, is hereby approved, and the County Judge/Executive and the County Clerk are authorized to execute the Lease in substantially such form on behalf of the County and to deliver same to the Secretary of the Corporation, upon the description and sources of title being inserted as to the properties upon which the Project shall be located.

4. That this Fiscal Court specifically agrees that as and when all Series 1988 Bonds constituting an encumbrance against said property have been retired, whether through rentals payable by the County or otherwise, under which circumstances the Lease requires that said property be reconveyed by the Corporation to the County, such reconveyance from the Corporation to the County will be accepted by the governing body of the County, and all of the terms and conditions of the Lease so providing are hereby specifically approved within the meaning of the Internal Revenue Code of 1986.

5. That this Fiscal Court hereby officially records its intention to renew the Lease of said property contained in the Lease, and to provide for the payment of the rentals specified in the Lease until all of the Series 1988 Bonds have been retired, in order to enable the County to obtain fee simple title to the property, it being understood that this statement of intention is not and cannot (under Section 157 of the Kentucky Constitution) be legally binding on the County or on this Fiscal Court.

6. That the public sale of said Series 1988 Bonds are hereby authorized and approved in accordance with a Resolution duly adopted by the members and Board of Directors of the Corporation.

7. That this Fiscal Court hereby specifically approves the execution by the officers of the Corporation of a Mortgage Deed of Trust (the "Mortgage") from the Corporation to the First Security National Bank & Trust Company, Lexington, Kentucky, authorizing and securing said proposed Series 1988 Bonds, substantially in the form examined and considered by this Fiscal Court, upon the same descriptions being inserted, hereinbefore referred to as the descriptions to be inserted in the Lease, and further approves the execution of any supplemental or amended mortgages in connection therewith as may be deemed appropriate in order to carry out the plan of financing contemplated herein. That such Series 1988 Bonds are hereby specifically approved in accordance with all of their terms, the intent being to comply with Revenue Ruling 63-20.

8. That the County Judge/Executive and the County Clerk and the appropriate officers of said Corporation (constituting an agency and instrumentality of the County) are hereby authorized, requested and directed to execute any and all other and further instruments and to take all other appropriate legal action as may be deemed reasonably necessary or desirable in carrying out the plan of financing represented by the instruments referred to above, with a view toward compliance with all applicable Kentucky Statutes and court decisions and with a view toward assuring that the receipt of interest on said Series 1988 Bonds will be excluded from gross income for Federal income tax purposes and exempt from all Federal income taxes and that the principal of said Series 1988 Bonds will be exempt from all Kentucky ad valorem taxes.

9. That all Ordinances, Orders, Resolutions, motions or parts thereof in conflict herewith are hereby repealed, and this Ordinance shall take effect and be in force immediately after its passage, approval and publication.

Introduced at a duly convened meeting held on October 18, 1988, given first reading and ordered by the County Judge/Executive to be held over in the office of the County

Clerk, subject to public inspection, pending consideration by the Fiscal Court at a subsequent meeting.

GIVEN SECOND READING AND ADOPTED BY THE FISCAL COURT OF THE COUNTY OF MADISON, KENTUCKY, at a duly convened meeting held on October 25, 1988, signed by the County Judge/Executive indicating his approval, attested under seal by the County Clerk, ordered to be recorded and published by Summary and to be in effect.

COUNTY OF MADISON, KENTUCKY

By _____
County Judge/Executive

Attest:

County Clerk

(Seal)

CERTIFICATE OF COUNTY CLERK

I, MARY JANE GINTER, the duly qualified and acting County Clerk of the County of Madison, Kentucky, do hereby certify that the foregoing is a true, complete, and correct copy of an Ordinance which received its first reading by the Fiscal Court of said County on October 18, 1988, that said Ordinance was then placed on file in my office for public inspection in its completed form until October 25, 1988, on which date it was given its second reading and final passage and adopted by said Fiscal Court, executed by the County Judge/Executive and attested by the County Clerk, and that said Ordinance has been duly recorded in the official records of the County, as shown by the official records of said County in my custody and under my control.

WITNESS my hand and seal of said County, this ____ day of October, 1988.

County Clerk

(Seal of County)