

95-4

AN ORDINANCE OF THE FISCAL COURT OF THE COUNTY OF CALLOWAY, KENTUCKY, CONFIRMING AND APPROVING ACTIONS TAKEN OR TO BE TAKEN BY CALLOWAY COUNTY PUBLIC PROPERTIES CORPORATION (THE "CORPORATION"), AS THE AGENCY AND INSTRUMENTALITY OF THE COUNTY IN CONNECTION WITH FINANCING THE ACQUISITION AND CONSTRUCTION OF DETENTION FACILITIES (THE "PROJECT"); AUTHORIZING THE EXECUTION OF A DEED CONVEYING THE SITE OF THE PROJECT FROM THE COUNTY TO THE CORPORATION; SPECIFICALLY AUTHORIZING AND APPROVING FIRST MORTGAGE REVENUE BOND ANTICIPATION NOTES OF THE CORPORATION WHICH WILL BE AUTHORIZED AND ISSUED BY SAID CORPORATION IN THE PRINCIPAL AMOUNT OF UP TO \$4,500,000; AND APPROVING A MORTGAGE AND INDENTURE OF TRUST AND CONTRACT, LEASE AND OPTION IN CONNECTION WITH THE AUTHORIZED FINANCING.

WHEREAS, the Calloway County Public Properties Corporation (the "Corporation") has been established pursuant to the provisions of Chapter 273 of the Kentucky Revised Statutes at the request of the County of Calloway, Kentucky (the "County"), for the purpose of acting as an agency and instrumentality of said County in providing public project facilities, to be utilized for the benefit of the citizens and residents of the County, and

WHEREAS, the County has determined that it is necessary to acquire and construct Detention Facilities (the "Project") in order that the public health and safety may be promoted through the availability of adequate public facilities, including, but not being limited to the Project; and

WHEREAS, the Calloway County Public Properties Corporation (the "Corporation"), is a nonprofit, non-stock corporation duly organized and created pursuant to the provisions of Chapter 273 and Section 58.180 of Kentucky Revised Statutes, to act as an agency and instrumentality of the County in the planning, development, construction, and financing of public facilities, and in that connection the Fiscal Court desires that the Corporation act on its behalf in connection with the acquisition and construction of said Project, and

WHEREAS, at the direction of the Fiscal Court the Corporation is about to duly authorize and issue approximately \$4,500,000 of its "Calloway County Public Properties Corporation First Mortgage Revenue Bond Anticipation Notes" (the "Notes") to provide financing for the Project in anticipation of the issuance of the Corporation's First Mortgage Revenue Bonds, Series 1998 (the "Bonds") to provide permanent, long term financing for said Project and retire the Notes; and

WHEREAS, the interest on the Notes, when issued, will be paid from rental payments made by the County to the Corporation under a certain Contract, Lease and Option whereunder the Project is to be leased by the Corporation to the County for one year at a time,

with the option in the County to renew said Lease for one year at a time thereafter so long as the Notes remain outstanding and unpaid, and the obligation of the County in each year that the Lease is renewed shall be equal to the interest requirements becoming due on the Notes in that year, plus the costs of operation, maintenance and insurance of the Project; the principal of the Notes shall be paid from the proceeds of the Bonds, and

WHEREAS, the Notes will be issued pursuant to the provisions of a Resolution adopted by the Members-Directors of the Corporation and the provisions of a Mortgage and Indenture of Trust made by the Corporation in favor of a Trustee bank, acting for the Registered Owners of the Notes, under which the Project will be mortgaged to secure the Notes and will be subject to mortgage lien in favor of the Trustee on behalf of the Registered Owners and a pledge of the rentals due under the Lease from the Corporation to the County; the right being reserved in the Trustee to foreclose the mortgage in the event of a failure by the County to renew the Lease or to make the required annual payments due thereunder and the resulting default in the payment of the interest requirements on the Notes;

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE FISCAL COURT OF THE COUNTY OF CALLOWAY, KENTUCKY, AS FOLLOWS:

Section 1. That the Fiscal Court of the County of Calloway, Kentucky (the "County") requests and directs the Calloway County Public Properties Corporation (the "Corporation") to forthwith authorize to be issued approximately \$4,500,000 in the principal amount of its First Mortgage Revenue Bond Anticipation Notes, Series 1995 (the "Notes") in the form and in accordance with the documents referred to in the preamble hereto, all of which documents shall be subject to the approval of the County Judge/Executive and County Attorney. The maturity schedules, security provisions, redemption provisions, designation of Trustee, form of Notes, conditions of sale and all other terms and provisions incident to said Notes and Bonds shall be in accordance with the provisions set forth in said Mortgage and Indenture of Trust hereinbefore and hereinafter further referred to and described.

Section 2. That the County hereby specifically approves the issuance, sale and delivery by the Corporation of the Notes and the Bonds in a sufficient principal amount to pay and retire the Notes, the application of the proceeds to the costs incident to the retirement of the Notes and acquisition and construction of the Project, and other expenses in connection with financing the Project; subject to the approval of the State Local Debt Officer.

Section 3. That it is acknowledged that the Notes are to be issued by the Corporation acting as an agency and instrumentality of the County, for the purpose of providing for interim financing for said Project pursuant to the provisions of KRS 58.150 and KRS 58.180.

Section 4. That in order to vest title to the site of the Project in the Corporation for the purpose of mortgaging said site to secure the Notes and Bonds, the County hereby expressly authorizes and approves the execution by the County Judge/Executive and County Clerk of a Deed conveying the site of the Project from the County to the Corporation.

Section 5. That the County hereby expressly approves and directs the execution by the Corporation of a certain "Mortgage and Indenture of Trust" to a bank as Trustee; provided, however, that said approval is conditioned upon the review and approval of the definitive document constituting said Mortgage and Indenture of Trust by the County Judge/Executive and County Attorney. The provisions of said Mortgage and Indenture of Trust shall convey in trust to said Trustee the site of the Project, shall assign all income, revenues and rights of the Corporation arising under the Contract, Lease and Option hereinafter referred to; all of the same being done for the security of those who shall become Registered Owners of the Notes, and shall contain covenants by the Corporation to issue the Bonds to pay the Notes.

Section 6. That the County hereby expressly approves and directs the execution by the County Judge/Executive of a certain "Contract, Lease and Option". Said Contract, Lease and Option contemplates the lease of the Project by the County for an initial period, with exclusive options to the County to renew the Lease from year to year for one year at a time upon the terms and conditions therein expressed until the Notes and/or Bonds are paid and retired; provided, however, that such execution shall be subject to the approval of the State Local Debt Officer pursuant to KRS 65.944 and the County Judge/Executive, County Attorney and Bond Counsel are hereby authorized to seek said approval.

Section 7. That the Corporation, its Board of Directors and officers are hereby authorized and requested by the County to carry out any and all necessary desirable or appropriate actions in order to implement the financing of the Project as evidenced by the financing plan permitting the issuance of Notes; including, but not being limited to, the execution of a Bond Registrar/Paying Agent Appointment with the Trustee under the Mortgage and Indenture of Trust.

Section 8. That for the purposes of the Internal Revenue Code of 1986, as amended (the "Code") the Corporation is an agency and instrumentality of the County acting on its behalf in connection with the financing plan represented by the Notes and Bonds as if the County itself were the issuer of said Notes and Bonds; therefore, by the adoption of this Ordinance, the County hereby designates the Notes as "qualified tax-exempt obligations" within the meaning of Code Section 265(b)(3) and, by the adoption of this Ordinance, the County hereby certifies that it does not reasonably anticipate that the total principal amount of qualified tax-exempt obligations which it will issue, including those obligations issued

for its own purposes and in its own name and those obligations issued in its name on behalf of other governmental agencies, during the calendar year ending December 31, 1995 will exceed \$10,000,000. The County hereby assigns to the Corporation the exemptions available to the County under Section 148 of the Code.

Section 9. That if any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provisions shall not affect any of the remaining provisions.

Section 10. That all ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict, hereby repealed.


Section 11. That this Ordinance shall become effective upon its passage and approval on its second reading and a publication of the summary thereof as required by law.

Introduced and given first reading at a duly convened meeting on March 31, 1995.

Given second reading, approval and adopted at a duly convened meeting on April 13, 1995.


County Judge/Executive

Attest:


County Clerk

By Elaine Paschall, D.C.