

PERRY COUNTY COURT CLERK

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FISCAL COURT ORDERS

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0342-2001 14:49 FROM: JUDG SHILTZER 210-693-6622 10:4391686 17.0017021

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNTY OF PERRY, KENTUCKY AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION PUBLIC PROJECT BONDS, SERIES 2001 (DETENTION FACILITY PROJECT) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$6,175,000; APPROVING A FORM OF BOND; AUTHORIZING DESIGNATED OFFICERS TO EXECUTE AND DELIVER THE BONDS; PROVIDING FOR THE PAYMENT AND SECURITY OF THE BONDS; CREATING A BOND PAYMENT FUND; CREATING A SINKING FUND; AUTHORIZING ACCEPTANCE OF THE BID OF THE BOND PURCHASER FOR THE PURCHASE OF THE BONDS; AND REPEALING INCONSISTENT ORDINANCES.

WHEREAS, the County of Perry, Kentucky (the "County") has heretofore determined the necessity of financing the acquisition, construction, installation and equipping of a new detention facility (the "Project"); and

WHEREAS, in order to pay on a temporary basis a portion of the costs of the Project, the County has heretofore issued its (i) \$2,000,000 General Obligation Public Purpose Bond Anticipation Notes, Series 2000A, (ii) \$2,000,000 General Obligation Public Purpose Bond Anticipation Notes, Series 2000B and (iii) \$2,050,000 General Obligation Public Purpose Bond Anticipation Notes, Series 2000C (collectively, the "Prior Notes") for the purpose of financing on an interim basis a portion of the costs of the acquisition, construction, installation and equipment of the Project; and

WHEREAS, pursuant to the Constitution and Laws of the Commonwealth of Kentucky, and particularly KRS 66.011 et seq (the "Act"), a county may issue bonds, subject to the requirements of the Act, to pay all or any portion of the costs of financing and refinancing any public project that such county is authorized to acquire, improve or construct; and

WHEREAS, the County has determined that it is in the best interests of the County that the Project financed in part on an interim basis with the Prior Notes now be permanently financed through the issuance of County of Perry, Kentucky General Obligation Public Project Bonds, Series 2001 (Detention Facility Project) in a principal amount not to exceed \$6,175,000

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(the "Bonds") to be sold and awarded to the successful bidder (the "Purchaser") at public, competitive sale in accordance with the provisions of Chapter 424 of the Kentucky Revised Statutes.

NOW, THEREFORE, BE IT ORDAINED by the Fiscal Court, County of Perry, Kentucky, as follows:

Section 1 -- Necessity, Authorization and Purpose. The County hereby declares that it is necessary to issue and authorizes the issuance of its General Obligation Public Project Bonds, Series 2001 (Detention Facility Project), in an aggregate principal amount not to exceed \$6,175,000 for the purpose of (i) retiring the Prior Notes at or prior to maturity; (ii) financing the remaining costs of the Project; and (iii) paying the costs of issuance of the Bonds. The exact principal amount of Bonds to be issued shall be established in the Bid Resolution (as hereinafter defined).

Section 2 -- Form. The Bonds shall be issued as fully registered Bonds, shall be designated "General Obligation Public Project Bonds, Series 2001 (Detention Facility Project)", shall express upon their face the purpose for which they are issued, that they are issued under the Act and shall be substantially in the form set forth in Annex A. The Bonds shall be in denominations as requested by the Purchaser, which shall be in integral multiples of five thousand dollars (\$5,000). The Bonds shall be dated December 1, 2001 or such other date as is determined in the resolution of the County (the "Bid Resolution") awarding the Bonds to the Purchaser. Interest on the Bonds shall be payable each June 1 and December 1 (an "Interest Payment Date"), commencing June 1, 2002 at the stated interest rate or rates on the principal amount thereof. The Bonds shall be serial or term Bonds maturing, on the basis of substantially level debt service, on December 1 of the years and in the amounts to be established in the Bid Resolution after advertised competitive sale of the Bonds based on the interest rates bid in the successful bid (the "Bid") and the provisions of this Section 2, provided that the final maturity

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date of the Bonds shall be as set forth in the Bid Resolution but shall be no later than December 1, 2026. The interest rate or rates on the Bonds shall be determined in the Bid Resolution based on the Bid; provided that the aggregate net interest cost of the Bonds shall not exceed eight percent (8.00%).

The Bonds maturing on and after December 1, 2011 shall be subject to optional redemption prior to their maturity on any date on or after December 1, 2010, in whole or in part, in inverse order of maturity and by lot within a maturity, at the election of the County upon 45 days' written notice to the Paying Agent and Registrar (hereinafter defined) at the redemption prices (expressed as percentages of the principal amount of the Bonds to be redeemed) set forth below, plus accrued interest to the date of redemption:

<u>Redemption Date</u>	<u>Redemption Price</u>
December 1, 2010 through November 30, 2011	101.0%
December 1, 2011 through November 30, 2011	100.5%
December 1, 2012 and thereafter	100.0%

At least thirty (30) days before the redemption date of any Bonds the Paying Agent and Registrar (as hereinafter defined) shall cause a notice of such redemption either in whole or in part, signed by the Paying Agent and Registrar, to be mailed, first class, postage prepaid, to all registered owners of the Bonds to be redeemed in whole or in part at their addresses as they appear on the registration books kept by the Paying Agent and Registrar, but failure to mail any such notice shall not affect the validity of the proceedings for such redemption of Bonds for which such notice has been sent. Each such notice shall set forth the date fixed for redemption, the redemption price to be paid and, if less than all of the Bonds being payable by their terms on a single date then outstanding shall be called for redemption, the distinctive number or letters, if any, of such Bonds to be redeemed.

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Bonds to be redeemed, the Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Bonds on such date, interest on the Bonds so called for redemption shall cease to accrue, and the registered owners of such Bonds shall have no right in respect thereof except to receive payment of the redemption price thereof.

Section 3 -- Execution and Delivery. The Bonds shall be executed by the manual or facsimile signature of the Judge/Executive and duly attested by the manual or facsimile signature of the Fiscal Court Clerk (which, together with any other person as may be authorized by resolution are referred to as "Designated Officers"), shall have the seal of the County or a facsimile thereof affixed thereto, and shall bear the manual authenticating signature of an authorized representative of Central Bank & Trust Co., as the Paying Agent and Registrar for the Bonds (the "Paying Agent and Registrar"). The Designated Officers are further authorized and directed to deliver the Bonds to the Purchaser, upon the terms and conditions provided herein, in the Bid Resolution and in the Bid, receive the proceeds therefor, execute and deliver such certificates and other closing documents and take such other action as may be necessary or appropriate in order to effectuate the proper issuance, sale and delivery of the Bonds.

The County authorizes and directs the Paying Agent and Registrar to authenticate the Bonds and to deliver the Bonds to the Purchaser upon payment of the purchase price thereof.

Section 4 -- Payment. Payment of or on account of the interest on and principal of the Bonds shall be made directly to the Paying Agent and Registrar for the account of the registered owner. Interest on the Bonds shall be payable by check, mailed to the person whose name appears on the fifteenth day preceding an Interest Payment Date on the bond registration records as the registered owner, on each Interest Payment Date or by other transfer of funds acceptable to such registered owner and the Paying Agent and Registrar. Principal shall be payable in such coin or currency of the United States of America as shall be legal tender for the payment of public and private debts at the time and place of payment upon delivery of the Bonds to the

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Paying Agent and Registrar or by other transfer of funds acceptable to the Paying Agent and Registrar and such registered owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bonds to the extent of the sum or sums so paid.

Section 5 -- Filing and Approvals. The Designated Officers are hereby authorized to undertake and cause all filings of notices or information, and to obtain such other approvals, which may be required by law to be filed or obtained by the County, including, but not limited to, securing the approval of the State Local Debt Officer for the issuance of the Bonds.

Section 6 -- Bond Payment Fund, Payment of Bonds. There is hereby established with the Paying Agent and Registrar a bond payment fund in the name of the County to be known as General Obligation Public Project Bonds, Series 2001 Bond Payment Fund (the "Bond Payment Fund"), into which the County covenants to deposit, and into which the Designated Officers are hereby authorized and directed to deposit from the Sinking Fund (hereinafter established), on or before the twentieth day of each month which precedes an Interest Payment Date on the Bonds, the amount required to pay principal of and interest due on the Bonds on such Interest Payment Date. The Paying Agent and Registrar shall, without further authorization from the County, withdraw from the Bond Payment Fund, on such Interest Payment Date of the Bonds, the amounts necessary to pay principal of, and interest on, the Bonds to the registered owner of the same.

The Paying Agent and Registrar is hereby appointed Bond Payment Fund Depository with respect to the Bonds.

If the County shall fail or refuse to make any required deposit in the Bond Payment Fund from the Sinking Fund, the Paying Agent and Registrar shall (i) notify any agency of the Commonwealth of Kentucky or any political subdivision thereof which may collect and

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in the Act or at law or in equity for the benefit of the owner of the Bonds or its assignee, and shall disburse all funds so collected to the owners of the Bonds as payment of the Bonds.

Section 7 -- General Obligation; Maintenance of Sinking Fund. The Bonds shall be full general obligations of the County and, for the payment of said Bonds and the interest thereon, the full faith, credit and revenue of the County are hereby pledged for the prompt payment thereof. During the period the Bonds are outstanding, there shall be and there hereby is levied on all the taxable property in the County, in addition to all other taxes, without limitation as to rate, a direct tax annually in an amount sufficient to pay the principal of and interest on the Bonds when and as due, it being hereby found and determined that current tax rates are within all applicable limitations. Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof provided, however, that in each year to the extent that the other lawfully available funds of the County are available for the payment of the Bonds and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the County shall be reduced by the amount of such other funds so available and appropriated.

Pursuant to an ordinance adopted on June 8, 2000 (the "Prior Notes Ordinance") there has heretofore been established with the County a sinking fund (the "Sinking Fund"). The funds derived from said tax levy hereby required or other lawfully available funds shall be placed in the Sinking Fund and, together with interest collected on the same, are irrevocably pledged for the payment of the interest on and principal of all bonds issued under the Act and Tax-Supported Leases, as defined in the Act, when and as the same fall due. Amounts shall be transferred from the Sinking Fund to the Bond Payment Fund at the times and in the amounts required by Section 6 hereof.

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Section 8 -- Award; Bid Resolution. The Designated Officers are hereby directed to sell the Bonds to the Purchaser at advertised competitive sale, the final principal amount of, the principal amortization of and the interest rate or rates on the Bonds to be established in accordance with the requirements of Sections 1 and 2 hereof and the Bid Resolution.

Section 9 -- Registered Owner; Transfer; Exchange. As long as the Bonds executed and delivered hereunder shall remain outstanding, the Paying Agent and Registrar shall maintain an office for the registration of such Bonds and shall also keep at such office books for such registration and transfers. The registered owner of the Bonds, as set forth in the registration books maintained by the Paying Agent and Registrar on the fifteenth day preceding an Interest Payment Date, or its assignees, for purposes of this Bond Ordinance, to the extent of its interest, shall be treated as the owner of the Bonds and shall be entitled to all rights and security of the owner of the Bonds hereunder.

Upon surrender for registration of transfer of the Bonds at the office of the Paying Agent and Registrar with a written instrument of transfer satisfactory to the Paying Agent and Registrar, duly executed by the registered owner or the registered owner's duly authorized attorney, the Paying Agent and Registrar shall execute and deliver, in the name of the designated transferee or transferees, one or more Bonds of the same series of any authorized denomination and of a like tenor and effect.

All Bonds, upon surrender thereof at the office of the Paying Agent and Registrar, may, at the option of the registered owner thereof be exchanged for an equal aggregate principal amount of Bonds of the same series of any authorized denomination.

In all cases in which the privilege of exchanging or transferring Bonds is exercised, the Paying Agent and Registrar shall execute and deliver Bonds in accordance with the provisions of this Section.

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to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer.

Section 10 -- Disposition of Proceeds. The proceeds of the sale of the Bonds, together with other funds of the County shall be deposited as follows: (a) premium and accrued interest on the Bonds, if any, shall be deposited to the Bond Payment Fund created in Section 6 hereof; (b) an amount sufficient to retire the Prior Notes shall be deposited in the note payment fund established pursuant to the Prior Notes Ordinance (the "Note Fund") and applied within 90 days of the issuance of the Bonds to the redemption and retirement of the Prior Notes; and (c) the remainder of the proceeds of the Bonds and any other amounts deposited by the County to accomplish the purposes of this Ordinance shall be deposited to a special construction fund hereby directed to be established by the County and designated as the "County of Perry, Kentucky General Obligation Public Project Bonds, Series 2001 Construction Fund" (the "Construction Fund") and used to pay the costs of issuance of the Bonds and the costs of the acquisition, construction, installation and equipping of the remainder of the Project, including capitalized interest on the Bonds during the remaining period of construction of the Project.

Section 11 -- Designation of Bonds. The County designates the Bonds as "qualified tax-exempt obligations" for the purposes set forth in § 265(b)(3) of the Internal Revenue Code of 1986, as amended. The County does not anticipate issuing more than \$10,000,000 of "qualified tax-exempt obligations" during calendar year 2001.

Section 12 -- Discharge of Bond Ordinance. If the County shall pay or cause to be paid, or there shall otherwise be paid, to the owners of the Bonds the total principal and interest due or to become due thereon through maturity, in the manner stipulated therein and in this Bond Ordinance, then the pledges made under this Bond Ordinance, and all covenants, agreements and



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other obligations of the County hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied.

Section 13 -- Severability. If any one or more of the provisions of this Bond Ordinance should be determined by a court of competent jurisdiction to be contrary to law, then such provisions shall be deemed to be severable from all remaining provisions and shall not affect the validity of such other provisions.

Section 14 -- Inconsistent Actions. All prior ordinances, resolutions or parts thereof inconsistent herewith are hereby repealed.

Section 15 -- Open Meetings Compliance. All meetings of the Fiscal Court and of its committees and any other public bodies, at which the formal actions in connection with the issuance of the Bonds were taken, or at which deliberations that resulted in such formal actions were held, were open meetings, and such formal actions were taken and any such deliberations took place while such meetings, after proper notice, were open to the public, in compliance with all legal requirements including KRS Sections 61.810, 61.815, 61.820 and 61.825.

Section 16 -- Effective Date. This Ordinance shall become effective immediately upon adoption and publication of a summary thereof, as provided by law.

FIRST READING HELD on November 20, 2001.

DULY ADOPTED AFTER SECOND READING on December 6, 2001.

COUNTY OF PERRY, KENTUCKY

By: Jerry R. Noble  
Judge/Executive

Attest:

Shawn Adams  
Fiscal Court Clerk

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TO: 4391686

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting Fiscal Court Clerk of the County of Perry, Kentucky, and as such Fiscal Court Clerk, I further certify that the foregoing is a true, correct and complete copy of an Ordinance duly enacted by the Fiscal Court of the County at a duly convened meeting held on the 6<sup>th</sup> day of December, 2001, on the same occasion signed by the Judge/Executive is evidence of his approval, and now in full force and effect, all as appears from the official records of the County in my possession and under my control.

Witness my hand and the seal of said County as of the 16 day of December, 2001.

Sharon Adams  
Fiscal Court Clerk

[SEAL]