

**COMMISSIONERS ORDINANCE NO. O-2016-001**

**AN ORDINANCE OF THE CITY OF NEWPORT, KENTUCKY APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST SUPPLEMENTAL TRUST INDENTURE AND A CONTINUING COVENANT AGREEMENT IN CONNECTION WITH HERETOFORE ISSUED KENTUCKY LEAGUE OF CITIES FUNDING TRUST LEASE PROGRAM REVENUE BONDS, VARIABLE RATE SERIES 2002.**

WHEREAS, the City of Newport, Kentucky (the "Issuer") is a municipal corporation and political subdivision of the Commonwealth of Kentucky (the "State"), existing as such under and by virtue of the Constitution, statutes and laws of the State; and,

WHEREAS, the Kentucky League of Cities Funding Trust (the "Funding Trust") has been created under the provisions of Sections 65.210 to 65.300 of the Kentucky Revised Statutes pursuant to an Interlocal Cooperation Agreement for the Kentucky League of Cities Funding Trust to provide a program for economically financing or refinancing the acquisition, construction and installation of various public projects by public agencies in the Commonwealth of Kentucky (the "Program"); and,

WHEREAS, in order to assist the Program to fulfill its public purposes and functions, the Issuer heretofore issued its Kentucky League of Cities Funding Trust Lease Program Revenue Bonds, Variable Rate Series 2002 (the "Bonds") in accordance with the provisions of KRS 65.210 through 65.300 and KRS 58.010 through 58.190, as amended; and,

WHEREAS, the Bonds were issued pursuant to a Trust Indenture dated as of April 1, 2002 (the "Original Indenture") between the Issuer, the Funding Trust and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), the capitalized terms not otherwise defined in this Ordinance having the meanings given them in the Original Indenture, as applicable; and,

WHEREAS, the Credit Facility Provider has negotiated with the Funding Trust regarding the non-renewal or termination of the Credit Facility that provides for the payment of the principal of and interest on Bonds outstanding under the Original Indenture and has agreed to purchase the Bonds pursuant to an advance under a new replacement credit and liquidity facility in the form of a Continuing Covenant Agreement which purchase shall reimburse the Credit Facility Provider for the final draw under the existing Credit Facility and such Bonds shall bear interest at an index rate as described in the First Supplemental Indenture (the "Modified Rate"); and,

WHEREAS, the Original Indenture must be amended to permit the Bonds to bear interest at the Modified Rate and the Credit Facility Provider will consent to

modifications to the Original Indenture that authorize the Modified Rate and related matters; and,

WHEREAS, in order to provide for the Modified Rate, it is necessary for the Issuer, the Funding Trust and the Trustee to enter into a First Supplemental Trust Indenture (the "First Supplemental Indenture") amending and supplementing the Original Indenture for such purpose and a Continuing Covenant Agreement among the Issuer, the Funding Trust and the Credit Facility Provider (the "Continuing Covenant Agreement"); and,

WHEREAS, there has been presented to the Board of Commissioners of the Issuer, the form of the First Supplemental Indenture and the Continuing Covenant Agreement; and,

WHEREAS, the First Supplemental Indenture and the Continuing Covenant Agreement each is in the appropriate form and is an appropriate instrument for the purposes intended;

NOW, THEREFORE, be it ordained by the Board of Commissioners of the City of Newport, Kentucky, as follows:

### **SECTION I**

Purpose. The Issuer hereby finds, determines and declares that all statements of fact set forth in the preambles to this Ordinance are true and correct in all respects, and such preambles are incorporated into the body of this Ordinance by reference as if set forth at length herein.

### **SECTION II**

First Supplemental Indenture and Continuing Covenant Agreement. The Issuer hereby approves and authorizes the execution and delivery of the First Supplemental Indenture and the Continuing Covenant Agreement, each in substantially the form filed with the Issuer, subject to such changes, alterations, modifications and amendments as may be approved by the Issuer, such approval to be established conclusively with respect to the First Supplemental Indenture and the Continuing Covenant Agreement by the respective execution thereof.

### **SECTION III**

Severability. If any section, phrase or provision of this Ordinance is for any reason declared to be invalid, such declaration will not affect the validity of the remainder of the sections, phrases or provisions of this Ordinance.

**SECTION IV**

That this Ordinance shall be signed by the Mayor, attested to by the City Clerk, recorded, published and effective upon publication.

**PASSED:** First reading December 14, 2015  
**PASSED:** Second reading January 25, 2016

\_\_\_\_\_  
Jerry R. Peluso, Mayor

ATTEST:

\_\_\_\_\_  
Amy B. Able, City Clerk

PUBLISHED: By summary in the Campbell County Recorder on February \_\_\_\_, 2016

**CERTIFICATION**

I, the undersigned, do hereby certify that I am the duly qualified and acting City Clerk of Newport, Kentucky, and as such Clerk, I further certify that the foregoing is a true, correct and complete copy of an Ordinance as appears to me in the records at Newport, Kentucky, duly adopted by its Board of Commissioners at a duly convened meeting held on January 25, 2016, signed by the Mayor, duly filed, recorded and indexed in my office and now in force and effect, and that all action taken in connection with such Ordinance was in compliance with the requirements of Kentucky law, all as appears from the official records of said Board of Commissioners in my possession and under my control.

IN WITNESS WHEREOF, I have hereunto set my hand this this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Amy B. Able,  
City Clerk of Newport, Kentucky

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