



Kenton County School District | *It's about ALL kids.*

**THE KENTON COUNTY BOARD OF EDUCATION**

1055 EATON DRIVE, FORT WRIGHT, KENTUCKY 41017

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Dr. Henry Webb, Superintendent of Schools

**KCSD ISSUE PAPER**

**DATE:**

3/24/2020

**AGENDA ITEM (ACTION ITEM):**

Consider/Approve the Municipal Advisory Services Agreement with Ross, Sinclair, & Associates, LLC to perform the municipal advisory services for the Building Revenue Bonds Series 2020 in the amount of approximately \$12,850,000.00.

**APPLICABLE BOARD POLICY:**

01.1 Legal Status of the Board; 04.31 Authority to Encumber and Expend Funds

**HISTORY/BACKGROUND:**

The Municipal Advisory Services Agreement with Ross, Sinclair, & Associates, LLC will provide general financial advice, development of plans for financing, assist in coordinating the financing activities, and various other responsibilities related to the Building Revenue Bonds Series 2020.

**FISCAL/BUDGETARY IMPACT:**

None (Bond Resolution was previously approved at the March 2, 2020 Board Meeting)

**RECOMMENDATION:**

Approve the Municipal Advisory Services Agreement with Ross, Sinclair, & Associates, LLC to perform the municipal advisory services for the Building Revenue Bonds Series 2020 in the amount of approximately \$12,850,000.00.

**CONTACT PERSON:**

Rob Haney

\_\_\_\_\_  
Principal

*Rob Haney*  
\_\_\_\_\_  
District Administrator

*[Signature]*  
\_\_\_\_\_  
Superintendent

Use this form to submit your request to the Superintendent for items to be added to the Board Meeting Agenda.

Principal –complete, print, sign and send to your Director. Director –if approved, sign and put in the Superintendent's mailbox.

**Kenton County Board of Education**

Board Members: Carl Wicklund, Chairperson Karen L. Collins, Vice Chairperson Carla Egan Shannon Herold Jesica Jehn

"The Kenton County Board of Education provides Equal Education & Employment Opportunities."

## **Municipal Advisory Services Agreement**

This Municipal Advisory Services Agreement (the “Agreement”) is between **ROSS, SINCLAIRE & ASSOCIATES, LLC** (the “Advisor”) and **KENTON COUNTY SCHOOL DISTRICT** (“Client”), who has appointed Advisor to perform the municipal advisory services described herein to and for Client. In consideration of the mutual covenants made in this Agreement, and intending to be legally bound by this Agreement, the Advisor and Client agree as follows:

1. Effective Date. The effective date of this Agreement (the “Effective Date”) is February 18, 2020. Kenton County School District Finance Corporation School Building Revenue Bonds Series 2020 in the amount of approximately \$12,850,000 issued to finance security improvements on several elementary schools within the District.
2. Appointment. Client appoints and retains the adviser as a “municipal adviser” as that term is defined in Section 15B(e)(4)(A)(i) of the Securities Exchange Act of 1934 (the “Act”). The Advisor accepts such appointment and retention, all on the terms and conditions set forth in this Agreement.
3. Municipal Advisory Services. Advisor will provide the services set forth on the attached Schedule A (the “Municipal Advisory Services”). Advisor will provide the Municipal Advisory Services to Client on an as-requested basis by Client; provided, however, that Advisor’s obligations under this Agreement will be expressly limited to the Municipal Advisory Services. Notwithstanding the foregoing, if Client requests Advisor to provide services in connection with a particular municipal issuance-related matter and the parties agree that the services that will be required to be provided in connection therewith differ in scope from the Municipal Advisory Services, the parties will negotiate a mutually agreeable set of services that will be provided by Advisor to Client. Upon the parties’ agreement to a particular set of alternative services, Advisor will deliver to Client an addendum to this Agreement (an “Addendum”). Any such Addendum will set forth the scope of Advisor’s engagement with respect to such municipal issuance-related matter, as well as any alterations to the terms of this Agreement that may have been agreed to by the parties in connection with such alternate services.
4. Representations by Advisor. Advisor represents and warrants as follows:
  - A. It is registered as a municipal advisor pursuant to Section 15B of the Act.
  - B. It has the power and authority to enter into and perform this Agreement.
  - C. In providing the Municipal Advisory Services it has a fiduciary duty to Client pursuant to Section 15B(c)(1) of the Act, as well as a duty of loyalty and a duty of care pursuant to Municipal Securities Rulemaking Board (“MSRB”) Rule G-42.
5. Representations by Client. Client represents and warrants as follows:
  - A. It is a municipal entity as that term is defined in Section 15B(e)(8) of the Act.

law and notwithstanding the foregoing, no party will be liable to the other for Damages suffered by the other to the extent those Damages are the consequence of: (a) events or conditions beyond the control of the indemnifying party, including without limitation, changes in economic conditions; (b) actions of the indemnifying party which were reasonable based on facts and circumstances existing at the time and known to the indemnifying party at the time the service was provided; or (c) errors made by the indemnifying party due to its reliance on facts and materials provided to the indemnifying party by the indemnified party. Whenever Advisor or Client becomes aware of a claim with respect to which it may be entitled to indemnification hereunder, it will promptly provide written notice to the other, which will include a description of the nature of the claim. If the claim arises from a claim made against the indemnified party by a third party, the indemnifying party will have the right, at its expense, to assume the defense thereof, to employ legal counsel in connection therewith, and to compromise or settle the same, provided that any compromise or settlement by the indemnifying party of such claim will be deemed an admission of liability hereunder. The remedies set forth in this Section 9 will be the sole remedies available to either party against the other in connection with any Damages suffered by it.

10. Fees and Expenses. The compensation of Advisor for the performance of the Municipal Advisory Services under this Agreement and for the payment of expenses is described on the attached Schedule of Fees found on Schedule D. Unless agreed to in writing by the parties, Advisor will not receive any other compensation, direct or indirect, for its services under this Agreement.

11. Assignment. This Agreement is not assignable by either party hereto without the prior written consent of the other party.

12. Term of Agreement and Termination. This Agreement will be effective as of the Effective Date and will remain in effect until terminated by either party for any reason upon thirty (30) days' prior written notice to the other party. A termination of this Agreement will not relieve Client of its obligations to pay Advisor for any and all Municipal Advisory Services rendered and expenses incurred prior to the effective date of termination.

13. Notices. Unless otherwise specified herein, all notices, instructions and advice with respect to any matter contemplated by this Agreement will be deemed duly given when received in writing by Advisor at the address specified below or when deposited by first class mail addressed to (or delivered by hand to) Client at the address specified below. Advisor may rely on such notice from any person reasonably believed by it to be genuine and authorized. For purposes of this section and any other notices contemplated in this Agreement, the following addresses will be used until modified in writing:

<u>For Advisor:</u>	Ross, Sinclair and Associates, LLC
	325 W. Main Street, Suite 300
	Lexington, KY 40507
	Attention: Robert E. Tarvin, Municipal Advisor

**SCHEDULE A**  
**MUNICIPAL ADVISORY SERVICES & STANDARD OF CARE**

Following are the Municipal Advisory Services to be provided by Advisor pursuant to the terms of this Agreement:

Securities Issuance. Unless otherwise agreed to by the parties, in connection with any request for services relative to any new money issuance, refunding of a prior issuance or other financings (each referred to herein as a "Transaction"), the Advisor will perform the following services, as applicable:

1. Provide general financial advice relative to any Transaction.
2. Survey the financial resources of Client to determine its borrowing capacity and analyze existing debt structure as compared to the existing and projected sources of revenues.
3. Assist in the development of a plan or plans for the financing or refinancing of any improvements through the issuance of general bond obligations, loans and/or notes, school bonds, revenue or refunding bonds, or other type of financing alternatives that may be available and appropriate for the particular issuance ("Debt Obligations").
4. Recommend to Client an amount, the maturity structure, call provisions, pricing, and other terms and conditions of the Debt Obligation.
5. Advise Client on current market conditions, forthcoming bond, loans and note issues, federal, state or other tax law considerations, and other general information and economic data that might normally be expected to influence the interest rates of the financing.
6. Assist Client in the analysis of and the selection of a credit rating firm or firms for the Debt Obligation and further assist in the development and presentation of information to obtain a credit rating or credit ratings for the Debt Obligation.
7. Advise Client on utilizing credit enhancement and provide assistance in seeking such credit enhancement if, in the opinion of Advisor, such credit enhancements would be advantageous to Client.
8. Assist in coordinating the financing activities between various parties to any Transaction as needed.
9. Assist Client in selecting and, working with, members of a working group to procure services deemed necessary to the issuance or post-issuance requirements of the Debt Obligation. Services that may be procured may include, but are not limited to: bond counsel; special tax counsel; disclosure counsel; trustee selection; paying agent selection; credit facilities; underwriter; and printing services.

## **SCHEDULE B**

### **CONFLICTS OF INTEREST DISCLOSURE**

RSA is a registered municipal advisory firm registered with the Securities and Exchange Commission (the “SEC”) and the Municipal Securities Rulemaking Board (the “MSRB”). In accordance with MSRB rules, this disclosure statement is provided by RSA to each client prior to the execution of its advisory agreement with written disclosures of any material conflicts of interest that are required to be disclosed with respect to providing financial advisory services pursuant to MSRB Rule G-42(b) and (c) (ii).

**Ordinary Course of Business:** RSA is a registered Broker Dealer with the Financial Industry Regulatory Authority (“FINRA”) and a registered Investment Advisory Firm with the Securities and Exchange Commission (the “SEC”) that engages in other securities related activities to service its clients. Such securities related activities, which may include but are not limited to the buying and selling of new issue and secondary market securities, may include the securities offering of the client to which RSA is serving as Municipal Advisor.

**Compensation Based:** The fees due under a Municipal Advisor Agreement may be based on the size of the transaction and the payment of such fees shall be contingent upon the closing of the transaction. While this form of compensation is usual and customary in the municipal securities market, this may present a conflict of interest. RSA believes that this conflict of interest will not impair our ability to render unbiased advice or to fulfill our fiduciary duty to the client.

**Other Municipal Advisory Relationship:** RSA serves a wide variety of clients that may potentially have interests that could have a direct or indirect impact on the interests of the client. Additionally, RSA is a broker dealer that engages in underwritings of new issuances of municipal securities. RSA could potentially face a conflict of interest arising from these competing client interests. None of these other relationships or engagements would impair RSA’s ability to fulfill its regulatory duties to the client.

To our knowledge, following reasonable inquiry, we are not aware of any actual or potential conflicts of interest that could reasonably be anticipated to impair our ability to provide advice to or on behalf of the client in accordance with the applicable standards of conduct of MSRB Rule G-42. If RSA becomes aware of any potential or actual conflict of interest after this disclosure, we will disclose the detailed information in writing to the client in a timely manner including a plan for mitigation.

**SCHEDULE D**  
**SCHEDULE OF FEES**

Securities Issuance

1. On the sale and delivery of securities, the Issuer shall pay the Financial Advisor a fee not to exceed the maximum allowable fee as set forth by the Kentucky Department of Education and Kentucky School Facilities Construction Commission.
2. Financial Advisor shall have no obligation to pay from its fee any other expenses associated with issuance of the Series of Bonds, including but not limited to: local counsel fees, special tax counsel fees, consultant fees, paying agent, escrow agent and/or registrar fees and bond rating services.

General Municipal Advisory Services Fee

Regarding any general services not outlined in Schedule A (General Municipal Advisory Services), the Advisor and Issuer shall separately agree to the amount of the fee payable in respect of any such service or services requested by the Issuer.