



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

**THE KENTON COUNTY BOARD OF  
EDUCATION**

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Dr. Henry Webb, Superintendent of Schools

**KCSD ISSUE PAPER**

**DATE:**

1/25/18

**AGENDA ITEM (ACTION ITEM):**

Dixie Heights High School Fund Raising Project Summary and Funding Agreement Enc.

**APPLICABLE BOARD POLICY:**

Community Relations: 10.4

**HISTORY/BACKGROUND:**

This agreement is with Side Effects, Inc. Side Effects is a high school sports marketing company that works with school administrators and athletic directors to identify needs and design marketable solutions.

**FISCAL/BUDGETARY IMPACT:**

Total funding for the project will be covered through the sale of advertisements.

**RECOMMENDATION:**

It is recommended the Board approve the Fundraising Project and Funding Agreement for Dixie Heights High School's Ads on Scoreboard/New Gym Wall Pads.

**CONTACT PERSON:**

Rob Haney, Executive Director of Support Operations and Finance

\_\_\_\_\_  
Principal

  
\_\_\_\_\_  
Director

  
\_\_\_\_\_  
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 Joshua Crabtree, Esq. Carla Egan Jessica Jehn  
"The Kenton County Board of Education provides Equal Education & Employment Opportunities."

REVENUE AMOUNT PER SPONSOR PER YEAR	% OF REVENUE TO KCS	% OF REVENUE TO SIDE EFFECTS
Any amount up to \$100	50%	50%
\$101 - \$1000	55%	45%
\$1001 - \$10,000	60%	40%
\$10,001 - \$50,000	70%	30%
\$50,001 - \$100,000	90%	10%
\$100,001 and up	98%	2%



## FUNDRAISING PROJECT SUMMARY AND FUNDING AGREEMENT

<b>Date:</b> <u>1/23/18</u>	
<b>School:</b> <u>Dixie Heights High School</u>	
<b>Department/Sport/Club:</b> <u>Gymnasium</u>	
<b>Scope of Project:</b> <u>Ads on Scoreboard/New Gym Wall Pads</u>	
<b>Anticipated Completion Date for Secured Advertising:</b> (date that all advertisers will be secured and funding in place for project) <u>April 23, 2018</u>	
<b>Anticipated Date Completion for Project:</b> (date the project shall be received / completed at the school) <u>June 11, 2018</u>	
<b>Project Budget:</b> <u>\$9,500</u> for Ads on Scoreboard/New Gym Wall Pads	
<b>Total Number of Sponsors:</b> <u>8</u> <b>Annual Total Per Sponsor/YR:</b> \$ <u>800-1,000</u>	
<b>Service Agreement(s):</b> (if applicable) <u>N/A</u>	
<b>A Cost of Service Agreement(s):</b> (if applicable) <u>N/A</u>	
<b>Percentage of Funding Dollars to go to school for project:</b> <u>55%</u> Based on number of Sponsors.	
<b>Percentage of Funding Dollars to go to Side Effects:</b> <u>45%</u>	
<b>Length of term</b> <u>36</u> months for Individual Advertising Agreement(s)	
<b>Warranty(s) to be transferred to KCS:</b> (if applicable)  <u>TBD based on successful vendor.</u>	

All Kenton County School District Policies and Procedures are to be strictly adhered to under the Terms and Conditions of this contract.

\_\_\_\_\_  
Side Effects Designee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kenton County School Board Designee

\_\_\_\_\_  
Date

## ADVERTISING AGREEMENT

This Agreement is entered into between Side Effects, Inc., hereinafter called the "Company" and Kenton County School District herein called the "School." WHEREAS, the Company is engaged in the sale of advertising sponsorships, naming right opportunities and other advertising sponsor vehicles; and WHEREAS, the Company contracts with advertising sponsors, hereinafter called the "Advertising Sponsor" to be placed in the designated areas as specified in the Addendum;

**NOW THEREFORE, for adequate consideration in accordance with this contract, it is agreed as follows:**

1. Cost:
  - a. The Company will deliver to the School equipment (as listed on the Appendix A "Equipment Addendum") at no out of pocket cost unless otherwise agreed upon in writing as a payment requirement. The equipment listed on the Equipment Addendum will be purchased once the Advertising Sponsors are secured and the required monies (at the discretion of the Company) of said Advertising Sponsors have been collected.
  - b. If the Company determines that all prospective Advertising Sponsor opportunities are exhausted and the necessary amount of revenue is not met in order to execute a specific piece of equipment as listed in equipment list A, the Company may deliver to the School the equipment list B on the Equipment Addendum at no cost to the School unless otherwise agreed upon as a payment requirement on the Equipment Addendum. The School and the Company may determine an agreed upon option for the School to have a payment requirement to the Company in order for the School to receive equipment list A prior to the Company executing the purchase of equipment list B.
2. Advertising Sponsor Relations:
  - a. The Company shall solicit and secure Advertising Sponsorship contracts with the Advertising Sponsors and the School shall honor all Advertising Sponsor contracts until their conclusion.
  - b. The Company shall set the Advertising Sponsor costs and determine multi-year pricing for advertising.
  - c. The School agrees to the complete performance of all incentives listed in Appendix A ("Incentives") for each Advertising Sponsor during the duration of the Advertising Sponsor's contract term.
  - d. The Company is responsible for all efforts in collecting Advertising Sponsor payments.
  - e. The Company shall obtain the rights to use copyrighted materials from the Advertising Sponsor or owner of the copyright for use in the intended advertising copy.
3. Commissions and Fees:
  - a. The School shall be entitled to a percent share of the collected Advertising Sponsorship dollars for the advertising sponsorship at the School according to the commission structure in Appendix B. The Company and the School will share in any applicable Advertising Sponsorship credit card fees.
  - b. The equipment listed on List A or B on the attached Equipment Addendum is paid for with the School's share of the contracted Advertising Sponsorship dollars.
  - c. Any revenue due to the School will be paid within 9 months from the time all sponsor revenue is collected and upon confirmation of the fulfillment of all of the School's contractual obligations.
  - d. The School is responsible for any replacement and/or additional signage, maintenance and installation costs for the equipment displaying the Advertising Sponsor ad copy during the term of this agreement. These costs shall be deducted from the School's share of the collected Advertising Sponsor dollars. The School is responsible for providing a workable lift for installation and maintenance if needed.
  - e. The School may exercise the option to convert their available share of the collected Advertising Sponsorship dollars into a vendor credit where purchases can be made from a Company approved vendor equipment list. The School must sign a Purchase Order using Advertising Sponsorship dollars to the Company for these purchases.
4. Ad Approval:
  - a. The School has the right to disapprove the Advertising Sponsor and the Advertising Sponsor's ad copy at any time.
  - b. The School has the right to review all Advertising Sponsor's ad copy if a written request is received by the Company within 30 (thirty) days of the execution of this agreement. This request must indicate the name and contact information of the School's representative reviewing the ad copy. If the School disapproves any Advertising Sponsor's ad copy, the School must do so in writing, to the Company, within 5 (five) business days of receiving the Advertising Sponsor's ad copy proof.
  - c. Should the School initially allow the Advertising Sponsor and/or the Advertising Sponsor's ad copy on the project and later choose to disapprove the Advertising Sponsor and/or have the Advertising Sponsor's advertisement removed, the School shall be responsible for all of the costs associated with the removal. These costs include, but are not limited to: immediate payment of the entire Advertising Sponsor's contracted dollar amount from the School to the Company plus any removal, installation, equipment costs, and legal fees associated with that request.
5. Ad Display:
  - a. The School agrees to display Advertising Sponsor's ad copy according to Equipment List A.
  - b. In the event that the School does not use a facility or venue according to it's current use the School will be responsible for immediate payment to the Company the amount of any requested pro-rated refunds to Advertising Sponsors.
6. Ownership:
  - a. The School shall own the equipment upon delivery to the School campus site.
7. Installation, Maintenance and Repair:
  - a. The School shall be responsible for maintenance, repair and operation of the equipment.
  - b. The School shall unload, store and accept equipment upon delivery. If the equipment is damaged, the School must report any damage on the shipping paperwork at the time of delivery and report the damage to the Company.

- c. The School shall be responsible for the initial installation of the equipment unless the Equipment Addendum states otherwise. The initial installation shall take place within 45 (forty-five) days of receiving the equipment. Otherwise, the Company reserves the right to arrange the installation at a fair market price and the School will be responsible for the payment of the invoice. The School shall provide all necessary initial electrical hook-up and ongoing power for the equipment when applicable. The Company does not provide electrical hook-up. The School is responsible for any clean up and removal of old equipment and structure related to the installation of the equipment as well as any landscaping changes resulting from the installation.
  - d. In the event that the equipment is in need of repair, the Company must be notified within 10 (ten) days of the malfunction. Should the School fail to notify the Company within 10 (ten) days of the malfunction, the School will be responsible for immediate payment to the Company the amount of any requested pro-rated refunds to Advertising Sponsors.
  - e. The School shall be responsible for the cost of installing replacement and/or additional Advertising Sponsor's ad copy for a fair market price. The Company will perform and/or arrange the installation of the Advertising Sponsors ad copy and this fee will be paid for through the School's share of the Advertising Sponsorship dollars unless written request from the School is received by the Company. The Company will reserve up to \$1,000 of the School's share of the Advertising Sponsorship dollars, when available, to cover expected installation and maintenance expenses.
  - f. In the event that the repair and/or installation cost is not fully covered by the School's available share of the Advertising Sponsorship dollars at the time from any project, the School will be billed accordingly.
  - g. If the Company permits the School to install the Advertising Sponsor's ad copy, the installation must be completed correctly within 15 (fifteen) days of receiving said Advertising Sponsor's ad copy. Otherwise, the Company reserves the right to arrange the installation at a fair market price and the School will be responsible for the payment of the invoice. Throughout the duration of this agreement, the School agrees to send digital photos of the installed Advertising Sponsor's ad copy to the Company within 5 (five) days of installation.
  - h. The School, when applicable, will provide Ethernet/internet/computer connection and capabilities, as is required for specific equipment.
  - i. The School shall benefit from all OEM equipment warranties.
8. Term:
- a. This contract shall be immediately effective.
  - b. Once the equipment is delivered and installed at the School, the School shall operate said equipment according to the terms of this contract for a period not shorter than 6 (six) years.
  - c. The School shall honor all sponsor advertising contracts in effect until their conclusion, including any incentive agreements.
  - d. After the expiration of this term, this Agreement automatically renews thereafter on a year-to-year basis unless written intent to terminate is given by either party at least 60 days prior to the anniversary of this Agreement.
  - e. Termination of this Agreement may occur in event of the following:
    - i. Company becomes insolvent or subject to proceedings under any law relating to bankruptcy, insolvency, or relief of debtors;
    - ii. The Company may cancel this Agreement in the event initial advertising revenue does not cover the equipment listed in the Equipment Addendum of this agreement and the School and the Company are not able to renegotiate the equipment involved. In the event both parties cannot renegotiate, the School may not approach or receive any monies from Advertising Sponsors secured by or contracted by the Company for that project for the term of this agreement.
  - f. In the event of termination by the Company:
    - i. The Company shall be responsible for any refunds due to Sponsors.
    - ii. The School shall honor all sponsor advertising contracts in effect until their conclusion, including any incentive agreements.
9. Promotion:
- a. The School agrees that images of this project may be used by the Company to promote the Company's products and services.
10. Insurance:
- a. All contractors or subcontractors installing equipment or ads shall carry comprehensive general and automotive liability insurance.
11. Indemnification:
- a. To the extent authorized by the Constitution and the laws of the State of Ohio, School shall indemnify and hold Company harmless against any and all claims, demands, damages, liabilities and costs (including but not limited to attorney's fees and court costs), whether or not involving a third party claim, which arise out of, relate to or result from:
    - i. any breach of this agreement by the third party; or
    - ii. any negligent act, error or omission in connection with the performance of this agreement by the third party or its officers, employees or agents; provided that this indemnity does not apply to the extent that Loss is caused by or contributed to by the Company.
12. Other Projects:
- a. The Company shall be the sole 3<sup>rd</sup> party company marketing agent for the School in regards to all areas of the school during the term of this agreement. Other intrusive Advertising Sponsor projects are not permitted. Existing Advertising Sponsor programs that have existing contracts must be disclosed in writing at the time of signing.
  - b. The Company shall be exclusively responsible for securing Advertising Sponsors for the school.
13. Governing Law:
- a. This agreement will be governed by and constructed in accordance with the laws of the State of Ohio without reference or regard to conflict of law provisions or other laws of any jurisdiction that would cause the application of the laws of any jurisdiction other than the State of Ohio. The School agrees that any litigation arising directly or indirectly out of, or in any way relating to this Agreement shall commence exclusively in the Warren County Courts in the State of Ohio, and that the School, by this Agreement consents to the jurisdiction of these courts.

14. Entirety of Agreement:

- a. This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.
- b. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if placed in writing and signed by each party or an authorized representative of each party.
- c. The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. If any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

15. Liquidated Damages:

- a. It is acknowledged that the School's delay of or failure to fulfill any contractual obligations of this Agreement will cause the Company to incur substantial economic damages and losses of types and amounts which are impossible to compute with certainty as a basis for recovery by the Company of actual damages. It is acknowledged that liquidated damages represent a fair, reasonable and appropriate estimate thereof. Accordingly, in lieu of actual damages, the School agrees that liquidated damages may be assessed against the School and recovered by the Company without the Company being required to present any evidence of the amount or character of actual damages sustained by reason thereof;
- b. Therefore the School shall be liable to the Company for payment of liquidated damages at a monthly charge for each month that the School delays or fails to fulfill any contractual obligations of this Agreement. The monthly charge is computed based on 50% of the total Advertising Sponsor dollars contracted divided by the Advertising Sponsor term in months.
- c. Such Liquidated Damages shall be deemed to be a genuine pre-estimate of the foreseeable damages incurred by Company due to delay and shall be Company's sole recourse for late performance by School under the Contract.
- d. For the purposes of calculating such Liquidated Damages, a grace period of ten (10) days shall be observed, and the contract shall be extended by any additional time or delays outside the sole control of the School.
- e. In addition to liquidated damages, the School shall be responsible for immediate payment of the entire Advertising Sponsor's contracted dollar amount from the School to the Company for the purpose of making the Advertising Sponsors whole.

16. Authorized Agent of the School:

- a. The authorized representative of the School has received School Board approval and all parties to this agreement have the authority to bind the School District and School Board to this agreement.

\_\_\_\_\_  
AUTHORIZED SCHOOL REPRESENTATIVE (date)

\_\_\_\_\_  
SIDE EFFECTS, INC. (date)

\_\_\_\_\_  
PRINT NAME/TITLE

\_\_\_\_\_  
PRINT NAME/TITLE

## APPENDIX A (TBD)

### EQUIPMENT ADDENDUM

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#### Equipment List A

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Equipment List A Total Cost:

#### Equipment List B

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Equipment List B Total Cost:

#### INCENTIVES (check all that apply)

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- ☐ Special recognition at Dedication Night (first year only)
- ☐ Public Address announcement for each Advertising Sponsor at every regular season Varsity athletic event.
- ☐ Ad in the fall \_\_\_\_\_, winter \_\_\_\_\_, spring \_\_\_\_\_ athletic program. Ad Size: Fall \_\_\_\_\_ Winter \_\_\_\_\_ Spring \_\_\_\_\_ Art Deadline: Fall \_\_\_\_\_ Winter \_\_\_\_\_ Spring \_\_\_\_\_
- ☐ Sponsor night: One night for each Advertising Sponsor to be honored and have the opportunity to hand out fliers or coupons at one home game.
- ☐ Family passes to all regular season home Varsity Athletic events. # of passes per Advertising Sponsor: \_\_\_\_\_
- ☐ Additional Incentives: \_\_\_\_\_

## APPENDIX B

### REVENUE SHARE ADDENDUM

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#### Revenue Split

Dollar Amounts are Per Sponsor/ Per Year

School's Share/ Sponsorship Sale Bracket

50%: \$0-\$100

55%: \$101-\$1,000

60%: \$1,001-\$10,000

70%: \$10,001-\$50,000

90%: \$50,001-\$100,000

98%: \$100,001+