

## FINANCIAL ADVISORY SERVICES AGREEMENT

This Agreement has been entered into this 5<sup>TH</sup> day of MARCH, 2021, by and between the Yonkers Joint Schools Construction Board ("YJSCB") and Capital Markets Advisors, LLC ("CMA"), a limited liability company created under the laws of the State of New York and having its principal place of business at 11 Grace Ave, Suite 308, Great Neck, New York 11021 with additional offices in Hopewell Junction, Elmira and 4211 North Buffalo Road, Suite 19, Orchard Park, NY 14127.

CMA proposes to provide the YJSCB with the following services during the term of this Agreement:

### **Section 1 State Building Aid Services**

- 1.01 Prepare a Building Aid Profile for Phase I to quantify new and existing New York State Education Department Building Aid ("Building Aid"), by State Education Department ("SED") Project Number, after estimated key dates and budgets are provided to CMA
- 1.02 Analyze the current and estimated debt flow for the City of Yonkers ("City"), the City School District of the City of Yonkers (the "District") and YJSCB
- 1.03 Analyze the Maximum Cost Allowances ("MCA") for each building once "Building Aid Units" have been identified
- 1.04 When requested by City, District or YJSCB Officials, attend construction meetings with District, YJSCB and/or City representatives
- 1.05 When requested by YJSJB, City or District Officials, attend Board of Education, City or YJSCB meetings
- 1.06 Prepare a local share impact analysis resulting from projected debt service and projected new Building Aid
- 1.07 Advise on the use of Smart Schools Bond allocation
- 1.08 Work with YJSCB, City and District officials and Savin Engineers (the "Program Manager") to quantify and manage the flow-of-costs within a given authorization from project number to project number
- 1.09 Advise on maximizing Building Aid based on MCA and eligible costs
- 1.10 Analyze cash flows provided by the Program Manager to plan for financings
- 1.11 Work with the YJSCB, City, District and Program Manager to develop a "game-plan" for the timing of certain filings to be sure that NYS Building Aid is being received to

minimize the impact on the YJSCB, City and District

- 1.12 Review SA-139s “Request for Building Project Data” (following contracts being signed)
- 1.13 Review SA-135s “Bond Anticipation Note Schedule” (following the issuance of BANs)
- 1.14 Review SA-132s “Amortization Schedule for Building Serial Bond Issues or Capital Notes” (following the issuance of Bonds)
- 1.15 Review Early Aid Start Request “EASR” forms (if Final Cost Report (“FCR”) cannot be filed, or unresolved legal disputes prevent project number close out)
- 1.16 Review FCRs
- 1.17 Periodically Monitor Building Aid Output Reports to identify any problems and recommend actions to be taken
- 1.18 Identify problems or issues reflected by the reports and meet with the YJSCB, City and District to discuss a corrective action
- 1.19 Provide annual updates to the City’s Outstanding Debt and Building Aid Data Profile
- 1.20 Provide information on the State Aid rules and regulations pertaining to the sale of a school building, if requested.
- 1.21 Assist in the development of the Financial Plan to be submitted and approved by NYS Comptroller’s Office
- 1.22 Assist the City, JSCB and District with various necessary tasks pursuant to the State Legislation

***Section 2***     **Debt Management Services**

- 2.01 Participate in the planning, development and execution of long term financial strategies. In addition CMA will assist the YJSCB to maintain a financial plan to meet future goals.
- 2.02 Assist the YJSCB in the planning and development of capital budgets.
- 2.03 Advise on matters regarding the development and implementation of certain fiscal policies.
- 2.04 Review legal, financial, economic and other information necessary for CMA to advise in planning, structuring and otherwise completing each debt issue to be undertaken by the YJSCB.

- 2.05. Prepare a plan of financing which will include CMA's analysis and recommendations to the YJSCB regarding funding requirements and alternatives, marketing, call provisions, credit ratings, term, federal tax implications and such other matters which the YJSCB and CMA agree should be included in the plan of financing.
- 2.06. As directed, CMA will prepare, disseminate and evaluate in the selection of other service providers necessary to conduct each issue including, but not limited to, bond insurer, rating agencies, bond counsel, underwriter, escrow agent, verification agent, trustee and printer.
- 2.07. Provide market updates as related to the YJSCB's debt.
- 2.08. Prepare amortization schedules and alternative financing scenarios including: level debt structure and 50% Rule amortization. For cash-flow financings, assist with preparation of actual and projected cash-flow statements.
- 2.09. Monitor the existing debt of the YJSCB and City to identify refunding opportunities.
- 2.10. Advise on and coordinate the credit rating process. This includes submitting required documents to one or more credit agencies and addressing any questions that the assigned analyst may have. CMA will schedule and attend a meeting with agency officials and prepare a presentation book. In addition, we will advise the YJSCB on the criteria applied by the major municipal securities rating agencies.
- 2.11. Prepare a plan of financing which will include CMA's analysis and recommendations to the YJSCB.
- 2.12. Provide current and historic market updates to determine best time to price/sell securities and for utilization in evaluating pricing of a transaction.
- 2.13. Assist the YJSCB in disseminating information to the public. Assist in preparation of informational brochures, attend meetings with YJSCB staff and the legislature, and public information meetings to discuss financing strategies with an emphasis on funding and the capital markets.
- 2.14. Prepare or assist in the preparation of financing documents, as required, including but not limited to: Official Statement, request for a credit rating, request for a municipal bond insurance, Depository Trust Company Letter of Representations, and pre-sale or post-sale analysis, when appropriate.
- 2.15. Participate in all working group meetings and conference calls (particularly with Bond Counsel) to help ensure compliance with the legal requirements of a bond or note issuance.
- 2.16. Prepare and maintain a financing schedule, cost of issuance budget, list of participants, and take such other actions requested by the YJSCB to efficiently manage each issue in

order to meet the YJSCB's objectives.

- 2.17 Act as a liaison between the YJSCB and municipal underwriters.
- 2.18 Coordinate closing of the issue; verify receipt of proceeds and release of securities and assist with payment of issuance costs.
- 2.19 Prepare a post-sale analysis and final pricing report which will include sale related items and final debt service schedules.
- 2.20 Competitively bid out the investment of proceeds, if requested.

### **Section 3 Compensation**

- 3.01 For Advisor's performance of services on behalf of YJSCB as described in sections 1.01 through 2.20 hereof, Advisor's fee will be as follows:
  - a) For bond anticipation notes issued through the City as a General Obligation issue: a base fee of \$6,500 plus \$0.30 per \$1,000 of notes issued
  - b) For serial bonds issued through the Yonkers Industrial Development Agency: a base fee \$14,500 plus 0.75 per \$1,000 of bonds issued
  - c) Continuing Secondary Market Disclosure, including all Material Event Notices, if requested: \$3,500.
- 3.02 For services not related to the issuance of notes and bonds, as included in Section One of the Scope of Services, CMA shall be paid at the rate of \$275 per hour up to an amount not to exceed a total of:
  - a) \$385,000 for hourly fees for all of Phase I; and
  - b) \$75,000 for the development of the Financial Plan as submitted to the NYS Office of the State Comptroller.
- 3.03 YJSCB will pay normal issuance costs such as the printing of preliminary and final Official Statements, Notices of Sale, postage, photocopying, overnight delivery charges, Bond Counsel, general counsel, rating agency, legal advertising and other associated issuance expenses.
- 3.04 Payment of Advisor's compensation for a financing is due within 30 days of receipt of Advisor's invoice. Notwithstanding the foregoing sentence, no payment shall be made except upon the submission of any voucher forms, if any, required and provided by the YJSCB or City.

***Section 4 Term of Agreement***

The term of this Agreement shall commence as of March 1, 2020 and shall continue thereafter for a period of five (5) years.

***Section 5 General Liability Insurance***

Advisor shall provide evidence of general liability insurance, including professional liability, in the amount of \$1 million, and maintain such coverage at all times during the term of this Agreement.

***Section 6 Equal Opportunity***

In furtherance of its duties under this Agreement, Advisor agrees to comply with YJSCB's written policies on Equal Opportunity, as amended from time to time.

***Section 7 Disclosure***

Advisor does not assume the responsibilities of YJSCB, nor the responsibilities of the other professionals and vendors representing YJSCB, in the provision of services and the preparation of financing documents for financings under this Agreement. Advisor accepts the relationship of trust and confidence established between it and the YJSCB. Advisor agrees to furnish its best skill and judgment in the performance of its services in the most expeditious and economical manner consistent with the interests of the YJSCB. Information obtained by the Advisor, either through its own efforts or provided by the YJSCB, included in the financing documents, or otherwise provided to the YJSCB, is by reason of experience and professional judgment, believed to be accurate; however, such information is not guaranteed by the Advisor. However, nothing in this paragraph shall relieve Advisor from liability due to negligence or want of due diligence in the performance of its services.

***Section 8 Binding Effect***

All agreements and covenants contained herein are severable and in the event any of them shall be held to be invalid by any competent court, this agreement shall be interpreted as if such invalid agreements or covenants were not contained herein, and the remaining provisions of this agreement shall remain in full force and effect. Each party hereto represents and warrants that this agreement has been duly authorized and executed by it and constitutes its valid and binding agreement and any governmental approvals necessary for the performance of this agreement have been obtained.

***Section 9 Modification***

This Agreement contains the entire agreement of the parties. It may be amended in whole or in part from time to time in writing by mutual consent of the parties.

## **Section 10 Required Regulatory Disclosure**

Municipal Securities Rulemaking Board (“MSRB”) Rule G-10 requires that municipal advisors, including CMA, provide to their clients the following information:

(i) CMA is registered as an independent municipal advisor with the MSRB and the US Securities and Exchange Commission (“SEC”); (ii) CMA is subject to the regulations and rules on municipal advisory activities established by the SEC and MSRB; (iii) the website for the MSRB is [www.msrb.org](http://www.msrb.org) and the website for the SEC is [www.sec.gov](http://www.sec.gov) and (iv) in addition to having educational materials about the municipal securities market, the MSRB website has a municipal advisory client brochure that describes the protections that may be provided by the MSRB rules and how to file a complaint with the appropriate regulatory authority.

MSRB Rule G-42 requires that municipal advisors, including CMA, inform their clients as to any conflicts of interest that may exist that could impact the client. To the best of our knowledge and belief, neither CMA nor any registered associated person has any material undisclosed conflict of interest that would impact CMA’s ability to service YJSCB.

## **Section 11. Termination**

- 11.01 If the YJSCB determines that termination of this Agreement is in the best interest of the YJSCB, then the YJSCB may terminate this Agreement, in whole or in part, upon five-days notice to the CMA. In such event, CMA will be compensated only for and the YJSCB shall be liable only for the payment of work duly performed prior to the effective date of termination at the rate set forth in this Agreement. Upon receipt of notice that the YJSCB is terminating this Agreement in its best interests, CMA must stop work immediately and incur no further costs under this Agreement without the express approval of the YJSCB.
- 11.02 If the YJSCB determines that CMA has materially breached any term of this Agreement and the breach remains uncured for 48-hours after the effective date of written notice of the breach to CMA, then, in addition to any other right or remedy the YJSCB may have, the YJSCB may terminate this Agreement immediately and the YJSCB shall have the right, power, and authority to complete or contract for the completion of the Work, and any additional expense or cost of completing the work shall be charged to and paid by the CMA. Without limiting the foregoing, repeated breaches of this Agreement by CMA will be deemed a material breach justifying termination for cause under this subsection.
- 11.03 The YJSCB reserves the right to seek all available remedies, whether provided by law, equity, statute, or otherwise, including, but not limited to, damages, reasonable attorney’s fees, disbursements and court costs in such amounts as shall be allowed by the court. All rights and remedies provided herein are cumulative and not exclusive of any other rights or remedies that maybe available. The foregoing rights are in addition to, and not in limitation of, any other provision hereof and will survive termination or other cancellation of this Agreement.

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement as of the day and year first set forth on the first page hereof.

**Capital Markets Advisors, LLC**

**Yonkers Joint Schools Construction Board**

By: 

Rick Ganci  
Executive Vice President and Principal

By: 

Name: Madlyn Andersen

Title: Secretary of JSCB

*The Yonkers Joint Schools Construction Board ("YJSCB") is authorized to enter into this agreement pursuant to Resolution 2020-01, duly adopted by the YJSCB on February 4, 2020.*