

**RESOLUTION 20-51**

**A RESOLUTION TO ENGAGE CUMBERLAND SECURITIES COMPANY, INC. FOR MUNICIPAL FINANCIAL ADVISORY SERVICES AND TO AUTHORIZE A MUNICIPAL ADVISORY AGREEMENT**

**WHEREAS**, the City of Spring Hill is in need of a municipal financial advisor to assist the City in securing the best solutions for financing the capital investment needs of the City; and

**WHEREAS**, developing solutions will require advisory services including, but not limited to, debt policy review, debt service and budget analysis, market monitoring for refinancing opportunities, preparation and review of material for bond rating interviews, and other services related to issuance of debt obligations; and

**WHEREAS**, the services provided by the advisor will be objective and exclusively benefit Spring Hill and will require a fiduciary relationship as promulgated by MSRB Rule G-23; and

**WHEREAS**, City staff advertised and received proposals from qualified firms on April 16, 2020; and

**WHEREAS**, a Selection Committee composed of the City Administrator, Finance Director, Assistant City Administrator and Finance Associate reviewed all responses, interviewed three (3) firms and unanimously recommends Cumberland Securities Company, Inc.

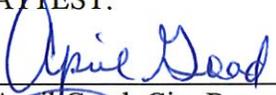
**NOW THEREFORE, BE IT RESOLVED** by the Board of Mayor and Aldermen of the City of Spring Hill, that proposal award for municipal financial advisory services is made to Cumberland Securities Company, Inc. and a Municipal Advisory Agreement is hereby approved for a three-year term with two optional one-year renewals.

**BE IT FURTHER RESOLVED** that the Mayor is hereby authorized to sign any and all documents relating to this award.

Passed and adopted this 18<sup>th</sup> day of May, 2020.

  
\_\_\_\_\_  
Rick Graham, Mayor

ATTEST:

  
\_\_\_\_\_  
April Goad, City Recorder

LEGAL FORM APPROVED:

  
\_\_\_\_\_  
Patrick Carter, City Attorney



**City of Spring Hill  
Budget & Finance Advisory Committee  
and  
Board of Mayor and Aldermen**

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Date: April 30, 2020  
Memo to: Budget & Finance Advisory Committee and BOMA  
From: Patti Amorello, Finance Associate  
Re: Proposal award for Municipal Financial Advisor Services

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**RESOLUTION NUMBER 20-51 – A RESOLUTION TO ENGAGE CUMBERLAND SECURITIES COMPANY, INC. FOR MUNICIPAL FINANCIAL ADVISORY SERVICES AND TO AUTHORIZE A MUNICIPAL ADVISORY AGREEMENT**

**BACKGROUND INFORMATION:** The City of Spring Hill is slated to issue substantial amounts of debt for road and infrastructure projects over the next few years. At the Work Session on March 2<sup>nd</sup>, the Board of Mayor and Aldermen had dialogue regarding engaging a Municipal Financial Advisor. The Advisor would review and make recommendations regarding the City's Debt Policy and provide other debt-related services including assisting and advising with long-range financial plans, debt structuring and policy issues, the sale of bonds, and providing educational and research services.

To appropriately procure the services of a Municipal Financial Advisor, a Request for Qualifications was authorized by Resolution 20-36 approved at the March 16<sup>th</sup> regular meeting and was distributed. Proposals were received on April 16, 2020 and evaluated by a Selection Committee composed of the City Administrator, Finance Director, Assistant City Administrator, and Finance Associate. Proposals were received from six (6) firms and were reviewed and graded based upon technical criteria. Interviews were scheduled and conducted with three (3) firms.

The Selection Committee was unanimous in recommending proposal award to Cumberland Securities Company, Inc.

**ATTACHMENTS:** Resolution 20-51, Contract for Municipal Advisory Services.

**RECOMMENDATION:** Approve Resolution 20-51 to engage Cumberland Securities Company, Inc. for municipal financial advisory services and to authorize the Mayor to execute a Municipal Advisory Agreement.

**MUNICIPAL ADVISORY AGREEMENT**  
**BETWEEN**  
**SPRING HILL, TENNESSEE**  
**AND**  
**CUMBERLAND SECURITIES COMPANY, INC.**

THIS AGREEMENT entered into this 18<sup>th</sup> day of May 2020 by and between SPRING HILL, TENNESSEE (hereinafter referred to as the “Client”), and CUMBERLAND SECURITIES COMPANY, INC., a Tennessee based Independent Registered Municipal Advisor (hereinafter referred to as “Municipal Advisor”).

**W I T N E S S E T H**

WHEREAS, the Client may in the future require financing for the purpose of providing funds for capital projects; and

WHEREAS, the Client must from time to time provide adequate new facilities or improvements to meet the demands placed on the services provided by the Client in order to promote the general welfare of the citizens of the Client and its area; and

WHEREAS, the Client may from time to time desire to refinance debt, or other obligations, issued for previous said projects; and

WHEREAS, the Client desires that the most complete and accurate economic and financial information possible be provided its officials and to potential bidders and ultimate buyers of the Client's bonds, notes, and/or other obligations; and

WHEREAS, due to the rapid changes in financing methods, the complexity of laws governing such financings and the specialization that is required to remain informed and up-to-date, the Client desires that a recognized independent registered municipal advisor be retained in the structuring, marketing and sale of the Client’s bonds, notes, and/or other obligations; and

WHEREAS, the Client has evaluated the capabilities of the Municipal Advisor to the complete satisfaction of the Client and has requested the Municipal Advisor to assist and advise the Client in matters relating to the Client's issuance of bonds, notes, and/or other obligations under terms and conditions decided by the Client to be suitable and in the best interest of the Client and its constituents.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, it is hereby mutually agreed by and between the Client and the Municipal Advisor that:

**Section 1.**     Definitions:

- a) “Authorized Representative(s)” means the Mayor and/or City Administrator, of the Client, as hereinafter defined.
- b) “Client” means the Client as previously defined.
- c) “Municipal Advisor” means Cumberland Securities Company, Inc.

**Section 2.**     Scope of Services:

- a) Suitability and Needs Analysis. In preparation for the development of any financing plan, or plans, the Municipal Advisor will survey the financial resources of the Client to determine its borrowing capacity and analyze the existing

debt structure of the Client as compared to the existing and projected sources of revenues which may be pledged to secure payment of the debt service on the proposed issues. Such studies will also include a complete analysis of the existing indebtedness of the Client to determine the most practical, economical way for the Client to fund needed public improvements and projects. In addition, the Municipal Advisor will consider any future financing requirements projected by Client officials, its consultants (if any) and other experts that may be employed from time to time by the Client.

- b) Development of plan of Finance/Refinance. The Municipal Advisor, working with the Authorized Representative(s) and other Client officials and employees, the Client's Attorney, the independent Bond Counsel to the Client, and other such independent consultants or consulting engineers as may be engaged by the Client from time to time, shall assist in the development of a plan or plans for the financing or refinancing of any improvements through the issuance of bonds or other obligations, including loan agreements.
- c) Recommendation. Based on the information developed by or other information available to the Municipal Advisor, the Municipal Advisor will submit its recommendations on the financing of the proposed public improvements and projects. The Municipal Advisor's recommendation will include among other things, a schedule of principal maturities, options of prior payment, and the necessary security provisions designed to make the issues attractive to potential investors. All recommendations will be based on the Municipal Advisor's experience as to how the debt obligations can best be sold under terms most advantageous to the Client, based on its facts and circumstances. In preparing any plan of financing, and in all other services rendered by the Municipal Advisor under this Agreement, it is hereby understood that the Municipal Advisor may rely upon any written data or reports furnished to the Municipal Advisor by the Client or its Authorized Representatives. The Authorized Representative(s) agree to make available to the Municipal Advisor any data, reports, or Client personnel for conferences and consultations as may be necessary for the formulation of any financing plans.
- d) State Reports. If the Client and the Municipal Advisor determine that it is advantageous to the Client to refund any presently outstanding bonds, loans and/or outstanding notes, the Municipal Advisor will submit a plan of refunding and a computation of projected costs savings, if applicable, to the Director for the Office of State & Local Finance for review as required by Section 9-21-1003, Tennessee Code Annotated.
- e) Resolutions. The Municipal Advisor shall ensure that all the necessary resolutions are prepared for adoption in preparation for the sale and issuance of the bonds, loans and/or notes and that all other necessary proceedings are prepared and executed to complete each sale.
- f) Financial and Economic Factors. The Municipal Advisor will advise on current market conditions, forthcoming bond, loans and note issues, federal tax law considerations, and other general information and economic data which might normally be expected to influence the interest rates or other bidding or sale conditions, so that the date for the sale of the bonds, loans and/or notes can be set at a time, which in the Municipal Advisor's opinion will be most favorable to the Client.
- g) Legal Services. The Municipal Advisor will work with Client's nationally recognized bond attorney(s), for their approving legal opinion(s) on its debt obligations, as needed.
- h) Offering Document. In connection with any bond sale, the Municipal Advisor shall prepare a "near final" Preliminary and Final Official Statement substantially in accordance with the standards recommended by the

Government Finance Officers Association (the “GFOA”) and will make a national distribution of such “near final” Preliminary Official Statements to potential bidders or purchasers for the bonds and to other interested parties and will furnish the successful bidder(s) or purchasers a reasonable amount of final Official Statements within seven (7) business days from the sale date as required by the Securities and Exchange Commission Rule 15c2-12.

- i) Credit Rating(s). The Municipal Advisor will prepare and assemble all necessary information concerning the Client for submission to and consideration by one or more of the major rating services (Moody's Investors Service, Inc., and/or Standard & Poor's Rating Services, and/or Fitch Ratings) in connection with a bond sale either independently or in connection with the use of credit enhancement if in the opinion of the Municipal Advisor, such rating(s), would prove to be economically beneficial to the Client. The Municipal Advisor will arrange for conferences or meetings (if necessary) with appropriate personnel analyzing the proposed bond issue(s) in anticipation of a rating(s) on such bonds.
- j) Credit Enhancement. The Municipal Advisor will advise the Client on the use of credit enhancement instruments available from municipal bond insurers or others and provide assistance in seeking such insurance or credit enhancement if in the opinion of the Municipal Advisor, such credit enhancement instrument would prove to be economically beneficial to the Client.
- k) Procurement of Services. The Municipal Advisor will assist the Client in engaging a major commercial bank (after receiving approval from and Authorized Representative) to serve as the Client's Registrar, Paying Agent and Escrow Trustee, if required. The Municipal Advisor will also assist the Client in engaging any other services, as required, for debt issuance.
- l) Advertisement. The Municipal Advisor will prepare forms and coordinate the submission of all advertisements concerning the sale and issuance of bonds and notes as required by law.
- m) Verification. The Municipal Advisor will furnish a representative at the sale to assist and advise the Client officials in receiving bids or pricing levels and will tabulate all bids or pricing as well as perform computer verification of the mathematical accuracy of said bids or pricing and the compliance of all bids with the published requirements of the sale, if applicable. In addition, the Municipal Advisor will assist and advise the Client in the awarding of the bonds to the successful bidders or purchasers.
- n) Closing Coordination. The Municipal Advisor will supervise all closing proceedings so as to ensure the quickest possible delivery of the debt obligations to the purchaser or purchasers, including having the bond forms printed and ready for signatures of the proper officials.
- o) Final Reports. After the sale, the Municipal Advisor will deliver to the Client, the Registrar/Paying Agent and/or appropriate officials, a schedule of debt service requirements on the debt obligations.
- p) Bond Yield Calculation. The Municipal Advisor will calculate the “Bond Yield” based on the arbitrage provisions of the Internal Revenue Code of 1986 and will advise the Client on the maximum allowable yield on such debt obligations. If requested, the Municipal Advisor will advise the Client on the investment of the proceeds of debt obligations so as to maximize the arbitrage potential under applicable existing laws.
- q) State Form Preparation. The Municipal Advisor will prepare State Form CT-0253, “Report on Debt Obligations” for execution and submission to the State Comptroller's Office by the Client and a representative of the Municipal Advisor pursuant to Section 9-21-151, Tennessee Code Annotated within forty-five (45) days after the issuance of

any bonds or notes with a maturity of greater than one (1) year.

- r) IRS Form 8038-G. The Municipal Advisor will prepare or cause to be prepared Form 8038-G “Information Return for Tax-Exempt Governmental Bond Issues” and file or cause to be filed the report with the United States Department of the Treasury on or before the 15th day of the second calendar month after the close of the calendar quarter in which any debt is issued.
- s) RFQ Services. Any services requested in the Client’s Request for Qualifications, dated March 22, 2020 (the “RFQ”) and not heretofore mentioned will also be provided by the Municipal Advisor as part of this engagement, unless prohibited by governing law or regulations.

### **Section 3.**     Fees.

- a) Closing Costs. The Client will be responsible for paying all of the normal bond issuance costs and fees. The normal bond issuance costs that the Client will pay will include the following: Bond Counsel fees, registration and paying agent's initial acceptance fees; bond printing costs; any rating agency's fees not associated with bond insurance; costs of preparation, printing and distribution of the Preliminary and Final Official Statements, and all legally required publication costs and if a refunding is involved the acceptance fee of the Escrow Agent and the fee of an accounting firm to verify the accuracy of the escrow fund to defease the bonds or notes being refunded. The Municipal Advisor will bill the Client and pay on the Client’s behalf the above referenced issuance cost unless the Client requests to handle such payments itself. It is expressly understood that the Client will be responsible for all compensation due (if any) to the Client’s Attorney, other independent consultants engaged by the Client, the annual fees of the Registration and Paying Agent, the annual fee payable to the Municipal Advisor for also serving as the Dissemination Agent and if the Client so desires and qualifies, any premiums due and other related rating fees for bond insurance or other credit enhancement instruments purchased directly by the Client to enhance the sale of the bonds.
- b) Municipal Advisor Fee. In addition to the aforementioned bond issuance costs outlined above, the Client agrees that in consideration for the services rendered by the Municipal Advisor at its expense, the Client shall pay or cause to be paid to the Municipal Advisor a fee at the time of and only upon the successful issuance and delivery of any debt obligation. The determination of any Municipal Advisor fee or other compensation for all debt obligations will be mutually agreeable between the Client and the Municipal Advisor pursuant to a Fee Letter. The fee for any Municipal advisory activity that does not involve any specific financing by the Client, will also be mutually determined by the Municipal Advisor and an Authorized Representative, pursuant to a Fee Letter.  
  
If Client represents to another firm or person that it will rely on the advice of Municipal Advisor as its Independent Registered Municipal Advisor (“IRMA”), Client agrees to compensate the Municipal Advisor for any resulting transaction for which another person or firm relied upon the IRMA exemption.

### **Section 4.**     Disclosures

- a) Regulatory Registration. The Municipal Advisor is registered as a Municipal Advisory firm with the U.S. Securities and Exchange Commission (the “SEC”) and the Municipal Securities Rulemaking Board (the “MSRB”). The Municipal Advisor will maintain all required registrations with the SEC and MSRB. A municipal advisory client brochure is posted on the website of the MSRB (www.msrb.org) that describes the protections that may be provided

by the Municipal Securities Rulemaking Board rules and how to file a complaint with an appropriate regulatory authority. The Advisor will maintain all required registrations with the SEC and the MSRB and the Advisor will disclose any legal or disciplinary events, including information about any criminal actions, regulatory actions, investigations, terminations, judgments, liens, civil judicial actions, customer complaints, arbitrations and civil litigation, and other detailed information. The Client may electronically access the Advisor's most recent Form MA and each most recent Form MA-I filed with the Commission at <https://tinyurl.com/SEC-MA-Search>. As of the date of this document, Cumberland Securities Company, Inc. has never had a legal or disciplinary event.

b) Potential Conflicts of Interest.

- i) Contingent Fee Form of Compensation. Under a contingent fee form of compensation, payment of the Municipal Advisor's fee is dependent upon the successful completion of a financing or other transaction. Although this form of compensation may be customary for the Client, it presents a conflict because the Municipal Advisor may have an incentive to recommend unnecessary financings or financings that are disadvantageous to the client. The officers of the Municipal Advisor are also officers, directors and shareholders of Cumberland Advisors, Inc. which may receive a fee in connection with services related to the investment of bond proceeds. All recommended financings are reviewed by the firm to confirm that that they are suitable for each client. Upon execution of this Municipal Advisory Agreement, the Municipal Advisor will have a legally binding fiduciary responsibility to put the financial interests of the Client before its own.
- ii) Dissemination Agent. The Municipal Advisor may also serve as the Client's Dissemination Agent for which it will receive a separate form of compensation for work completed in accordance with services rendered as Dissemination Agent.
- iii) Bloomberg License. The Client hereby recognizes that the Municipal Advisor also receives the use of a Bloomberg license courtesy of Raymond James and Associates. The use of this license is not contingent upon any specific existing or future business. All recommended financings and investments are reviewed by the firm to confirm that that they are suitable for each client.
- iv) TN-LOANS Program. The Client recognizes that the Municipal Advisor has developed a variable rate loan program known as the Tennessee Local Government Alternative Loan Program (the "TN-LOANS Program"). TN-LOANS LLC. ("TN-LOANS LLC") serves as the Program Administrator to various public building authorities in the state of Tennessee ("PBA"). In the event that the Client chooses to participate in the TN-LOANS Program and votes to enter into a Loan Agreement with a PBA, the Municipal Advisor will be deemed to be a Municipal Advisor to the Client pursuant to applicable rules of the MSRB in connection with any participation by the Client in the TN-LOANS Program.

The Client recognizes that the owner and President of TN-LOANS LLC is also an owner, officer and employee of the Municipal Advisor. As a part of its fiduciary obligation to the Client, the Municipal Advisor has disclosed to the Client that if the Client participates in the TN-LOANS Program, then TN-LOANS LLC will receive separate and additional compensation for its work and performance as the Program Administrator. The Client acknowledges and waives any perceived or potential conflicts of interest that may result from the Municipal Advisor or any related entities in performing multiple roles such as Municipal Advisor, Dissemination Agent and/or Program Administrator. The Municipal Advisor is not a fiduciary of any other party to the transaction

and will be neither party to, nor liable under, any contract, agreement, or understanding executed or otherwise existing to affect the debt obligation. We will not (i) provide any assurances that any investment made in connection with the debt obligation or otherwise during our engagement is the best possible investment available for your situation or that every possible alternative or provider has been considered and/or solicited, (ii) investigate the veracity of any certifications provided by any party, (iii) provide legal or accounting assurance that any matter or procedure complies with any applicable law, or (iv) be liable to any party if any of the Bonds or an investment fails to close or for default of same.

**Section 5.**     Term.

- a) THIS AGREEMENT shall remain in full force and effect from the date of acceptance by the Client for a term of award of three (3) years (the “Initial Expiration Date”). At any time after the date of this Agreement, but before or as soon as practicable after the Initial Expiration Date, the Client and Municipal Advisor, through mutual agreement may choose to exercise an option to extend the term of award twice, each time for up to one (1) additional year, for a maximum possible term of award of five (5) years total, provided: (a) that both parties consent to such an extension 60 days before such expiration; (b) that the decision to exercise such an extension is memorialized in writing and is executed by one or more authorized representatives of each party; (c) that the same terms and conditions that apply to the original term of award shall also apply to such an extension, except pricing which may be re-negotiated for each extension; and (d) that if the Municipal Advisor chooses not to consent to an extension to the term of award, then it shall notify the Client of that decision a minimum of six (6) months in advance of the scheduled expiration of the term of award. Note that the Client and the Municipal Advisor each specifically retain the right, with or without cause, not to extend the term of award for each such contract. This Agreement may be terminated at any time after the initial three (3) year term by either party with fifteen (15) days written notice. Upon termination of this Municipal Advisor Agreement by the Client, the Municipal Advisor shall be paid the fee in full that would be due for all work completed up to the date of cancellation and authorized by an Authorized Representative.

**Section 6.**     Jurisdiction and Venue.

- a) The exclusive venue and jurisdiction with regards to the Agreement shall be in the Circuit Court for Maury County, Tennessee.

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This Agreement shall take effect immediately.

This 18<sup>th</sup> day of May 2020.

CUMBERLAND SECURITIES COMPANY, INC.

By:   
Senior Vice President

SPRING HILL, TENNESSEE

By:   
Mayor