

FACT SHEET

<u>TITLE</u>	<u>DATE</u>	<u>ORIGINATING DEPARTMENT</u>
A RESOLUTION SUSPENDING THE EFFECT OF SECTION 26-211 OF THE CODE OF ORDINANCES AND AUTHORIZING THE CITY OF SHREVEPORT TO RETAIN THE SERVICES OF GRIGSBY & ASSOCIATES FOR THE LIMITED PURPOSE OF PROVIDING FINANCIAL ADVISORY SERVICES FOR THE SALE OF THE REMAINING GENERAL OBLIGATION BONDS APPROVED BY THE VOTERS OF THE CITY OF SHREVEPORT ON APRIL 2, 2011 AND TO OHTERWISE PROVIDE WITH RESPECT THERETO	MAY 13, 2014	CAO
		<u>SPONSOR</u>
		SAME

PURPOSE

To suspend the effect of Section 26-211 of the Code of Ordinances and authorize the City of Shreveport to retain the services of Grigsby & Associates for the limited purpose of providing financial advisory services for the sale of the remaining general obligation bonds approved by the voters of the City of Shreveport on April 2, 2011.

BACKGROUND INFORMATION

On July 9, 2013, the City Council adopted Resolution 120 of 2013 (“Resolution”) which, among other things, adopted the “Audit and Finance Committee Report-Recommendations to the Shreveport City Council Regarding The Neuner Report”. Among other things, the Resolution states the City Council’s findings that “...Grigsby & Associates overcharged the City \$53,450 (“overcharge”) for the 2011 G.O. Bond election, and the City should pursue the recovery of \$53,450 from Grigsby & Associates”. In accordance with the directives of the Resolution, a lawsuit has been filed in Caddo District Court seeking recovery of the overcharge. Grigsby & Associates disputes the findings made in the Neuner Report and are actively defending against the lawsuit.

Section 26-211(b) of the Code of Ordinances precludes contracting with and/or payment to the firm pending resolution of the overcharge. Section 26-211(c) of the Code of Ordinances

contains an exception to the general prohibition in Section 26-211(b) and states: “The director of finance, with the approval of the city attorney, is authorized to adopt rules and regulations for the implementation of this section. Such rules and regulations may include provisions for the waiver of the provisions of this section in cases where there is a genuine issue of material fact or law as to whether a debt is owed to the city. However, the provisions shall not be waived as to any portion of the debt regarding which there is no question that it is owed.”

The eventual resolution of the litigation will address and resolve the overcharge. This resolution would suspend the effect of Section 26-211 (b) in the interim and permit the City of Shreveport to retain the services of Grigsby & Associates for the limited purpose of providing financial advisory services for the sale of the remaining general obligation bonds approved by the voters of the City of Shreveport in 2011. A similar resolution was adopted in 2013 (Resolution No. 57 of 2013) in order to allow Socialization Services, Inc., to work out a payment plan with the City to pay delinquent taxes owed to the City for 2009 – 2012 thereby allowing the organization to continue to contract with the City to administer the Payment Assistance Program.

TIMETABLE

Introduction - May 13, 2014
Final Passage - May 27, 2014

SPECIAL PROCEDURAL REQUIREMENTS

The City Council is requested to hold a public hearing on this matter prior to taking action on this Resolution.

FINANCES

None

ALTERNATIVES

1. Adopt the resolution as presented.
2. Amend the resolution.
3. Deny the resolution.

CONCLUSION

Alternative Number 1 is recommended.

FACT SHEET PREPARED BY: Terri Anderson-Scott
City Attorney

RESOLUTION NO. _____ OF 2014

A RESOLUTION SUSPENDING THE EFFECT OF SECTION 26-211 OF THE CODE OF ORDINANCES AND AUTHORIZING THE CITY OF SHREVEPORT TO RETAIN THE SERVICES OF GRIGSBY & ASSOCIATES FOR THE LIMITED PURPOSE OF PROVIDING FINANCIAL ADVISORY SERVICES FOR THE SALE OF THE REMAINING GENERAL OBLIGATION BONDS APPROVED BY THE VOTERS OF THE CITY OF SHREVEPORT ON APRIL 2, 2011 AND TO OTHERWISE PROVIDE WITH RESPECT THERETO

BY:

WHEREAS, on July 9, 2013, the City Council adopted Resolution 120 of 2013 (“Resolution”) which, among other things, adopted the “Audit and Finance Committee Report-Recommendations to the Shreveport City Council Regarding The Neuner Report”; and

WHEREAS, among other things, the Resolution states the City Council’s findings that “...Grigsby & Associates overcharged the City \$53,450 (“overcharge”) for the 2011 G.O. Bond election, and the City should pursue the recovery of \$53,450 from Grigsby & Associates”; and

WHEREAS, the Resolution directs the City Attorney to “...take the necessary steps to collect said amount, or provide a written legal opinion to the City Council which states why collection of said amount should not be pursued”; and

WHEREAS, a lawsuit has been filed in Caddo District Court seeking recovery of the overcharge; and

WHEREAS, Grigsby & Associates disputes the findings of The Neuner Report specifically, but not necessarily limited to, the determination that the City was overcharged \$53,450 for the 2011 General Obligation Bond election and is actively defending against the lawsuit; and

WHEREAS, Section 26-211(b)(1) of the Code of Ordinances precludes contracting with and/or payment to Grigsby & Associates pending resolution of the overcharge; and

WHEREAS, 26-211(c) of the Code of Ordinances contains an exception to the general prohibition in Section 26-211(b) and states: “The director of finance, with the approval of the city attorney, is authorized to adopt rules and regulations for the implementation of this section. Such rules and regulations may include provisions for the waiver of the provisions of this section in cases where there is a genuine issue of material fact or law as to whether a debt is owed to the city. However, the provisions shall not be waived as to any portion of the debt regarding which there is no question that it is owed.”

WHEREAS, the expertise of the firm in providing financial advisory services to the City of Shreveport has resulted in demonstrated substantial savings to the City from fees, costs and interest from the various bond transactions over the years; and

WHEREAS, this level of expertise combined with the firm's knowledge of the City's history on its bond transactions will result in immediate and tangible financial benefits to the citizens and to the City of Shreveport for the second bond sale as well as in connection with revenue that must be generated to perform the work to the City's Water & Sewerage System required under the terms of the recently executed Consent Decree with the United States Department of Justice and the State of Louisiana; and

WHEREAS, suspending the effect of Section 26-211 for this purpose does not set a precedence as a similar resolution was adopted in 2013 (Resolution No. 57 of 2013) in order to allow Socialization Services, Inc., to work out a payment plan with the City to pay delinquent taxes owed to the City for 2009 – 2012 thereby allowing the organization to continue to contract with the City to administer the Payment Assistance Program.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Shreveport in due, regular and legal session convened, that Section 26-211(b) of the Code of Ordinances is hereby suspended and the City of Shreveport is authorized to retain the services of Grigsby & Associates during the pendency of the action for recovery of the overcharge for the limited purpose of providing financial advisory services for the sale of the remaining general obligation bonds approved by the voters of the City of Shreveport on April 2, 2011 and to make payment to Grigsby & Associates for same, subject to the following conditions:

1. Grigsby & Associates shall comply with all terms and conditions of the attached Amendment Number 1 to the 2007 Agreement Between the City of Shreveport and Grigsby & Associates, Inc., which Amendment is intended to address the findings and recommendations of the City of Shreveport Internal Auditor in Internal Audit Report 600011-05, Special Report on Financial Advisor Payments (December 8, 2011).

2. Prior to undertaking any financial advisory service authorized by this Resolution, Grigsby & Associates shall provide evidence to the City of having established an Escrow Account ("Account") in the amount of \$53,450 which shall name the City of Shreveport as a depositor, account holder or such other designation that identifies the City of Shreveport as a party authorized to approve transactions on the Account. The Escrow Agreement or other document evidencing the creation of the Account shall contain a provision prohibiting the withdrawal of any funds deposited therein by any officer, agent, employee or other party acting for or on behalf of Grigsby & Associates during the pendency of the City's action for recovery of the overcharge without prior written consent of the City of Shreveport expressed in a resolution adopted by the Shreveport City Council authorizing same. Upon conclusion of the City's action for recovery of the overcharge, Grigsby & Associates shall make a withdrawal from the Account in an amount sufficient to pay the amount determined to be owned to the City of Shreveport from the 2011 General Obligation Bond election as the result of binding arbitration between City and Grigsby & Associates for such purpose. Such amount shall be due and payable by Grigsby & Associates, Inc. to the City of Shreveport within fifteen (15) days of

receipt of the written decision of the Arbitrator. All funds remaining in the Account following payment to the City shall be the property of Grigsby & Associates and City agrees to execute any and all documents reasonably requested by Grigsby & Associates to authorize release of the remaining funds to Grigsby & Associates following the conclusion of City's action for recovery of the overcharge.

3. In all other respects, the provisions of Section 26-211 and all other provisions of the City of Shreveport Code of Ordinances applicable to the Financial Services Agreement with Grigsby & Associates, Inc., shall remain in full force and effect.

BE IT FURTHER RESOLVED that if any provision of this resolution of the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this resolution which can be given effect without the invalid provisions, items or applications and to this end the provisions of this resolution are hereby declared severable.

BE IT FURTHER RESOLVED that all resolutions or parts thereof in conflict herewith are hereby repealed.

APPROVED AS TO LEGAL FORM:

CITY ATTORNEY'S OFFICE