

FACT SHEET

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<u>TITLE</u>	<u>DATE</u>	<u>ORIGINATING DEPARTMENT</u>
A RESOLUTION EXPRESSING NO OPPOSITION TO THE WAIVER OF SECTION 26-57 OF THE CODE OF ORDINANCES; REAFFIRMING THE FINDINGS AND THE DIRECTIVES OF RESOLUTION NUMBER 120 OF 2013 REGARDING THE COLLECTION OF OVERCHARGES FROM THE 2011 GENERAL OBLIGATION BOND ELECTION; AND TO OTHERWISE PROVIDE WITH RESPECT THERETO	NOVEMBER 26, 2013	CAO
		<u>SPONSOR</u>
		SAME

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PURPOSE

To express no opposition to the waiver of Section 26-57 of the Code of Ordinances and reaffirming the findings and the directives of Resolution Number 120 of 2013 regarding the collection of overcharges from the 2011 General Obligation Bond Election.

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”. 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. Grigsby & Associates, Inc., (“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 G.O. Bond election. The City Attorney has begun collection of the overcharge as directed in the Resolution. To express no opposition to the waiver of Section 26-57 of the Code of Ordinances and reaffirming the findings and the directives of Resolution Number 120 of 2013 regarding the collection of overcharges from the 2011 General Obligation Bond Election.

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TIMETABLE

Introduction and Final Passage - November 26 2013

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SPECIAL PROCEDURAL REQUIREMENTS

None

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FINANCES

None

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ALTERNATIVES

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

Alternative Number 1 is recommended.

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FACT SHEET PREPARED BY: Terri Anderson-Scott  
City Attorney

RESOLUTION NO. \_\_\_\_\_ OF 2013

A RESOLUTION EXPRESSING NO OPPOSITION TO THE WAIVER OF SECTION 26-57 OF THE CODE OF ORDINANCES; REAFFIRMING THE FINDINGS AND THE DIRECTIVES OF RESOLUTION NUMBER 120 OF 2013 REGARDING THE COLLECTION OF OVERCHARGES FROM THE 2011 GENERAL OBLIGATION BOND ELECTION; 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, Grigsby & Associates, Inc., (“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

WHEREAS, the City Attorney has begun collection of the overcharge as directed in the Resolution; and

WHEREAS, based upon the otherwise satisfactory performance in guiding the City through turbulent financial waters, including swap unwinds and re-financings that saved the City substantial amounts in fees, costs and interest, the City desires to engage Grigsby & Associates to provide financial advisory services during the pendency of the action for collection of the overcharge; and

WHEREAS, the City Council recognizes that 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, the City Council further recognizes that Sec. 26-211(c) authorizes the Finance Director, with the approval of the City Attorney, to adopt rules and regulations for the implementation of this Section 26-57 including authority for the waiver of the provisions of the Section in cases where there is a genuine issue of material fact or law as to whether the debt is owed to the city. The City Council further recognizes that this Section provides that the provisions of the section shall not be waived as to any portion of the debt regarding which there

is no question that it is owed.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Shreveport in due, regular and legal session convened, that the City Council does not oppose the Finance Director's waiver of the provisions of Section 26-211(b)(1) regarding the City's contracting with and payment to Grigsby & Associates during the pendency of the action for recovery of the overcharge subject the following conditions:

1. Grigsby & Associates shall comply with all terms and conditions of the attached Amendment Number 1 to the Agreement Between the City of Shreveport and Grigsby & Associates, Inc., which addresses 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) as well comply with as all terms and conditions of the attached December 7, 2007 Agreement between City of Shreveport and Grigsby & Associates, Inc., (Financial Advisory Services), as amended.

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 on behalf of Grigsby & Associates during the pendency of 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 the City Council reaffirms the findings and the directives expressed in Resolution 120 of 2013 including but not limited to the directive that the City Attorney continue to pursue recovery of \$53,450 from Grigsby & Associates for overcharges from the 2011 General Obligation Bond election in any manner not otherwise prohibited by law.

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:

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CITY ATTORNEY'S OFFICE