

CITY OF COVINGTON
STATE OF LOUISIANA

RESOLUTION NUMBER 2024-05

A RESOLUTION OF THE COVINGTON CITY COUNCIL
AUTHORIZING THE MAYOR TO EXECUTE A COOPERATIVE
ENDEAVOR AGREEMENT WITH THE ST. TAMMANY PARISH
FOR THE CLEANING OF A PORTION OF RATTLESNAKE
BRANCH

WHEREAS, a drainage feature commonly known as the "Rattlesnake Branch" traverses through the corporate limits of City; and

WHEREAS, City has requested assistance from Parish with clearing of debris and obstructions in Rattlesnake Branch (the "Project"); and

WHEREAS, Parish has agreed to assist, all as more fully provided by this Agreement.

NOW, THEREFORE, in consideration of the mutual benefits and covenants contained in this Agreement, the Parties agree and bind their respective offices as follows:

1. **PUBLIC PURPOSE.** The parties to this Agreement acknowledge and agree that the public purpose for this Agreement is ensuring that the Rattlesnake Branch retains the ability to disperse surface water, which in turn improves the health, safety, and welfare of citizens of St. Tammany Parish. The parties have determined that (a) the expenditure of public funds pursuant to this Agreement is for a public purpose that comports with a governmental purpose that Parish and City may pursue; (b) the expenditure, taken as a whole, is not gratuitous; and (c) Parish and City have a reasonable expectation of receiving at least equivalent value in exchange for the expenditure.

2. **OBLIGATIONS OF PARISH**

2.1 Parish may perform cleaning, and/or removal of debris and/or obstructions for the Project, in a manner deemed necessary by Parish in Parish's sole discretion for the purpose of ensuring proper drainage.

2.2 Parish shall not be liable for (i) the existing condition of the Project and/or (ii) any alleged damage to the Project or adjacent properties by the work performed pursuant to this Agreement.

3. **OBLIGATIONS OF CITY**

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2 **3.1** City shall acquire, on its and Parish's behalf, all access rights necessary
3 to accomplish the Project. City shall provide all requisite noticing needed
4 for the Project.

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6 **3.2** City will allow Parish to enter the Project area for the purpose of cleaning
7 and/or removal of debris and/or obstructions.

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9 **3.3** Following Parish's completion of the Project, City may undertake future
10 maintenance of Rattlesnake Branch.

11
12 **3.4** City shall not be liable for (i) the existing condition of the Project and/or
13 (ii) any alleged damage to the Project or adjacent properties caused by
14 the work performed pursuant to this Agreement.

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16 **4. OWNERSHIP**

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18 **4.1** By entering into this Agreement and by performing its obligations herein,
19 Parish and City are not asserting, claiming and/or acknowledging
20 ownership or maintenance of the Rattlesnake Branch, or any of the
21 associated laterals. Rather, Parish and City are recipients of a St.
22 Tammany Parish-wide road and drainage tax, whose authorizations for
23 expenditure include maintenance of drainage within St. Tammany
24 Parish. Parish and City have merely elected to expend such funds for the
25 Project.

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27 **5. TERMINATION AND BINDING NATURE**

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29 **5.1** The term of this Agreement shall begin on the date of full execution and
30 end on December 31, 2024 (the "**Term**"). No Term renewal or extension
31 shall be provided without the express consent of both parties.

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33 **5.2** Any alteration, variation, modification, or waiver of provisions of this
34 Agreement shall be valid only when it has been reduced to writing and
35 approved of and executed by all parties prior to the alteration, variation,
36 modification, or waiver of any provision of this Agreement.

37
38 **5.3** Time is of the essence and the performance of the terms and conditions
39 hereof shall be held in strict accordance with the times and dates specified
40 herein.

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42 **5.4** Should any Party seek to terminate this Agreement for any reason prior
43 to the expiration of the Term, the Party seeking to terminate shall provide
44 written notice of its intent to terminate sixty (60) days prior to the date of
45 termination.

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47 **5.5** The continuation of this Agreement is contingent upon the appropriation
48 of funds by Parish and/or City to fulfill the requirements of the
49 Agreement. If the Parish and/or City fail to appropriate sufficient monies
50 to provide for the continuation of this Agreement, or if such appropriation
51 is reduced by the veto of the Parish President and/or City's Mayor by any

means provided in the appropriations ordinance to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of the Agreement, the Agreement shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

6. CONTRACTUAL VALIDITY AND MISCELLANEOUS PROVISIONS

6.1In the event that any one or more provisions of this Agreement is for any reason held to be illegal or invalid, the parties shall attempt in good faith to amend the defective provision in order to carry out the original intent of this Agreement.

6.2If any term or clause herein is deemed unenforceable or invalid for any reason whatsoever, that portion shall be severable and the remainder of this Agreement shall remain in full force and effect.

6.3Any suit filed by a party to this Agreement to resolve a dispute or controversy regarding the matters which are the subject of this Agreement shall be filed in the 22nd Judicial District Court for the Parish of St. Tammany which shall have exclusive venue and jurisdiction for any such action. Further, any dispute arising from this Agreement shall be governed by the laws of the State of Louisiana.

6.4Any failure to take any action pursuant to this Agreement or to exercise any right granted herein does not serve as a waiver to any other obligation contained herein.

6.5The parties acknowledge and agree that the obligations and covenants made herein give rise to contractual rights of each party and the right to demand specific performance and any claim to damages suffered hereunder.

6.6No party herein shall assign any interest in this Agreement (whether by assignment or novation). This Agreement may be amended only by mutual written consent of the parties.

6.7Each representative herein warrants that they have the requisite authority and permission to enter, sign and bind their office.

6.8Each party certifies that it will adhere to and follow any and all ordinances, laws and licensing requirements applicable to each party's obligations as stated herein.

6.9Each party has assisted in the preparation of this Agreement and has had the opportunity to make changes to the language used in this Agreement. As such, in interpreting the meaning of any language contained in this Agreement, the rule of construction that ambiguous language shall be construed against the party drafting the document shall not apply.

1 **6.10** While in the performance of services or carrying out obligations herein,
2 the Parish and City shall be acting in the capacity of an independent
3 contractor and not as an employee of the other party. The Parish or City
4 shall not be obliged to any person, firm or corporation for any obligations
5 of the other party arising from the performance of its services under this
6 Agreement. Parish or City shall not be authorized to represent the other
7 party with respect to services being performed, dealings with other
8 agencies, and administration of specifically related contracts, unless done
9 so in writing by said party.

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11 **6.11** This Agreement may be executed in counterparts, each of which shall
12 be deemed an original and all of which together shall constitute one and
13 the same instrument.
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15 **7. ENTIRE AGREEMENT**
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17 This Agreement constitutes the entire understanding and reflects the
18 entirety of the undertakings between the Parties with respect to the subject
19 matter hereof, superseding all negotiations, prior discussions and preliminary
20 agreements. There is no representation of warranty of any kind made in
21 connection with the transactions contemplated hereby that is not expressly
22 contained in this Agreement.
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24 **8. NO PERSONAL LIABILITY OF INDIVIDUAL REPRESENTATIVE**
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26 No covenant or agreement contained in this Agreement shall be deemed
27 to be the covenant or agreement of any official, trustee, officer, agent or
28 employee of any corporate party of his individual capacity, and neither of the
29 officers of any party nor any official executing this Agreement shall be
30 personally liable with respect to this Agreement or be subject to any personal
31 liability or accountability under this Agreement by reason of the execution
32 and delivery of this Agreement.
33

34 **9. NOTICES**
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36 Any notice required or permitted to be given under or in connection
37 with this Agreement shall be in writing and shall be either hand-delivered or
38 mailed, postage pre-paid by First Class Mail, registered or certified, return
39 receipt requested, or delivered by private, commercial carrier, express mail,
40 such as Federal Express, or sent by, telecopier or other similar form of
41 electronic transmission confirmed by written confirmation mailed (postage
42 pre-paid by First Class Mail, registered or certified, return receipt requested
43 or private, commercial carrier, express mail such as Federal Express) at
44 substantially the same time as such rapid transmission. All communications
45 shall be transmitted to the address or number set forth below or such other
46 addresses or numbers to be named hereafter designated by a party in written
47 notice to the other party compliant with this section.
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1 If to the City:

2 Mayor Mark R. Johnson
3 The City of Covington
4 P.O. Box 778
5 Covington, LA 70433
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7

If to Parish:

President Michael B. Cooper
St. Tammany Parish Government
P.O. Box 628
Covington, LA 70433

8 **MOVED FOR ADOPTION** by Roberts, seconded by Botsford was then
9 submitted to a vote, the vote thereon being as follows:

10 YAYS: 4 ABSENT: 1

11 NAYS: 0 ABSTAIN: 0

12
13 And the resolution was declared adopted on this, the 9TH day of January,
14 2024.

15
16
17 /s/ Mark Verret
18 MARK VERRET
19 COUNCIL PRESIDENT
20
21

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23
24 /s/ JoAnn D. Rucker
25 JOANN D. RUCKER
26 COUNCIL CLERK

27 C E R T I F I C A T E

28 I, JoAnn D. Rucker, Council Clerk of the City of Covington, certify that the
29 above and foregoing constitutes a true and correct copy of a Resolution passed and
30 adopted by the City of Covington on the 9th day of January, 2024 at which meeting
31 a quorum was present and voting.

32 Covington, Louisiana, this 9th day of January, 2024.

33
34 /s/ JoAnn D. Rucker
35 JOANN D. RUCKER
36 COUNCIL CLERK
37