

**AN ORDINANCE APPROVING A CONTRACT WITH
PREMIER DEMOLITION, INC. FOR DEMOLITION OF
BUILDING AND SITE IMPROVEMENTS.**

Whereas, the City of Warson Woods (“City”) sought bids from contractors for demolition of building and site improvements at the former St. Matthew’s Church located at 1551 Bennett Avenue, Warson Woods, Missouri; and

Whereas, the City’s Procurement Code, Chapter 130, provides procedures governing the procurement of materials, supplies, equipment and services for the City; and

Whereas, in compliance with the Procurement Code the City solicited and obtained formal competitive bids from two (2) bidders from the invitation for bids for the Demolition of Building and Site Improvements, St. Matthews Church Contract; and

Whereas, Premier Demolition, Inc., has been determined to have submitted the lowest qualified bid and, thus, the lowest and best bid for contracting; and

Whereas, the Board of Aldermen (the “Board”) now desires to accept the bid of and approve an agreement with Premier Demolition, Inc. for the Demolition of Building and Site Improvements, St. Matthews Church Contract.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE
CITY OF WARSON WOODS, MISSOURI AS FOLLOWS:**

SECTION 1. The Board of Aldermen approves, and the Mayor is authorized to execute on behalf of the City of Warson Woods, a contract with Premier Demolition, Inc., for certain work generally described as the demolition of a building and related site improvements in relation to the St. Matthew’s Church. The contract shall be in substantially the form of City-Contractor Agreement marked “Exhibit 1” attached hereto and incorporated herein and made a part of this ordinance as if set forth in fully herein.

SECTION 2. The requirements of Section 292.675 RSMo., and the OSHA requirements and obligations in the Contract, are hereby incorporated herein by reference and made a part of this Ordinance for all purposes.

SECTION 3. The requirements of Section 290.210 RSMo., and the prevailing wage requirements and obligations in the Contract, including without limitation the specific prevailing wages (including the rate for holiday and overtime work) and the Missouri Department of Labor and Industrial Relations’ determination of the prevailing wages, are hereby incorporated herein by reference and made a part of this Ordinance for all purposes.

SECTION 4. This ordinance shall be in full force and effect on and after its passage and approval by the Board and the Mayor.

THIS BILL PASSED AFTER HAVING BEEN READ IN FULL OR BY TITLE TWO TIMES PRIOR TO PASSAGE BY THE BOARD OF ALDERMEN OF THE CITY OF WARSON WOODS, MISSOURI THIS 30th DAY OF JUNE 2017.

Laurance M. Howe, Mayor

ATTEST:

Kathy Mahany, City Clerk

APPROVED AS TO FORM:

Paul V. Rost, City Attorney

Exhibit 1

CITY-CONTRACTOR AGREEMENT

THIS AGREEMENT is made and entered into this 30th day of June, 2017, by and between **Premier Demolition, Inc.** (hereinafter called "Contractor") and the **City of Warson Woods**, a Missouri municipal corporation (hereinafter called "City").

WITNESSETH, that the Contractor and the City for the consideration hereinafter named agree as follows:

This City-Contractor Agreement (the "Agreement") shall consist of:

- A. The Bid Proposal, including but not limited to, General Conditions, Invitation and Instructions to Bidders, Special Provisions, Technical Specifications, and any exhibits (collectively, the "Contract Documents"),
- B. The Proposal dated June 27, 2017 submitted by Contractor (the "Proposal"), and
- C. This City-Contractor Agreement and exhibits attached thereto, and
- D. Performance Payment Bond and any other bonds required.
- E. Required Affidavits

1. Labor and Materials: Contractor shall furnish all labor, materials, tools, equipment and services, and perform and complete all work required for the Demolition of Building and Site Improvements, St. Matthews Church (the "Project") in accordance with the Agreement which work shall include every item specified in the Contract Documents necessary to complete the Project as designed.

2. Time of Completion: Contractor shall commence work under this Agreement promptly following receipt of written notice from the City to proceed and shall fully complete all work as set forth in the Contract Documents and Proposal. It is understood that time is of the essence and that the rate of progress and prompt completion are essential conditions, and that in the event said work is not fully completed within the period provided herein, the Contractor shall pay to the City the sums provided in the Contract Documents. The contractor has **thirty (30) calendar days** to complete the work for this project.

3. Payment: The City shall pay the Contractor the sum of Ninety-Seven Thousand Dollars and no Cents (\$97,000.00), in accordance with the Agreement for all work included in and completed according to this Agreement, as determined by the City. The City reserves the right to withhold payment for any work not in conformity with this Agreement. Before final payment can be made, Contractor and any subcontractors must file an Affidavit of Compliance as may be required by the prevailing wage laws with the Missouri Division of Labor Standards. Contractor, and any subcontractors, must furnish proof of such filing to the City.

4. Compliance with Federal, State and Local Law: The Contractor shall comply with all federal, state and municipal law requirements for performance under this Agreement including, but not

limited to, prevailing wage requirements for performance under this Agreement that may be governed by such requirements; any requirements for the employment of laborers from Missouri or nonrestrictive states, if applicable; and the requirement for payment and performance bonds if the contract is for a public works project the cost of which is estimated to exceed \$50,000.00. The Contractor shall not pay less than the prevailing hourly wage rate of wages as enumerated in the prevailing wage determination included in the project specifications included herein, for all workers performing work under this agreement. The Contractor shall forfeit as a penalty to the City the sum of ten dollars (\$10.00) for each worker employed, for each calendar day, or portion thereof, such worker is paid less than such stipulated rates for any work done hereunder, by the Contractor or any subcontractor. The Contractor shall abide by all health and environmental requirements imposed by law in performance of its duties. It shall be the obligation of the Contractor to require this provision to be included in all subcontracts. Specifically, Contractor shall comply with the following state law requirements:

- *Work Authorization Program.* If the Contract is for services expected to cost more than \$5,000.00, the Contractor shall comply with of Section 285.530 RSMo., pertaining to enrollment and participation in a federal work authorization program (as defined therein) and shall provide verification through an affidavit that the Contractor (1) does not knowingly employ any person who is an unauthorized alien in connection with the Contract and (2) is enrolled in a federal work authorization program and provide documentary proof thereof. The affidavit shall contain the notarized signature of the registered agent, legal representative or corporate officer of the business entity including but not limited to the human resources director or their equivalent.
- *Proof of Lawful Presence.* Section 208.009 RSMo., requires that all applicants *at the time of application* for any contract provided by a local government provide “affirmative proof that the applicant is a citizen or a permanent resident of the United States or is lawfully present in the United States.” Contractor’s affirmative proof must be established through (i) a Missouri driver’s license, (ii) any “documentary evidence recognized by the department of revenue when processing an application for a driver’s license,” or (iii) “any document issued by the federal government that confirms an alien’s lawful presence in the United States.” §208.009.3
- *OSHA Training.* Pursuant to Section 292.675 RSMo., Contractor agrees that it shall require all on-site employees to complete the ten-hour training program required under Subsection 292.675.2 RSMo. This program shall be provided by Contractor and shall be a ten-hour Occupational Safety and Health Administration (OSHA) construction safety program for Contractor’s on-site employees which includes a course in construction safety and health approved by OSHA or a similar program approved by the Missouri Department of Labor and Industrial Relations (“Department”) which is at least as stringent as an approved OSHA program. All employees are required to complete the program within sixty days of beginning work on the Project. Contractor further agrees that it shall require all subcontractors under Contractor to provide the ten-hour training program required under Subsection 292.675.2 RSMo. to such subcontractors’ on-site employees. Contractor shall be subject to the penalties set forth in Subsection 292.675.4 RSMo. and such penalties shall be forfeited to the City pursuant to such Subsection. The Department shall investigate any claim of violation of Section 292.675 RSMo. Upon City’s receipt of notification from the Department of violations of 292.675 by Contractor and a determination by the Department that penalties shall be assessed for such violations, the City shall withhold and retain from the contract all sums and amounts due and owing to

the City as a result of any violation of Section 292.675 RSMo. All words in this Paragraph shall have the definitions as provided in Section 292.675.1 RSMo.

5. Taxes: The City is exempt from federal excise tax and Missouri sales tax and the Contractor shall not charge the same to the City.

6. Other Representations, Warranties and Other Covenants by the Contractor: The Contractor represents and warrants that it has been engaged in such work as required by the Project and has provided services such as the ones to be performed under this Agreement to other municipalities and/or private enterprises and that it owns sufficient equipment and engages sufficient personnel to perform this Agreement. The contractor further represents and warrants that it is an equal opportunity employer. The Contractor agrees that it shall not use in any form or medium the name of the City for any advertising unless it receives the prior written consent of the Board of Aldermen of the City. If necessary, during periods of work the traveling public will be adequately protected and advised with appropriate signs, barricades, cones and flaggers as deemed necessary or as directed. In the case of open excavations or other potentially hazardous conditions existing during non-working periods, the traveling public will be protected and advised by signs and flasher barricades. Parking of equipment or storage of materials on or near the work will be permitted only if adequate protective devices are provided and then only for the minimum time required for any specific job. Prior to entering, storing materials or parking equipment on private property the Contractor must obtain written permission from the owner. Prior to commencement of any work involving excavation, demolition of facilities or the erection of posts, it will be the sole responsibility of the Contractor to notify all utilities of the planned work, and request that the utilities suitably mark underground installations in the vicinity of the planned work and arrange for disconnection of any necessary utilities. For any operations involving the purchase and/or drayage of materials, the Contractor will be required to submit lien waivers to the City prior to payment for the work. In addition, the Contractor may be required to submit payroll affidavits to the City attesting that the labor has been paid for work on the project at the proper wage scale. These provisions do not apply to any materials, drayage or labor furnished or supplied by the City.

7. Contractor's Liability Insurance: The Contractor shall purchase and maintain in full force and affect the insurance coverage as set forth in the General Conditions.

8. Termination: The City shall have the right to terminate the Agreement at any time for any reason by giving the Contractor written notice to such effect. The City shall pay to the Contractor in full satisfaction and discharge of all amounts owing to Contractor under the Contract an amount equal to the cost of all work performed by the Contractor up to such termination date, less all amounts previously paid to the Contractor. The Contractor shall submit to City its statement for the aforesaid amount, in such reasonable detail, as the City shall request, within thirty (30) days after such date of termination. The City shall not be liable to Contractor for any damages on account of such termination for loss of anticipated future profits with respect to the remainder of the Project.

9. Amendment Waiver: No amendment, modification or waiver of any provision of this Agreement shall be effective unless in writing signed by an authorized representative of the party against whom such provision as amended or modified or such waiver is sought to be enforced. Failure to insist upon strict compliance with any of the terms or conditions of the Agreement shall not be deemed a waiver of such term or condition.

10. State Law: This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Missouri, without regard to the principles of the conflicts of laws.

11. Severability: The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect to the maximum extent permitted by law.

12. Counterparts: This Agreement may be executed in one or more counterparts.

13. Attorneys' Fees: The City shall be entitled to recover its actual attorneys' fees from Contractor for the City's enforcement of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Contractor: **Premier Demolition, Inc.**

By: _____
Title: _____

ATTEST:

City of Warson Woods

By: _____
Title: _____ Mayor _____

ATTEST:
