

**AN ORDINANCE OF THE CITY OF WARSON WOODS,
MISSOURI, AUTHORIZING THE MAYOR TO EXPEND
PUBLIC FUNDS FOR REPAIRS TO THE WARSON WOODS
POOL**

WHEREAS, Article VI, § 23 of the Missouri Constitution provides that “[n]o city [...] shall [...] lend its credit or grant public money or thing of value to or in aid of any corporation, association or individual, except as provided in this constitution;” and

WHEREAS, Article VI, § 25 of the Missouri Constitution provides that “[n]o city [...] shall be authorized to [...] grant public money or property to any private individual, association, or corporation;” and

WHEREAS, the Supreme Court of Missouri has held that Article VI, §§ 23 and 25 of the Missouri Constitution “are not violated when money and property are expended or utilized to accomplish a public purpose.” State ex rel. Mitchell v. City of Sikeston, 555 S.W.2d 281, 291 (Mo. 1977); and

WHEREAS, the “determination of what constitutes a public purpose is primarily for the legislative department...” State ex rel. Wagner v. St. Louis County Port Authority, 604 S.W.2d 592, 596 (Mo. 1980);

WHEREAS, the Supreme Court of Missouri has upheld the expenditure of public funds by a city for a parking garage (Bowman v. Kansas City, 233 S.W. 26 (Mo. banc 1950)); for contributing funds to the United States to aid in the acquisition and construction of the Gateway Arch (Vrooman v. City of St. Louis, 88 S.W.2d 189 (Mo. 1935)); and for the construction of a multi-purpose use center on a college campus (Cape Motor Lodge, Inc. v. City of Cape Girardeau, 706 S.W.2d 208 (Mo. banc 1986)); and

WHEREAS, the City of Warson Woods owns Royal Oak Park within which is located a swimming pool; and

WHEREAS, pursuant to a Lease between the City and Warson Woods Swim Club (the “Swim Club”), the Swim Club operates the swimming pool located within Royal Oak Park; and

WHEREAS, the swimming pool is available for use by all residents of the City, upon payment of certain fees; and

WHEREAS, the swimming pool is used by hundreds of City residents for recreational purposes; and

WHEREAS, under the Lease with the Swim Club, the title to all improvements and alterations installed within the swimming pool area shall, at the termination of the Lease, vest in the City; and

WHEREAS, the Swim Club has engaged, or will engage, Pro Pool Management & Service, Inc., a Missouri corporation, to resurface the swimming pool located in Royal Oak Park, for a total cost of \$153,771.33; and

WHEREAS, because the Lease vests the City with title to all improvements at the end of its term, the swimming pool is located on public property, and the swimming pool is available for use by the City residents, the Board of Aldermen of the City finds and determines that expending public funds to ensure that the improvements thereon are kept in good working order is a public purpose;

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

SECTION 1. The Mayor is hereby authorized to expend an amount not to exceed \$153,771.33 for the resurfacing of the swimming pool in Royal Oak Park, and the Mayor shall be and is hereby authorized, empowered and directed to further negotiate, execute, acknowledge, deliver and administer, on behalf of the City, any document, certificate, or instrument as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION 2. Savings Clause: Except as expressly set forth herein, nothing contained in this Ordinance shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof.

SECTION 3. Severability Clause: If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

SECTION 4. Effective Date: This Ordinance shall be in full force and take effect from and after its final passage and approval.

THIS BILL PASSED AFTER HAVING BEEN READ IN FULL TWO TIMES PRIOR TO
PASSAGE BY THE BOARD OF ALDERMEN OF THE CITY OF WARSON WOODS,
MISSOURI, THIS _____ DAY OF _____, 2023.

Sean Fitzgerald, Mayor

ATTEST:

Kathy Mahany, City Clerk

APPROVED AS TO FORM:

Drew Weber, City Attorney

EXHIBIT A

[Attach Contract for Vector Abatement Services]