

**City of Waukesha
Aquatic Facility Maintenance Contract**

This Contract is by and between the City of Waukesha, a Wisconsin municipal corporation, 201 Delafield Street, Waukesha, Wisconsin 53188, referred to herein as the City; and Carrico Aquatic Resources, Inc., 720 North Parkway Street, Jefferson, Wisconsin 53549, referred to herein as Carrico:

Recitals

The City is the owner of aquatic facilities known as Horeb Springs Aquatic Center and Buchner Pool. The City desires to engage Carrico to assist the City in the operation and maintenance of its aquatic facilities. Carrico is willing to provide operation and maintenance assistance for the aquatic facilities.

Now, therefore, the City and Carrico agree and contract as follows:

1. **Scope of Services.** Carrico shall perform the following Work at Horeb Springs Aquatic Center, 300 Spring Street, Waukesha, WI 53188, and Buchner Pool, 223 Oakland Avenue, Waukesha, WI 53186, according to the terms and conditions of this Contract:
 - a. Provide management assistance and consultation to the City to achieve optimum performance and maintain related equipment for system integrity within budgeted resources. Carrico shall perform routine visits to the aquatic facilities to check equipment and water chemistry.
 - b. Complete a 14-point water analysis every 4 to 6 weeks using a LaMotte spin water or Palin test for alkalinity and calcium hardness. Chlorine tests must be performed using either titration method or photometric comparison.
 - c. Interpret all meters and gauge readings as designated by code and provide the City with recommendations and evaluation.
 - d. Provide a detailed plan for any chemistry changes recommended. This plan shall include the amount of chemicals required to dose each individual pool at Horeb and Buchner parks, as well as clear instructions on dosing procedures.
 - e. Issue a monthly report for each pool at Horeb and Buchner parks with test results and recommendations for chemistry changes. This report must be completed in a digital format and emailed to the contact for each facility as well as department staff as requested.
 - f. Provide and install all equipment necessary to maintain the chemistry in the swimming pools, specifically including CO₂ chemical feeders, CO₂ tanks, and CO₂ outlets; and excluding Pulsar IV chlorinating system, which the City shall obtain and install at its own additional expense. All CO₂ chemical feeders, CO₂ tanks, and CO₂ outlets provided by Carrico shall remain Carrico's property and may be removed by Carrico upon the expiration of this Contract. Carrico shall provide technical assistance for the installation and operation of all equipment. All equipment must be NSF listed and installed according to manufacturer specifications. Carrico may, in consultation with the City, use existing equipment if it meets the specifications provided. Carrico shall also provide operator training and manuals at times agreed upon by both parties.
 - g. All equipment provided by Carrico shall be under complete warranty for the duration of this Contract. Any equipment already in place may be serviced internally by City, or serviced by Carrico at \$115.00 per hour for labor, exclusive of parts.
 - h. Provide all chemicals needed to maintain pool chemistry within the State of Wisconsin swimming pool code, with the exception that chemicals needed due to operator negligence or acts of God (ex. glass

breakage within the pool) are not included and will be billed separately. Chemicals that Carrico will provide include Pulsar calcium hypochlorite, Acid Magic, CO₂, sodium bicarbonate, calcium chloride, and all needed test kit reagents. Chlorine and acid provided must be NSF-listed and designed for use in the feed system being used.

- i. Perform chemical start-up of each pool, including water balancing, chemical dosing, and controller programming in conjunction with City staff.
- j. Ensure that all Carrico personnel performing Work under this Contract are AFO certified. The City may request proof of certification of any personnel servicing the account.
- k. Provide unlimited ongoing phone and/or onsite consultation and service for all chemical feed equipment provided within the amount quoted for the duration of this agreement.
- l. Provide necessary service on equipment within 24 hours of initial notification of problem.
- m. Train City staff at the beginning of the agreement at no additional expense. Training includes basic water chemistry, equipment operation, and equipment maintenance.
- n. Schedule ongoing education of its employees related to the operation of the equipment provided and forward all information learned with operators and department staff.
- o. Provide unlimited ongoing phone and/or onsite consultation and service regarding incidents at the pool, i.e., fecal incidents, etc.

2. City Responsibilities. The City shall cooperate with Carrico in the performance of the Work, and shall respond timely to all reasonable requests for information and access. In addition, the City shall:

- a. Operate facilities according to State of Wisconsin Department of Health Swimming Pool Code, in a safe and healthy manner, consistent with education and training provide by Carrico.
- b. Provide all capital outlay items unless otherwise stated.
- c. Supply a fill tank for Carrico to use for bulk acid.
- d. Designate in writing, the employees Carrico shall train. Designated individuals will be available for training on the agreed upon date and time. Additional training for individuals not in attendance or for new employees will be billed separately at a rate of \$115.00 per hour.
- e. Routine housekeeping and maintenance; cleaning and filling chemical feed equipment, when needed; vacuuming pool(s); backwashing filter(s).
- f. Notify Carrico a minimum of 14 days in advance of the need for additional chemical inventory. Carrico provides delivery of chemicals F.O.B. from closest location.
- g. Purchase chemicals needed to rebalance pool after emergency draining and refilling due to Acts of God, vandalism, glass breakage, or for other reasons beyond control of Carrico are not covered in this agreement. The cost of such chemicals will be billed separately.
- h. Use chemicals for the pools that are approved by and purchased from Carrico.

3. Term. The initial term of this Contract shall commence on April 15, 2021 and shall terminate on December 31, 2022. After the initial term, this Contract shall renew automatically for successive one-year renewal terms,

beginning on January 1 and terminating December 31, unless either party gives written notice to the other at least 30 days before the end of the then-current term that the Contract shall not renew.

3. **Payment.** The City shall pay Carrico a flat amount of Thirty-Three Thousand Five Hundred Dollars (\$33,500.00) per each year during the initial term and all renewal terms of this Contract, in equal installments of Eight Thousand Three Hundred Seventy-Five Dollars (\$8,375.00) on May 1, June 1, July 1, and August 1 of each year.

The city shall also be responsible for payment of freight charges for delivery of chemicals and equipment. The city shall select one the following options: (1) payment to Carrico of a one-time fee of \$250 payable on May 1, 2021; (2) payment to Carrico of a fuel surcharge of \$36 per delivery to the City's aquatic facilities; or (3) the City shall pick up all orders at Carrico's warehouse located at 720 North Parkway Street, Jefferson, Wisconsin. Any order by the City requiring delivery within 24 hours is subject to a \$50 surcharge fee payable to Carrico.

4. **Credit for Third-Party Sourcing of Chemicals.** If Carrico is unable to maintain pool water within State of Wisconsin pool water quality standards due to unavailability of required chemicals, and City is able to acquire the required chemicals from a third-party source, then Carrico shall use chemicals obtained from a third party and City shall be credited the price paid by City for the chemicals obtained from the third party, against the next installment payment due to Carrico; or, if no further installment payments are due, then Carrico shall pay City such amount within 30 days of invoice by the City.
5. **Service Calls.** The city shall be responsible for the expense of service calls that are the result of the City's failure to perform routine housekeeping. "Routine housekeeping" is defined as the following: maintaining correct water level, backwashing filters, keeping chemical feed equipment supplied with chemicals, performing daily preventive maintenance on chemical feed equipment, vacuuming the pools, cleaning hair/lint baskets and skimmer baskets, removing oily buildup at waterline, daily testing of chemical levels and logging results, recording gauge reading and cleaning sensors, re-standardization of controller, and adding chemicals as directed by Carrico. Service calls resulting from failure to perform routine housekeeping shall be billed at a rate of \$115 per hour while Carrico is on site.

Carrico shall be responsible for service calls resulting from equipment failures that are not related to routine housekeeping.

6. **Pool Closure.** In consultation with the City, Carrico shall have the authority to close the aquatic facilities to swimmers should unsafe conditions exist and keep the facilities closed until corrective actions have been successful.
7. **Permits and Licenses.** Carrico shall be responsible, at Carrico's expense, for obtaining all permits and licenses required for the performance of the scope of services.
8. **Insurance.** At all times during Carrico's performance of the scope of services, Carrico shall maintain in force a policy of public liability insurance, and a policy of professional errors and omissions insurance, each with limits of not less than \$1,000,000 per occurrence and \$3,000,000 aggregate, issued by an insurer licensed to do business in Wisconsin. Carrico shall provide City with a copy of the policies or other satisfactory proof of coverage upon request.

The City shall at its expense keep the equipment and chemicals located at its pools and provided under this agreement by Carrico insured against theft, damage, spills and/or destruction. Documentation of such insurance will be provided by Owner to Carrico.

9. **Indemnification.** Carrico shall indemnify and hold the City, and the City's officers and employees, harmless from any and all damages, causes of action, judgments, obligations and all other liabilities arising from or connected in any way with the Carrico's performance of the Work.

The City shall bear the risk of loss, theft, damage, destruction, storage, handling and feeding of the equipment and chemicals located at its pools.

- 10. **Relationship of Parties.** The City and Carrico are independent contractors, and this Contract shall not be construed to create a partnership, joint venture or any other relationship creating vicarious liability or authority for either party to bind the other to contract.
- 11. **Notices.** Notices to the Carrico shall be mailed to Tom Carrico, President, 720 North Parkway Street, Jefferson, WI 53549. Notices to the City shall be mailed or personally delivered to the attention of Ron Grall, Director, Waukesha Department of Parks, Recreation and Forestry, 1900 Aviation Drive, Waukesha, Wisconsin 53188.
- 12. **Corporate Authorization.** The person executing this Contract on behalf of the Carrico represents and warrants that he or she is duly authorized to do so, and that this Contract is a binding obligation of the Consultant.
- 13. **Costs of Enforcement.** The parties agree that in the event legal action is necessary to enforce any term or condition of this Contract, then the breaching party will pay the non-breaching party's costs incurred in such legal action, including actual attorney fees. If judgment is taken against the breaching party, then such actual costs of enforcement will be added to the non-breaching party's judgment.
- 14. **Amendments.** No amendments, additions, or changes of any kind to this Contract will be valid unless in writing and signed by all of the parties to this Contract.
- 15. **Assignment.** Neither party shall assign, in whole or in part, any of the rights, obligations, or benefits of this Contract without the prior written consent of the other part, which consent shall not be unreasonably withheld.
- 16. **Severability.** If any term of this Contract is unenforceable under law for any reason, then to the extent the unenforceable term can be severed from the remainder of this Contract without affecting the enforceability of the remainder of this Contract or substantially frustrating its purpose, it shall be so severed, and the remainder of this Contract shall remain in effect and enforceable.
- 17. **Governing Law and Jurisdiction.** This Contract will be construed and enforced according to the laws of Wisconsin. The parties agree that if a lawsuit is necessary with respect to this Contract, it will be filed in the Circuit Court for Waukesha County, Wisconsin. The parties consent to personal jurisdiction in Wisconsin, and waive all jurisdictional defenses.

Carrico Aquatic Resources, Inc.

Print name: _____
Title: _____
Date: _____

Print name: _____
Title: _____
Date: _____

City of Waukesha

Shawn N. Reilly, Mayor
Date: _____

Attest: Gina L. Kozlik, City Clerk
Date: _____