RESOLUTION - ACTION REQUESTED 2016-349

MEETING:       June 28, 2016

TO:            The Board of Supervisors

FROM:          Tony Stobbe, Public Works Director

RE:            Sludge Removal at Yosemite West WWTP

RECOMMENDATION AND JUSTIFICATION:
Approve Agreement with Rain-For-Rent in the Amount of $61,454.36 for the Removal of Sludge from the Yosemite West Wastewater Treatment Facility; Authorize the Director of Public Works to Sign the Agreement; and Authorize the Director of Public Works to Approve Amendments up to a Total Amount of $15,000 with Approval from County Council as to Form.

Sludge is a byproduct of the wastewater treatment process and requires regular removal to maintain satisfactory operation of wastewater facilities. The plant in Yosemite West has a multi-year accumulation of sludge that is affecting several facets of the treatment process, including the ability to diffuse air into the treatment lagoons and the impact of the sludge on hydraulic retention time. Removal of this sludge is a critical initial step in addressing important maintenance needs at the facility. The work will require individually draining the treatment lagoons, pumping the remaining sludge/water into dewatering containers, and subsequent transport to the solid waste facility.

Public Works prepared a scope of work for the proposed project and proactively advertised with several providers of sludge removal work and included a pre-bid walk through. The proposal from Rain-for-Rent was the most cost effective response and they are able to begin work within the next month, which will provide opportunity to address additional work items at the plant during the current construction season. Given the uncertain nature of this work, the Department requests authority from the Board to approve modifications to this agreement up to a total of $15,000. Should the project exceed this authority, it will be brought back before the Board for approval.

Page six of the quotation offers an option for "Loss Damage Waiver Program Agreement" for an additional cost. Public Works chooses to opt out of this part of the agreement.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
The Board could choose to not approve this agreement and direct Public Works to continue seeking alternative methods and proposals to address the sludge accumulation problem.

FINANCIAL IMPACT:
Funding for this item was included in the submitted FY 16-17 Budget for the Yosemite West Maintenance fund.

ATTACHMENTS:
Rain for Rent 16-038 (PDF)

CAO RECOMMENDATION
Requested Action Recommended

Mary Hodson, CAO 6/23/2016

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Merlin Jones, District II Supervisor
SECONDER: Rosemarie Smallcombe, District I Supervisor
AYES: Rosemarie Smallcombe, Merlin Jones, Marshall Long, Kevin Cann
EXCUSED: John Carrier
PROFESSIONAL SERVICE AGREEMENT

THIS AGREEMENT is made this 28th day of June, 2016 between:

COUNTY:    Mariposa County Department of Public Works
            4639 Ben Hur Road
            Mariposa, CA 95338

and

CONTRACTOR: Rain for Rent
            21500 West Manning
            San Joaquin, CA. 93360

ARTICLE 1. TERM OF AGREEMENT

1.01 Agreement Term: This Agreement shall become effective on June 20, 2016, and shall terminate on June 30, 2017, unless terminated in accordance with the provisions of Article 7 of this Agreement.

ARTICLE 2. INDEPENDENT CONTRACTOR STATUS

2.01 Independent Contractor: It is the express intention of the parties that Contractor is an independent Contractor and not an employee, agent, joint venturer or partner of County. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between County and Contractor or any employee or agent of Contractor. Both parties acknowledge that Contractor is not an employee for state or federal tax purposes. Contractor shall retain the right to perform services for others during the term of this Agreement.

2.02 Contractor Qualifications: Contractor represents that it has the necessary competence, experience and qualifications for the services to be performed.

2.03 Agreement Management: Contractor shall report to the Public Works Director who will review the activities and performance of the Contractor and administer this Agreement.

ARTICLE 3. SERVICES TO BE PERFORMED BY CONTRACTOR

3.01 Scope of Services: Contractor agrees to perform the services as described on Exhibit "A" attached hereto.

No additional services shall be performed by Contractor unless approved in advance in writing by the County stating the dollar value of the services, the method of payment, and any adjustment in Agreement time. All such services are to be coordinated with County and the results of the work shall be monitored by the Public Works Director or his/her
designee. However, the means by which the work is accomplished shall be the sole responsibility of the Contractor.

3.02 Method of Performing Services: Contractor will determine the method, details, and means of performing the above-described services. County shall not have the right to, and shall not, control the manner or determine the method of accomplishing Contractor's services.

3.03 Employment of Assistants: Contractor may, at the Contractor's own expense, employ such assistants as Contractor deems necessary to perform the services required of Contractor by this Agreement. County may not control, direct, or supervise Contractor's responsibility for assistants or employees in the performance of those services. Contractor assumes full performance of those services. Contractor assumes full and sole responsibility for the payment of all compensation and expenses of such assistants and for all state and federal income tax, unemployment insurance, Social Security, disability insurance and other applicable withholdings.

ARTICLE 4. COMPENSATION

4.01 Compensation: In consideration for the services to be performed by Contractor, County agrees to pay Contractor in proportion to the services satisfactorily performed in the not to exceed amount of $61,454.36 for services as described above. The total sum to be paid to Contractor includes all labor, materials, travel and other expenses to be incurred by Contractor in the performance of the services described herein. Payment shall be made upon submission of a formal claim approved by the appropriate official of the County as follows:

[ ] Total sum to be paid upon completion of services,
or
[x] Incremental payments based on the following schedule:
   Submittal of monthly invoices

Funding Source: 322-0912-863-0418

4.02 Invoices: Contractor shall submit detailed invoices for all services being rendered from the Contractor to the County. All invoices shall reference contract number.

4.03 Date for Payment of Compensation: County will endeavor to make payment within 45 days of invoices being submitted from the Contractor to the County, and approval and acceptance of the work by the County.

4.04 Expenses: Contractor shall be responsible for all costs and expenses incident to the performance of services for County, including but not limited to, all costs of equipment provided by Contractor, all fees, fines, licenses, bonds or taxes required of or imposed against Contractor and all other of Contractor's costs of doing business. County shall not be responsible for any expense incurred by Contractor in performing services for County.

ARTICLE 5. OBLIGATIONS OF CONTRACTOR

5.01 Tools and Instrumentalities: Contractor will supply all tools and instrumentalities, required to perform the services under this Agreement. Contractor is not required to purchase or rent any tools, equipment or services from County. County shall not provide

Revised 5/06/13
working space, supplies, materials or other such support to Contractor in the performance of the services and tasks as described herein.

5.02 **Indemnification:** Contractor shall indemnify and hold County harmless against any and all liability imposed or claimed, including attorney’s fees and other legal expenses, to the extent caused by the negligent performance of services by Contractor or Contractor’s assistants, employees or agents, including all claims relating to the injury or death of any person or damage to any property. Contractor agrees to maintain a policy of liability insurance in the minimum amount of One Million Dollars ($1,000,000) or an amount as otherwise determined appropriate by the County Risk Manager to cover such claims. Contractor shall furnish a certificate of insurance evidencing such insurance and naming the County as an additional insured for the above-cited liability coverage prior to commencing work. Acceptance by County of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

5.03 **General Liability and Automobile Insurance:** During the term of this Agreement Contractor shall obtain and keep in full force and effect a commercial, general liability and automobile policy or policies of at least $1,000,000 combined limit for bodily injury and property damage; provided that the County, its officers, employees, volunteers and agents are to be named additional insureds under the policies, and that the policies shall stipulate that this insurance will operate as primary insurance for work performed by Contractor and its sub-contractors, and that no other insurance effected by County or the named insureds will be called on to cover a loss covered hereunder. The General Liability insurance shall be provided by an ISO Commercial General Liability policy, with edition dates of 1985, 1988, or 1990. The County will be named as an additional insured using ISO form CG 2010 1185 or the same form with an edition date no later than 1990, or in other form satisfactory to County.

5.04 **Professional Liability Coverage:** Contractor shall provide proof of professional liability coverage satisfactory to County prior to commencing work under the Agreement.

5.05 **Certificate of Insurance:** Contractor shall complete and file with the County prior to engaging in any operation or activity set forth in this Agreement, certificates of insurance evidencing coverage as set forth in paragraphs 5.02, 5.03 and 5.04 above and which shall provide that no cancellation or expiration by the insurance company will be made during the term of this Agreement, without thirty (30) days written notice to County prior to the effective date of such cancellation.

5.06 **Workers’ Compensation:** During the term of this Agreement Contractor agrees to provide workers’ compensation insurance for Contractor’s employees and agents and agrees to hold harmless and indemnify County for any and all claims arising out of any injury, disability, or death of any of Contractor’s employees or agents.

5.07 **Public Employees Retirement System (CalPERS):** In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the Public Employees Retirement System (CalPERS) to be eligible for enrollment in CalPERS as an employee of the County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any

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penalties and interest on such contributions, which would otherwise be the responsibility of County.

5.08 **State and Federal Taxes:** As Contractor is not County's employee; Contractor is responsible for paying all required state and federal taxes. In particular:

a) County will not withhold FICA (Social Security) from Contractor's payments;
b) County will not make state or federal unemployment insurance contributions on behalf of Contractor;
c) County will not withhold state or federal income tax from payment to Contractor;
d) County will not make disability insurance contributions on behalf of Contractor;
e) County will not obtain workers' compensation insurance on behalf of Contractor.

5.09 **Records:** It is understood and agreed that all plans, studies, specifications, and data magnetically or otherwise recorded on computer or computer diskettes, records, files, reports, etc., in possession of the Contractor relating to the matters covered by this Agreement shall be the property of the County, and Contractor hereby agrees to deliver the same to the County upon request. It is understood and agreed that the documents and other materials including but not limited to those set forth hereinabove, prepared pursuant to this Agreement are prepared specifically for the County and are not necessarily suitable for any future or other use. Contractor shall maintain such records for a minimum of three (3) years or as otherwise required by law.

5.10 **Contractor's Books and Records:** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the County for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor. Any records or documents required to be maintained shall be made available for inspection, audit and/or copying at any time during regular business hours, upon oral or written request of the County.

5.11 **Assignability of Agreement:** It is understood and agreed that this Agreement contemplates personal performance by the Contractor and is based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of the Contractor under this Agreement will be permitted only with the express written consent of the County.

**ARTICLE 6. OBLIGATIONS OF COUNTY**

6.01 **Cooperation of County:** County agrees to comply with all reasonable requests of Contractor and provide access as allowed by law to all documents reasonably necessary to the performance of Contractor's duties under this Agreement.

6.02 **Assignment:** Neither this Agreement nor any duties or obligations under this Agreement may be assigned by County without the prior written consent of Contractor.

**ARTICLE 7. TERMINATION OF AGREEMENT**

7.01 **Termination Occurrence of Stated Events:** This Agreement shall terminate automatically on the occurrence of any of the following events:
1. Bankruptcy or insolvency of Contractor;
2. Death of Contractor.

7.02 Termination by County for Default of Contractor: Should Contractor default in the performance of this Agreement or materially breach any of its provisions, County, at County's option, may terminate this Agreement by giving written notification to Contractor.

7.03 Termination for Convenience of County: County may terminate this Agreement at any time by mailing a notice in writing to Contractor that the Agreement is terminated. Said Agreement shall then be deemed terminated and no further work shall be performed by Contractor. If the Agreement is so terminated, the Contractor shall be paid for that percentage of the phase of work actually completed, based on a pro rata portion of the compensation for said phase satisfactorily completed at the time the notice of termination is received.

7.04 Termination of Funding: The parties acknowledge that the nature of government finance is unpredictable, and that the rights and obligations set forth in this Agreement are necessarily contingent upon the receipt and/or appropriation of the necessary funds. In the event that funding is terminated, in whole or in part, for any reason, at any time, this Agreement and all obligations of County arising from this Agreement shall be immediately discharged. County agrees to inform Contractor no later than thirty (30) calendar days after County determines, in its sole judgment, that funding will be terminated and the final date for which funding will be available.

ARTICLE 8. GENERAL PROVISIONS

8.01 Notices: Any notices to be given hereunder by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid and return receipt requested. Mailed notices shall be addressed to the parties at the addresses appearing in the introductory paragraph of this Agreement, but each party may change the address by written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of two (2) days after mailing.

8.02 Entire Agreement of the Parties: This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by Contractor for County and contains all the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing signed by the party to be charged and approved by the County as provided herein or as otherwise required by law.

8.03 Partial Invalidity: If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

8.04 Attorney's Fees: If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees, which may be set by the court in the

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same action or in a separate action brought for that purpose, in addition to any other relief to which that party may be entitled.

8.05 **Conformance to Applicable Laws:** Contractor shall comply with the standard of care regarding all applicable federal, state and county laws, rules and ordinances. No discrimination shall be made by Contractor in the employment of persons who work under this Agreement because of race, color, national origin, ancestry, disability, sex or religion of such person.

8.06 **Waiver:** In the event that either County or Contractor shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation.

8.07 **Governing Law:** This Agreement and all matters relating to it shall be governed by the laws of the State of California and County of Mariposa and any action brought relating to this Agreement shall be held exclusively in a state court in the County of Mariposa.

Executed at Mariposa, California, on the date and year first above written.

**COUNTY:**
Mariposa County

**CONTRACTOR:**
Rain for Rent

<table>
<thead>
<tr>
<th>COUNTY: Mariposa County</th>
<th>CONTRACTOR: Rain for Rent</th>
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<tbody>
<tr>
<td>[Signature]</td>
<td>[Signature]</td>
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<tr>
<td>David Schisler</td>
<td>David Schisler</td>
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<td>Director of Contracts</td>
<td>Director of Contracts</td>
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<td>6/29/16</td>
<td>6/29/16</td>
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**APPROVED AS TO FORM:**

**ATTEST:**

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<tr>
<td>STEVEN W. DAHLEM</td>
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<tr>
<td>County Counsel</td>
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<tr>
<td>7/5/16</td>
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<tr>
<td>RENE LAROCHE</td>
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<td>7-5-16</td>
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### CONTACT
- **Contact:** Mike Healy
- **Company:** MARIPOSA WWTP
- **Address:** 4639 BEN HUR ROAD
- **City, ST, ZIP:** MARIPOSA, CA 95338

### JOB DESCRIPTION
- **Job Title:** Sludge Removal
- **Est. Delivery Date:** 11/30/2015
- **Sludge Removal**

### QUOTATION
- **Quotation #:** 051159018
- **Version #:** 2
- **PO #:** 6/16/2016

### LIQUID PARAMETERS
- **Materials:**
- **Flow:**
- **Suction Lift:**
- **Friction Loss:**
- **Static Head:**
  - **Other:**

### APPLICATIONS
- **Other:**

### QUOTATION
- **Rental:** $9,392.26
- **Sales:** $22,308.10
- **Service (Hauling, Labor, Misc):** $29,754.00

### GRAND TOTAL
- **$61,454.36**

**Does not include sales tax**

**Recommended Optional Items - Rental:** $0.00
**Recommended Optional Items - Sales:** $0.00

**Does not include sales tax**

By checking Accept and initialing Customer is acknowledging that the additional cost for these items will be added to the Grand Total.

By signing this Quotation, Customer represents that he/she has read and agreed to both the Statement of Work and Scope of Agreement sections, and is also agreeing to the Grand Total amount listed above, plus any recommended optional items if checked and initialed. If Customer requires a Purchase Order number to process and submit payment, it must be supplied to Rain for Rent at the time of acceptance of this Quotation. Please insert Purchase Order number here: ______________________

This quotation has been identified as prevailing wage

**Loss Damage Waiver Option**

Protection from loss or damage resulting from fire, theft or vandalism is available for an additional 14% of the rental cost of the covered items. This protection is only offered on specific products. If you wish to add this coverage to your rental, please sign the Loss Damage Waiver Agreement attached at the end of this document and initial here: ______________________

__________________________
**Customer**

__________________________
**Date**
## QUOTE DETAILS

### Rental Items

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<tr>
<th>QTY</th>
<th>UNIT</th>
<th>DESCRIPTION</th>
<th>PRODUCT#</th>
<th>DURATION</th>
<th>PERIOD</th>
<th>UNIT PRICE</th>
<th>EXT. PRICE</th>
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<tbody>
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<td>4&quot; DIESEL PUMP DV100C</td>
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<td>PIPE 4&quot;x5' GROOVED ALUMINUM</td>
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Rental Sub Total: **$9,392.26**

### Sale Items

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<th>DESCRIPTION</th>
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<td>10</td>
<td>Each</td>
<td>SALE ITEM PRICE PER DAY FOR 2 MEN TO BE ON SITE RUNNING PUMPS CLEAN PONDS</td>
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Sale Sub Total: **$22,308.10**

### Services Breakdown

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<th>PHASES</th>
<th>HAULING</th>
<th>LABOR</th>
<th>MISC</th>
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<td>Delivery/Installation</td>
<td>$5,550.00</td>
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<td>Materials, Subcontractors, Fees</td>
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Services Sub Total: **$29,754.00**

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Quotation# 051159018 Confidentiality Notice: This quotation and associated document(s) are privileged and confidential, and are intended for the sole use of the addressee(s). They cannot be used, circulated, duplicated, quoted or otherwise referred to or disclosed to third parties for any reason without the written consent of an Officer of Western Oilfields Supply Company dba Rain For Rent. If you have received this information in error, please immediately contact us at return@rainforrent.com. Thank you.
STATEMENT OF WORK

BACKGROUND
Customer requests the rental of equipment and labor furnished to remove water and wet sludge from their two holding ponds in Mariposa, Ca.

SCOPE
Rain for Rent will deliver, install, rent and pick up the items listed on quote details. Four filter boxes with liners will be used to filter out the solids from the waste water. Customer has requested to keep the boxes for a longer period to utilize them for temporary storage of the solids until dry so they can dispose of it at the land fill. Rain For Rent will use a 4’ pump for pumping the water and solids into the filter boxes. A High Head pump (HH80) will be used with fire hose to assist in pushing the solids towards the trash pump. The water that is filtered out of the filter bags will be sent back into the treatment facility. Job conditions and equipment availability may require product changes; any changes will be discussed with the customer and a “Change Order” will be implemented.

REFERENCE MATERIALS
Customer provided information.
Unknown discharge requirements.

OPERATING PARAMETERS
Rain for Rent has provided this proposal for equipment as requested and without design criteria or requirements. All specs were provided by customer and not designed by Rain for Rent.

ESTIMATED DURATION
The quote given is for a two week period (10 working days). The filter boxes only are quoted for one cycle (28 days). There is no guaranty that the project can be completed in this time frame. Any additional time needed to clean the ponds to spec or satisfaction will be billed on a T&M basis. After the 10 working days, a signed change order will be required to commence work.

For the quoted items, Rain for Rent requires a signed quote not less than 14 days prior to delivery.

RAIN FOR RENT RESPONSIBILITIES
- Provide labor and equipment necessary to perform one (1) unimpeded delivery & return trip to site.
- Install the system and provide two men for pump and hose operation to clean the ponds.
- Flush system after job completed. Needs to be completed within the 10 days of operation or a change order will be required.
- Equipment and services expressly included in this scope.

CUSTOMER RESPONSIBILITIES
- Provide fresh water for cleaning and flushing of entire system including filter boxes prior to pick up. Due to storage of solids in the boxes, any additional cleaning required to boxes other than rinsing and flushing is the sole responsibility of the customer. If customer is not able to clean, RFR will hire a third party cleaning company to complete and will be billed to customer.
- Customer is responsible for all the discharge water that is released out of the boxes. RFR will tie the discharge line into the area provided by customer. If discharge is further away than the equipment allows, then additional material will be billed on a T&M basis.
- Customer is responsible for disposal of solids and filter bags. This includes the hauling of material from job site to land fill.
- Ensure that the application of this system does not damage nearby structures or cause negative impacts to the environment either directly or indirectly.

- Provide suitable, safe access and laydown location for the equipment being delivered. Tank delivery requires DOT minimum height / width clearance.

- Ensure that the application of this system does not damage nearby structures or cause negative impacts to the environment either directly or indirectly.

- Promptly notify Rain for Rent of any service or performance related needs.

- All routine maintenance including fuel, fluids, lubrication, and filters. Engine driven equipment requires servicing every 250 hours. Customer will automatically be charged an engine service fee based on the actual hours of equipment usage. The fee is $1-2.00 per hour based on engine size. The engine service fee can be waived if customer provides documentation substantiating the service was performed as per Rain for Rent's requirements. Rain for Rent must be notified 2 business days in advance to schedule required field service.

- Provide fueling, filter changes, and lubricating oils as needed for project operation.

- Protect system from damage and malfunction due to temperature or any substance that will cause corrosion, damage or leakage. Customer must provide protection that does not impede system function. Customer is responsible for all damages to system.

- Supply all needed water for any applicable system testing, startup, and cleaning.

- All labor & materials to perform system chlorination and deodorizing.

- All waste materials on associated with this system.

RAIN FOR RENT EXCLUSIONS

- All design input and services. This system is provided as per customer provided information.

- Compliance with unknown discharge requirements.

- RFR will not be held responsible for any discharge requirements or permitting.

- RFR will not be held responsible for any damages that can be done to clay liner or any other items that may become damaged while sludge is being removed.

- All design input and services. This system is provided as per customer provided information.

- Compliance with unknown discharge requirements.

ADDITIONAL INFORMATION

Always use equipment in a safe and proper manner and in accordance with manufacturers and regulatory standards and industry best practices. Improper usage will cause system failure, product damages, possible injuries, and spills.
SCOPE OF AGREEMENT

If Customer has entered into a Master Service Agreement with Rain for Rent and there is a conflict between the terms and conditions of this Scope of Agreement and the Customer’s Master Service Agreement, then the terms and conditions in the Customer’s Master Service Agreement signed by Rain for Rent will prevail.

Availability of products and services is subject to change without notice.

The rental period begins the day the equipment is delivered and continues until returned to originating Rain for Rent facility unless agreed to in writing before the rental period begins. A cycle is defined as 4 weeks, which is 28 days. The weekly price is one third of the cycle price, and the daily price is one third of the weekly price. Payment terms are net 30 days from invoice date. Interest at the rate of 18% per year shall be charged on any past due invoice.

A Fuel Surcharge will be calculated and invoiced based on the diesel fuel price as published by the Department of Energy on http://tonto.esa.doc.gov/ooq/info/webdp/diesel.asp

Customer is prohibited from deducting retention from Rain for Rent invoices and charging Rain for Rent liquidated damages.

Customer is responsible for flushing and cleaning tanks, roll off boxes, pipelines, pumps, filters and other Rain for Rent equipment prior to return unless specifically agreed to by both parties in writing.

The Terms and Conditions of the Rain For Rent Rental and Acute Hazardous Waste Agreements, Credit Application/Master Rental & Sales Agreement, Invoice and this Quotation (also known as the Rain for Rent Rental/Sale Estimate as may be referenced in any Master Service Agreement, Blanket Purchase Order, or any other contractual document executed between the parties) contain the complete and final agreement between Rain For Rent and Customer and no other agreement in any way modifying or adding to any of said Terms and Conditions will be binding upon Rain For Rent unless made in writing and signed by a Rain For Rent Corporate Officer.

The Customer cannot alter the equipment without Rain for Rent's prior written approval. Customer is responsible for equipment, repairs, maintenance and damage, excluding normal wear and tear or damage caused by Rain for Rent. All returned equipment is subject to inspection by Rain for Rent personnel. Damages and accrued rent will be invoiced to Customer while equipment is out of service for repairs. The Customer is responsible for damage caused by reactive, corrosive or abrasive material, including, but not limited to sand, sodium hydroxide, chlorine, and acids. Customer must notify Rain for Rent immediately of any spill so that any necessary repairs to the system can be made and to minimize service interruption. The Customer assumes all risks of loss due to operation and use of the equipment. Customer will provide "all risk" property insurance for rented equipment.

Customer shall pay Rain For Rent additional expenses caused by unforeseen changes in conditions, including, but not limited to, soil, underground conditions, rock formations, environmental conditions, weather events, regulations or restrictions, hard pan, boulders, cesspools, gas lines, water lines, drain pipes, underground electrical conduits or other above ground or underground obstructions.

All equipment rented or used products sold are provided "AS IS, WHERE IS" in their present condition. Rain for Rent makes no warranties, expressed or implied of any kind whatsoever with respect to the equipment or products. Customer agrees that customer is renting equipment or purchasing used products based on their judgment and evaluation, without reliance upon any statements of representations by Rain for Rent, and that Rain for Rent is not responsible for any defects in their operation or for any repairs, parts or services, unless otherwise noted.

All new products sold are provided without warranty beyond the terms of such warranty offered by the manufacturer, if any. Customer must comply with all original manufacturer's terms and conditions for any warranty claims that may arise. Neither Rain for Rent nor the manufacturer warranties the product if it has failed due to corrosion, misuse or damage; (2) it has been altered, repaired or modified in any way that would adversely affect its operation; or (3) it was installed or operated other than in accordance with manufacturer's operating instructions. Products supplied by Rain for Rent are warranted to be free from any defect in workmanship and material under conditions of normal use and service. Rain for Rent's obligation under this warranty is limited to replacing or repairing at the designated manufacturer's or Rain for Rent facility any part or parts returned to it with transportation charges prepaid, which Rain for Rent determines in its sole discretion to be defective.

This Quotation excludes any additional costs to Rain for Rent associated with Owner Controlled Insurance (OCIP) or WRAP insurance programs that will be added to Rain For Rent's prices.

De-watering, Roll-off, Vacuum boxes and similar equipment are not liquid tight. Renter accepts full responsibility for all losses, damages and costs caused by or arising out of spills, leakage or discharge from this equipment. Rain for Rent will not be held liable for any structural or soils subsidence.

This Quotation is valid for 30 days and is subject to credit approval.
LOSS DAMAGE WAIVER PROGRAM AGREEMENT

This Loss Damage Waiver Program Agreement (this “LDWP Agreement”) is entered into between the undersigned Rentor and Rentee in relation to the Master Rental and Sales Agreement (MRSA) between Rentor and Rentee. If Rentee has checked or initialed, as applicable, the Loss Damage Waiver Program (the “LDW Program”) box on the quote, then Rentee has opted-in to the LDW Program and this LDWP Agreement shall supplement the MSRA whether or not executed by Rentee. Rentee understands and agrees that the LDW Program is not insurance and that the LDW Program provides only limited coverage, as described below.

1. Cost; Deductible; Maximum Coverage; Rentee shall pay a fee equal to 14 percent (14%) of the rental charge for each covered item, which fee shall be listed on each invoice during which period Rentee has opted to participate in the LDW Program. In the event of a Covered Occurrence, as defined below, Rentee shall further be responsible for the lesser of $1,000 or 15 percent (15%) of the total loss, as a deductible. The maximum coverage available under the LDW Program is $50,000 per Covered Occurrence, whether or not there is more than one piece of equipment involved in the occurrence.

2. Coverage; The LDW Program provides coverage only for losses involving Covered Equipment, as defined below, in the following instances: fire that was not caused by Rentee’s gross negligence or willful misconduct; theft for which a police report was filed, and that occurred despite Rentee’s reasonable precautions to protect and secure the covered equipment; and vandalism for which a police report was filed (individually, “Covered Occurrence,” and collectively, “Covered Occurrence”). The LDW Program provides coverage only for the following types of equipment: pumps, tanks, generators, light towers, filtration, boxes and heaters (“Covered Equipment”). Coverage does not extend to any equipment not owned by Rentor such as re-rented equipment.

3. Exclusions; The LDW program does not cover any equipment or event of loss that is not specifically described in Section 2. Without limiting the foregoing, the LDW Program does not provide coverage for the following: misuse of equipment; willful abuse of equipment; failure to maintain equipment; failure to secure items from theft (including but not limited to failing to store items in a fenced, locked area or failing to maintain personnel on site); damage or theft while in transit to or from a jobsite; corrosion from any source; any instance that occurs while the account is not in good standing, such as a default as defined in the MRSA or upon written notice of non-payment; and any occurrence not reported to Rentor within 24 hours after the occurrence. The LDW program does not provide coverage for: spillguards, hoses, fittings (valves or bulk items), pipe, manifolds, tires, submersible pumps or copper wiring.

4. Claims; All claims must be submitted within 24 hours of the Covered Occurrence. Rentor’s mechanic will inspect the equipment following any claim. The mechanic’s findings as to the cause of the damage and cost of repair will be final. In the event of a theft or vandalism, Rentee must also provide supporting evidence that the site was secured at the time of loss.

IN WITNESS WHEREOF, Rentee hereby executes the LDWP Agreement on the date written below.

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<th>Customer Name (Print/Type)</th>
<th>Customer Authorized Title</th>
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Customer (Signature)

Company Name