

**SRCD Water Manager Portable Pump Program
PUMP RENTAL AGREEMENT AND RELEASE**

Program Purpose: The 2005 Revised Suisun Marsh Preservation Agreement provided funding to SRCD to purchase portable pumps to be operated by the SRCD Water Managers. The operation of the portable pumps was to benefit managed wetlands by providing better removal of soil salts during drainage. These portable pumps were intended to be used on those managed wetlands that couldn't effectively tidally drain and accelerate the drainage of high salinity soil water and to facilitate the properties ability to flood and drain in 30 days (consistent with the properties Management Plan).

SRCD Prioritization for Portable Pump Availability and Installation:

1. To complete managed wetlands flood and drain cycles within 30 days to perform effective spring leach cycles.
2. To complete a final drain of the managed wetlands. The removal of water from low pond bottom areas and ditches that cannot be effectively removed by tidal drainage. This will help avoid the accumulation of salinity in the managed wetlands soils.
3. To support the completion of managed wetland enhancement construction activities.
4. To supplement the managed wetland units drainage capacity – when existing water management infrastructure is damaged or incapable of meeting habitat management objectives. The use of the pump is intended to be short term assistances, until the existing infrastructure is replaced or repaired. The SRCD pumps will not be used for long term installations in lieu making repairs to water management infrastructure, such as, pumps, exterior levees and exterior flood and drain gates.
5. Pumps are not available for operation during waterfowl season to avoid flooding of duck blinds, parking lots, roads, infrastructure, or facilities.

This prioritization ranking was approved by the SRCD Board of Directors January 14th, 2015.

This PUMP RENTAL AGREEMENT AND RELEASE (the "Agreement") is made between the Suisun Resource Conservation District ("SRCD") and

(Ownership name)
_____("Renter") as of _____, 2017
(Ownership number)

Under the General Conditions attached to and incorporated into this Agreement as Exhibit A, SRCD rents to Renter the pumps named and identified in the following "List of Equipment," for use at the location depicted on the map attached to and incorporated into this Agreement as Exhibit C, at the rental rate and for approximately such time as is stated in the List of Equipment below and as calculated on Exhibit B, attached to and incorporated into this Agreement.

List of Equipment

<u>Number of Pumps</u>	<u>Type of Pump</u>	<u>Approximate Rental Period</u> (See § 1 on Exhibit A)	<u>Pump to be Used at or Near</u>	<u>Rental Rate per Hour</u>
	12" high volume low pressure lift Pump # _____			\$3.00 per hour plus any fuel provided by SRCD (see Exhibit B)
	8" trash pump # _____			\$3.00 per hour plus any fuel provided by SRCD (see Exhibit B)

SRCD and Renter, for themselves, their successors, executors, administrators and assigns, agree to the full performance of the covenants contained in this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement the date first written above:

SRCD:

RENTER (ownership name and #)

Suisun Resource Conservation District

By: _____

*By: _____

Its: _____

*Its: _____

EXHIBIT A

GENERAL CONDITIONS

1. **RENTAL PERIOD.** The rental period covers all time consumed in transporting the rented pumps, including the date on which transit to Renter begins and the date on which transit from Renter ends at SRCD's unloading point.
2. **PAYMENT.** The rent for each pump described in the List of Equipment will be the amount specified in the List of Equipment and is payable by Renter within 30 days of receipt of invoice from SRCD. Renter agrees to pay rent on pumps at the hourly rate specified in the List of Equipment, beginning on the designated hour meter 'Start' reading and ending on the designated hour meter 'End' reading (as set forth in Exhibit B), plus the cost of any fuel provided by SRCD.
3. **MAINTENANCE AND OPERATION.** Renter may not remove, alter, disfigure or cover up any numbering, lettering or insignia displayed upon the pumps and must see that the equipment is not subject to careless, unusually or needlessly rough usage. In the case of unauthorized, careless, unusually or needlessly rough usage, Renter shall at its own expense repair and return the equipment in good repair and operative condition and return it in such to SRCD, ordinary wear and tear resulting from proper use of the pumps expected.
4. **REPAIRS.** Renter is not responsible for the expense of repairs made to the pumps during the rental period, except as noted in Paragraph 3 above.
5. **SET-UP AND OPERATION.**
 - a. SRCD will transport pumps to Renter-designated pumping site, set up, start, operate, and shut off pump(s). SRCD may request to meet with Renter or Renter representative prior to delivery to determine the best site for pump set up. If no appropriate site is available for set up, Renter will be responsible for developing such a site. SRCD reserves the right to refuse to install a pump for any reason.
 - b. As needed, SRCD staff will check pump, add fuel and grease, and perform necessary maintenance.
 - c. For pumping operations less than 24 hours (based on the hour meter on the pump), a flat rate set up and tear down fee of \$200.00 will be billed to the renter plus the cost of fuel. When pump operation exceeds 24 hours, the flat rate set up and break down fee will be waived and regular billing for pump rental will be applied (as described in Exhibit B).
 - d. At the end of the Rental period, SRCD will tear down pumps and return pumps to the care and custody of SRCD. Renter is entitled a single pump set up and tear down per rental period. If SRCD staff availability allows and if requested by the Renter, additional pump set up and tear down will be provided at an extra charge of \$100 per occurrence.
 - e. No person other than SRCD's representatives may set up, start, operate or shut off any pump(s) rented under this Agreement without prior written approval of SRCD. Renter warrants and covenants that any operator other than a SRCD representative will be competent. Any unauthorized use of a pump by Renter will result in the pump being shut down by SRCD and removed from the property.

e. In the event of an emergency, Renter may shut off pump(s) but must notify SRCD of a shut off within 48 hours.

6. **DISCLAIMER OF WARRANTIES.** SRCD, BEING NEITHER THE MANUFACTURER, NOR A SUPPLIER, NOR A DEALER IN THE PUMPS, MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE PUMPS, THEIR MERCHANTABILITY, THEIR DESIGN, THEIR CAPACITY, THEIR PERFORMANCE, THEIR MATERIAL, THEIR WORKMANSHIP, THEIR FITNESS FOR ANY PARTICULAR PURPOSE, OR THAT THEY WILL MEET THE REQUIREMENTS OF ANY RULES, LAWS, SPECIFICATIONS OR CONTRACTS WHICH PROVIDE FOR SPECIFIC APPARATUS OR SPECIAL METHODS. SRCD FURTHER DISCLAIMS ANY LIABILITY WHATSOEVER FOR LOSS, DAMAGE, OR INJURY TO RENTER OR THIRD PARTIES AS A RESULT OF ANY DEFECTS, LATENT OR OTHERWISE, IN THE PUMPS. AS TO SRCD, RENTER RENTS THE PUMPS "AS-IS". SRCD IS NOT LIABLE IN ANY EVENT TO RENTER FOR ANY LOSS, DELAY OR DAMAGE OF ANY KIND OR CHARACTER RESULTING FROM DEFECTS IN, OR INEFFICIENCY OF, PUMPS HEREBY RENTED OR ACCIDENTAL BREAKAGE OF THOSE PUMPS. INFRASTRUCTURE DEFICIENCIES (LEAKING GATES, RAT HOLES, ETC.) IS THE RESPONSIBILITY OF RENTER AND SRCD IS NOT RESPONSIBLE FOR RELATED EXPENSES SUCH AS ADDED PUMPING COSTS DUE TO LEAKS OR OTHER DEFICIENCIES, KNOWN OR UNKNOWN.

7. **INDEMNITY.** Renter shall indemnify SRCD against, and hold SRCD harmless from, any and all claims, actions, suits, proceedings, costs, expenses, damages and liabilities, including attorneys' fees, arising out of, connected with, or resulting from the pumps or this Agreement, including without limitation, the manufacture, selection, delivery, renting, leasing, control, possession, use, operation, maintenance or turning on of the pumps. Renter shall further indemnify SRCD, and hold SRCD harmless from all loss and damage to the pumps during the Rental Period. Renter recognizes and agrees that included in this indemnity clause, but not by way of limitation, is Renter's assumption of any and all liability for injury, disability and death of workmen and other persons caused by the operation, use, control, handling, or transportation of the pumps during the Rental Period.

8. **RISK OF LOSS.** SRCD is not responsible for loss or damage to property, material or equipment belonging to Renter, its agents, employees, suppliers, or anyone directly or indirectly employed by Renter while the pumps are in Renter's care, custody or control, under Renter's physical control, or while on land owned by Renter. Renter is encouraged to obtain appropriate liability insurance against such risk of loss. Renter and its insurers waive all rights of subrogation against SRCD for such losses. **Renter releases from liability and waives its right to sue SRCD, its officers, employees, agents and elective and appointive boards (collectively, the "Released Party") for any claim, including negligence, for any injury, illness, death or property damage it may suffer or that may result from its rental of the pump(s), wherever or however such loss may occur.** Renter understands that it is releasing the Released Party from all liability for any injury, illness, death or property damage caused by their negligence.

9. **OWNERSHIP.** SRCD shall at all times retain ownership and title of the pumps. Renter must give SRCD immediate notice in the event that any of the pumps is levied upon or is about to become liable or is threatened with seizure, and Renter will indemnify SRCD against all loss and damages caused by such action.

10. **CHOICE OF LAW.** The parties have executed and delivered this Agreement in the County of Solano, State of California. The laws of the State of California will govern the validity, enforceability or interpretation of this Agreement. Solano County shall be the venue for any action or proceeding, in law or equity that may be brought in connection with this Agreement.

11. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between SRCD and Renter and it may not be modified except by written agreement signed by the parties.

EXHIBIT B
(Pump # _____)

1. **CALCULATION OF RENTAL CHARGES.** Rental charges will be calculated in the following manner:

_____ (Hour meter end)
- _____ (Hour meter start)
= _____ (Total hours run) X _____ (Hourly rental rate)
+ _____ (gallons of SRCD fuel) X \$ _____ (purchase price) _____ (date) = \$ _____
+ _____ (gallons of SRCD fuel) X \$ _____ (purchase price) _____ (date) = \$ _____
+ _____ (gallons of SRCD fuel) X \$ _____ (purchase price) _____ (date) = \$ _____
+ _____ (additional pump set up / tear down) X \$100 per occurrence = \$ _____
= Total rental bill.

2. **MAXIMUM RENTAL CHARGE.** Renter may specify a maximum rental charge. In the event that Renter does so, SRCD will monitor accrued rental charges and shut off the pump(s) as close to the accrual of the maximum rental charge as possible. SRCD does not guarantee that Renter will not incur rental charges beyond the specified maximum rental charge, but will endeavor to shut off the pump as close to the accrual of the maximum rental charge as possible.

Renter elects to specify a maximum rental charge: _____ (initial, if applicable)
Maximum rental charge: \$ _____

Renter elects not to specify a maximum rental charge: _____ * (initial, if applicable)

Acknowledged and accepted by (Renter): * _____ (sign name)

* _____ (print name)

Date: _____

Witnessed by (SRCD): _____ (sign name)

_____ (print name)

Date: _____

EXHIBIT C
[attach map]