

City of Clearlake and LCRAI Project Agreement

This Agreement (“Agreement”), dated as of September 7, 2022 is between **City of Clearlake** (“Clearlake”) and **Lake County Rural Arts Initiative** (“LCRAI”) a 501c3 organization.

Background

Clearlake is currently engaged in creating economic vibrancy through a variety of projects one of which is the *Main Street* project that in partnership with LCRAI uses creativity and innovative thinking as well as the arts to add an attraction to the narrative of Clearlake that will support tourism and the economic vitality attached to it. The project is focused on the downtown area(s) of Clearlake but is intended to have wider benefit.

LCRAI will use the funds that Clearlake has set aside for this project (\$100,000) to create a compelling attraction the intent of which is to draw multigenerational, year-round tourism to the downtown area of Clearlake and its current and future businesses.

Project

The nature of the project is a friendly *dragon* that inhabits the lake (ala Nessie of Loch Ness) and can be created given today's augmented reality and projection technology as well as statues, murals and other art related support to the mythology. The mythological dragon will have a variety of activities attached to its persona.

LCRAI will facilitate and oversee the project to its fruition including managing a project management team hired for the purpose of implementing the concept.

The project outline (with major project steps and fulfillments) is in Attachment A. The details of the project will be designed by the project management team hired for the project in alignment with LCRAI and Clearlake.

Clearlake and LCRAI agree as follows:

1. Project Funds and Compliance

1.1 Funds Payment

Upon signing of the contract, Clearlake will transfer the \$100,000 Funds to a LCRAI bank account created specifically for this project

1.2 Use of Funds

LCRAI will use Funds solely as described in the Project Plan or has been agreed on as a supplemental area by Clearlake. LCRAI will not use Funds for any activity that is prohibited by Internal Revenue Code Section 501(c)(3).

1.3 Report and Materials

LCRAI will provide such reports and documents as outlined in the Project Plan or as Clearlake may otherwise request in connection with Project execution and compliance with the Project Plan within 15 days of such a request.

1.4 Compliance with Project Agreement

LCRAI will comply with all provisions of the Agreement and related activities, including funds use, reporting requirements.

2. Project Execution

2.1 Project Activities

LCRAI will carry out the Project in accordance with this Agreement and applicable law. See **Attachment A** page 5 of this document for project steps and outcomes

2.2 Project Contacts

Clearlake and LCRAI will each appoint one individual to act as the principal contact person and to coordinate activities in connection with the Project. The initial appointees are identified in the Project Plan.

2.3 Recordkeeping

LCRAI will maintain records relating to its Project responsibilities as contemplated by the Project Plan and in a manner such that Clearlake can evaluate LCRAI's compliance with this Agreement. LCRAI will make those records available for review by Clearlake on 15 days notice during the term of this Agreement.

2.4 External Communications

For consistency of communication, except as contemplated by the Project Plan or as required by law, neither Clearlake nor LCRAI will issue any public statement (including statements on its website) relating to the Project, or use each other's trademarks or logo in any promotional materials, or in any website, press release, or public communication, without obtaining the other's prior written consent.

2.5 Responsibility for Actions

LCRAI will have sole responsibility for planning and carrying out its activities. LCRAI will have sole responsibilities for contracting, monitoring, and paying its contracts with third parties. Clearlake will not assume any liability for the performance by LCRAI of its contracts or of any of its other obligations..

2.6 Confidentiality

Each of LCRAI and Clearlake will use the other's Confidential Information (as defined below) only in connection with activities under this Agreement and will keep it confidential. Confidential information does not include information which: (a) is or becomes generally available to the public other than as a result of a disclosure by the receiving party; (b) was known by the receiving party prior to its being furnished by the disclosing party; (c) is or becomes available to the receiving party on a non-confidential basis from a source other than the disclosing party; or (d) is independently developed by the receiving party; or (e) information that is required to be disclosed pursuant to California law.

2.7 Adverse Developments

LCRAI will notify Clearlake promptly of: (a) any changes in LCRAI's status as a nonprofit corporation in good standing under local law or as a tax-exempt public charity under Section 501(c)(3) of the Internal Revenue Code; (b) any changes in the project management team or key personnel responsible for carrying out the Project; (c) loss of its ability to carry out the Project or its other obligations under this Agreement; or (d) any material changes in Project design or implementation.

3. Insurance and Indemnification

3.1 Indemnification of Clearlake

LCRAI will be the contracting party with any third party used in the project implantation and the contract will specify a hold harmless clause for both LCRAI and Clearlake

LCRAI will defend, indemnify, and hold Clearlake and Clearlake's directors, officers, employees, agents, and assigns (collectively, "Clearlake Parties"), harmless against all third- party claims, liabilities, losses, damages, and expenses, including, without limitation, reasonable attorneys' fees and expenses, plus penalties and interest, any Clearlake Party may suffer and which arise directly or indirectly from LCRAI's execution of the Project to the extent that the claims, liabilities, losses, damages, and expenses are caused by LCRAI's gross negligence or willful misconduct. LCRAI will have no obligation to indemnify any Clearlake Party to the extent the liability is caused by such Clearlake Party.

4. Termination

4.1 Termination by Clearlake Without Cause

Clearlake may terminate this Agreement at any time for convenience and without cause by giving LCRAI a minimum of five (5) calendar days' prior written notice of Clearlake's intent to terminate this Agreement. Upon such termination for convenience, LCRAI shall be compensated only for those services and tasks which have been performed by LCRAI up to the effective date of the termination.

4.2 Termination for Breach

If either party materially breaches any of its obligations under this Agreement, the non-breaching party may provide the breaching party with written notice of the material breach. If the breaching party fails to cure the breach within fifteen (15) days after receipt of such notice, the non-breaching party may terminate this Agreement effective immediately upon delivery to the breaching party of a written notice to that effect. The non-breaching party may in its reasonable discretion determine whether the breach has been cured.

4.3 Effect of Termination

LCRAI upon Clearlake's request will repay to Clearlake any unused portion of the Funds within thirty (30) days after the effective date of termination. Clearlake and LCRAI will cooperate in transition activities and will use reasonable efforts to minimize interruption and any adverse impacts of the termination.

5. General Provisions

5.1 Entire Agreement

This Agreement, together with the Project Plan and any other exhibits, expresses the final, complete, and exclusive agreement between LCRAI and Clearlake, and supersedes any and all prior or contemporaneous written and oral agreements, arrangements, negotiations, communications, course of dealing, or understanding between LCRAI and Clearlake relating to its subject matter. If there are any inconsistencies between the Project Plan and this Agreement, this Agreement will control.

5.2 Amendment

This Agreement may be amended only as stated in and by a writing signed by both LCRAI and Clearlake which recites that it is an amendment to this Agreement.

5.3 Severability

If any provision in this Agreement is held invalid or unenforceable, the other provisions will remain enforceable, and the invalid or unenforceable provision will be considered modified so that it is valid and enforceable to the maximum extent permitted by law.

5.4 Waiver

Any waiver under this Agreement must be in writing and signed by the party granting the waiver. Waiver of any breach or provision of this Agreement will not be considered a waiver of any later breach or of the right to enforce any provision of this Agreement.

5.5 Independence

Clearlake and LCRAI are and will remain independent contracting parties. The arrangements contemplated by this Agreement do not create a partnership, joint venture, employment, fiduciary, or similar relationship for any purpose. Neither Clearlake nor LCRAI has the power or authority to bind or obligate the other to a third party or commitment in any manner. Any use of the term "partner" or comparable term in any communications is solely for convenience.

5.6 Notices

Notices and consents under this Agreement must be in writing and delivered by mail, hand delivery, fax, or e-mail to the contact persons set out in the Project Plan. These addresses may be changed by written notice to the other party.

5.7 Governing Law

This Agreement will be governed by California law.

5.8 Counterparts

This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which will be taken together and deemed to be one instrument. Transmission by fax or PDF of executed counterparts constitutes effective delivery.

Clearlake and LCRAI signed this Agreement as of the date stated in its first paragraph.

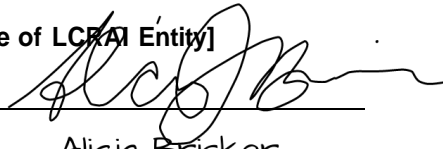
[Clearlake]

By: _____

Name: _____

Title:

[Name of LCRAI Entity]

By:  _____

Name: Alicia Brisker

Title:

Attachment A

Project Steps/Outcomes

Engage the project management/implementation team (shared with current Caltrans project to assure synergy) to initially:

- **Develop, document and get agreement on detailed project plan**
- **Set up project communication & financial reporting system**

Project management team will direct, manage and (where appropriate) implement the following:

- 1. Work with local artist(s) to design lake dragon image (and persona) to be used through out**
- 2. Plan/implement format for dragon appearances:**
 - **Identify where dragon will appear**
 - **Construct on-going mechanisms for dragon to appear e.g., AR and projection**
- 3. Create/implement a PR plan to get the buzz going on the lake dragon including press and social media**
- 4. Work with businesses/associations/Native Americans on plan to “partner with/leverage” lake dragon**
- 5. Identify additional dragon activities e.g., footprints, festivals, book?**
- 6. Have constructed a dragon sculpture/statue that is “interactive” for multi-generational fun**

Project team will work with Clearlake to ensure the on-going ability for Clearlake to manage the lake dragon once the project has been completed by them.

LCRAI will oversee the project team to ensure implementation of the above.