

AGREEMENT BETWEEN LAKE COUNTY WATERSHED PROTECTION DISTRICT AND LG SONIC US, LLC FOR 14 BUOYS DEVICES AND DATA COLLECTION SERVICES

This Agreement is made and entered into by and between the Lake County Watershed Protection District, hereinafter referred to as “District”, and LG Sonic US, LLC, hereinafter referred to as “Contractor”, collectively referred to as the “parties”.

1. **SERVICES.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to District the equipment and services described in the Scope of Services attached hereto and incorporated herein as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A – Scopes of Services, Exhibit B – Fiscal Provisions, and Exhibit C – Compliance Provisions, the Agreement shall prevail.

2. **TERM.** This Agreement shall commence on April 1st, 2025, and shall terminate on April 1st, 2028, unless earlier terminated as hereinafter provided. In the event District desires to temporarily continue services after the expiration of this Agreement, such continuation shall be deemed on a month-to-month basis, subject to the same terms, covenants, and conditions contained herein.

3. **COMPENSATION.** Contractor has been selected by District to provide the services described hereunder in Exhibit “A” (Scope of Services), attached hereto. Compensation to Contractor shall not exceed nine hundred twenty-one thousand four hundred seven dollars and 20/100 cents (\$921,407.20).

The District shall compensate Contractor for services rendered, in accordance with the provisions set forth in Exhibit “B” (Fiscal Provisions), attached hereto.

4. **TERMINATION.** This Agreement may be terminated by mutual consent of the parties or by District upon 30 days written notice to Contractor.

Upon termination, Contractor shall be paid a prorated amount for the services provided up to the date of termination.

5. **MODIFICATION.** This Agreement may only be modified by a written amendment hereto, executed by both parties; however, matters concerning scope of services which do not affect the compensation may be modified by mutual written consent of Contractor and County executed by the Water Resources Director.

6. **NOTICES.** All notices between the parties shall be in writing addressed as follows:

Lake County Watershed Protection District
Director, Water Resources
255 N Forbes St Room 309
Lakeport, CA 95453
Attn: Pawan Upadhyay, PhD

LG Sonic US, LLC
Attn: Greg Eiffert, Manager
1326 New Seneca Turnpike Suite A2
Skaneateles, NY 14152
Attn: Greg Eiffert

7. **EXHIBITS.** The Agreement Exhibits, as listed below, are incorporated herein by reference:

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Exhibit A – Scope of Services

Exhibit B – Fiscal Provisions

Exhibit C – Compliance Provisions

8. **TERMS AND CONDITIONS.** Contractor warrants that it will comply with all terms and conditions of this Agreement and Exhibits, and all other applicable federal, state and local laws, regulations and policies.

9. **WARRANTY/LIMITATION OF LIABILITY .** THE SERVICES PROVIDED BY CONTRACTOR UNDER THIS AGREEMENT ARE SUPPLIED ON AN “AS IS” AND “AS AVAILABLE” BASIS. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR MAKES NO WARRANTIES (INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT), GUARANTIES, REPRESENTATIONS, EXPRESS, IMPLIED, ORAL OR OTHERWISE. CONTRACTOR WILL USE REASONABLE EFFORTS TO ATTEMPT TO MEET SCHEDULED DELIVERY DATES, HOWEVER CONTRACTOR MAKES NO GUARANTEES, NOR ACCEPTS ANY RESULTING LIABILITY, FOR FAILURE TO DO SO. IN NO EVENT SHALL CONTRACTOR BE RESPONSIBLE FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE OR OTHER INDIRECT DAMAGES INCLUDING, WITHOUT LIMITATION, LOST REVENUE OR PROFITS, IN ANY WAY ARISING OUT OF OR RELATED TO THE AGREEMENT, EVEN IF CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CONTRACTOR WILL NOT BE LIABLE, OR CONSIDERED TO BE IN BREACH OF THIS AGREEMENT, ON ACCOUNT OF ANY DELAY OR FAILURE TO PERFORM UNDER THIS AGREEMENT AS A RESULT OF CAUSES OR CONDITIONS THAT ARE BEYOND CONTRACTOR’S CONTROL. NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, CONTRACTOR’S LIABILITY UNDER ANY CAUSE OF ACTION SHALL BE LIMITED TO THE AMOUNTS PAID OR TO BE PAID TO CONTRACTOR BY COUNTY PURSUANT TO THIS AGREEMENT. CONTRACTOR WILL ATTEMPT TO REMEDY ANY ERRORS OR OMISSIONS IN A COMMERCIALY REASONABLE FASHION. COUNTY AGREES TO SUPPLY CONTINUED COMMERCIALY REASONABLE ASSISTANCE IN TECHNICAL AND ADMINISTRATIVE ASSISTANCE RELATING TO THE SERVICES, AS THEY ARISE FROM THIS AGREEMENT.

10. **NON-EXCLUSIVE SERVICE.** County acknowledges that the Services are provided on a non-exclusive basis. Nothing shall be deemed to prevent or restrict Contractor’s ability to provide support or other Services or other technology, including any non-proprietary features or functionality first developed for County to other parties.

12. **FORCE MAJEURE.** Each party will be excused from performance for any period that continues for more than thirty (30) days during which, and to the extent that, such party is prevented from performing any obligation or Services, in whole or in part, as a result of causes beyond its reasonable control, and without its fault or negligence, including without limitation,

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acts of God, strikes, lockouts, riots, acts of terrorism or war, epidemics, global pandemics, government restrictions, communication line failures, and power failures.

13. INTEGRATION. This Agreement, including attachments, constitutes the entire agreement between the parties regarding its subject matter and supersedes all prior Agreements, related proposals, oral and written, and all negotiations, conversations or discussions heretofore and between the parties.

County and Contractor have executed this Agreement on the day and year first written above.

COUNTY OF LAKE

LG SONIC US, LLC

CHAIR, Board of Supervisors

Date: _____

Greg Eiffert, Manager

Date: _____

ATTEST:
SUSAN PARKER
Clerk to the Board of Supervisors

By: _____

APPROVED AS TO FORM:
LLOYD GUINTIVANO
County Counsel

By: _____

Digitally signed by Lloyd C. Guintivano
DN: cn=Lloyd C. Guintivano, c=US,
o=County of Lake, ou=Office of the County
Counsel,
email=Lloyd.Guintivano@lakecountyca.gov
Date: 2025.03.13 10:39:21 -0700

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EXHIBIT “A” – SCOPE OF SERVICES

- 1. CONTRACTOR RESPONSIBILITIES.** *The Contractor shall perform the following duties within the specified timeframes and in compliance with all applicable regulations:*

Buoy Deployment

Deploy 10 MPC Buoy Lite units and 4 MPC Buoy Pro units in the Lower arm of Clear Lake near the City of Clearlake, as shown on the attached map. It includes but not limited to shipping, installation, staff training, logistics for warranty compliance, etc.

1.1. Training on Buoy Maintenance and Operation

Provide comprehensive training to County/Water Resources staff on the maintenance and operation of the buoys.

1.2. Data Collection Training and Access

Offer training on data collection via the 4 MPC Buoy Pro units, and grant access to the data platform for ongoing monitoring and analysis.

1.3. Quarterly Maintenance Plan

Develop and deliver a quarterly maintenance plan for all buoys, outlining inspection schedules, required maintenance, and any potential repairs.

1.4. Permits and Compliance

Obtain all necessary permits and approvals for the installation of the buoys, ensuring full compliance with local, state, and federal regulations, including environmental and navigational requirements.

1.5. Site Preparation and Installation

Prepare the installation sites by ensuring they are clear of obstacles. Determine the appropriate anchoring depth and secure positioning for each buoy to ensure their stability and functionality.

1.6. Warranty and Post-Installation Support

Notwithstanding Section 9 of the Agreement, Contractor shall provide a warranty for the installation, guaranteeing that all buoys will remain securely in place and fully operational according to the Contractor’s warranty policy, available on request. The Contractor shall address any issues that arise during the warranty period at no additional cost.

1.7. Communication and Reporting

Maintain regular communication with the County/Water Resources, providing timely updates on the progress of the installation. Address any concerns or required adjustments to the project and ensure transparency throughout the process.

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2. **RECORDS RETENTION.** Contractor shall prepare, maintain and/or make available to County upon request, all records and documentation pertaining to this Agreement, including financial, statistical, property, recipient and service records and supporting documentation for a period of five (5) years from the date of final payment of this Agreement. If at the end of the retention period, there is ongoing litigation or an outstanding audit involving the records, Contractor shall retain the records until resolution of litigation or audit. After the retention period has expired, Contractor assures that confidential records shall be shredded and disposed of appropriately.

3. **COUNTY RESPONSIBILITIES.** *The County shall fulfill the following responsibilities:*

3.1 **Site Access**

The County will ensure that the Contractor has full and timely access to the project sites as needed to complete the scope of work without delay. The County will assist/manage receiving, storage, and facilitate the appropriate boat required for installation.

3.2 **Permits and Compliance**

The County will assist the contractor in obtaining all necessary permits and approvals for the installation of the buoys, ensuring full compliance with local, state, and federal regulations, including environmental and navigational requirements.

3.3 **Data and Resource Sharing**

The County will provide the Contractor with access to any available relevant data and/or historical information necessary for the successful completion of the project. MPC-Buoys are self-sufficient, powered by onboard solar and battery systems, with internet provided via included SIM cards, requiring no additional County utilities.

3.4 **Point of Contact**

The County will designate a point of contact to coordinate communication between the County and the Contractor, addressing any questions or concerns that arise during the project.

3.5 **Progress Review and Approval**

The County will review and approve project deliverables as outlined in the scope of work, providing timely feedback to ensure the project remains on schedule.

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EXHIBIT “B” – FISCAL PROVISIONS

1. CONTRACTOR’S FINANCIAL RECORDS. Contractor shall keep financial records for funds received hereunder, separate from any other funds administered by Contractor, and maintained in accordance with Generally Accepted Accounting Principles and Procedures and the Office of Management and Budget’s Cost Principles.

2. INVOICES.

2.1 Contractor’s invoices shall be submitted in arrears on a monthly basis, or such other time that is mutually agreed upon in writing, and shall be itemized and formatted to the satisfaction of the County.

2.2 County shall make payment within 30 business days of an invoice for the compensation stipulated herein for supplies delivered and accepted or services rendered and accepted. Payment on partial deliverables may be made whenever amounts due so warrant or when requested by the Contractor and approved by the Assistant Purchasing Agent.

3. AUDIT REQUIREMENTS AND AUDIT EXCEPTIONS

3.1 Contractor warrants that it shall comply with all audit requirements established by County and will provide a copy of Contractor’s Annual Independent Audit Report, if applicable.

4. EXPENDITURE OF FUNDS.

- 4.1 Year One
- \$691,055.40
 - NET 30 from full installation date
- Year Two
- \$230,351.80
 - NET 365 from full installation date
 - Shall not apply if the provisions of Section 4.2 are executed

4.2 In the event of a negative system performance assessment by the County, the Water Resources Department of Lake County shall retain four (4) MPC-Buoy Pro units. LG Sonic US, LLC shall recover the remaining MPC Buoys with assistance of County to assist in removal.

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EXHIBIT “C” – COMPLIANCE PROVISIONS

1. INFORMATION INTEGRITY AND SECURITY. Each Party shall immediately notify the other Party of any known or suspected breach of personal, sensitive and confidential information related to Contractor’s work under this Agreement.

2. NON-DISCRIMINATION. Contractor shall not unlawfully discriminate against any qualified worker or recipient of services because of race, religious creed, color, sex, sexual orientation, national origin, ancestry, physical disability, mental disability, medical condition, marital status or age.

3. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

3.1 The Contractor certifies to the best of its knowledge and belief, that it and its subcontractors:

A. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

B. Have not, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses enumerated in the preceding paragraph; and

D. Have not, within a three-year period preceding this Agreement, had one or more public transactions terminated for cause or default.

3.2 Each Party shall report immediately to the other Party, in writing, any incidents of alleged fraud and/or abuse by such Party or such Party’s subcontractor, affiliates, or related parties. Contractor shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by County.

4. AGREEMENTS IN EXCESS OF \$100,000. Contractor shall comply with all applicable orders or requirements issued under the following laws:

4.1 Clean Air Act, as amended (42 USC 1857).

4.2 Clean Water Act, as amended (33 USC 1368).

4.3 Federal Water Pollution Control Act, as amended (33 USC 1251, et seq.)

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4.4 Environmental Protection Agency Regulations (40 CFR and Executive Order 11738).

5. INDEMNIFICATION AND HOLD HARMLESS.

Each party shall indemnify and hold the other harmless against all actions, claims, demands, and liabilities and against all losses, damage, cost, expenses, and attorney's fees, arising directly or indirectly out of an actual or alleged injury to a person or property in the same proportion that its own acts and/or omissions are attributed to said claim, demand, liability, loss, damage, cost, expenses, and/or attorney's fees. This provision shall not extend to any claim, demand, liability, loss, damage, cost, expenses, and/or attorney's fees covered by the insurance of either party.

The obligations under this Section shall survive the termination of the Agreement.

6. **STANDARD OF CARE.** Contractor represents that it is specially trained, licensed, experienced and competent to perform all the services, responsibilities and duties specified herein and that such services, responsibilities and duties shall be performed, whether by Contractor or designated subcontractors, in a manner according to generally accepted practices.

7. **INTEREST OF CONTRACTOR.** Contractor assures that neither it nor its employees have any interest, and that it shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services hereunder.

8. **DUE PERFORMANCE – DEFAULT.** Each party agrees to fully perform all aspects of this agreement. If a default to this agreement occurs then the party in default shall be given written notice of said default by the other party. If the party in default does not fully correct (cure) the default within 30 days of the date of that notice (i.e. the time to cure) then such party shall be in default. The time period for corrective action of the party in default may be extended in writing executed by both parties, which must include the reason(s) for the extension and the date the extension expires.

Notice given under this provision shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable time period. No such notice shall be deemed a termination of this Agreement, unless the party giving notice so elects in that notice, or so elects in a subsequent written notice after the time to cure has expired.

9. INSURANCE.

9.1 Contractor shall procure and maintain Workers' Compensation Insurance for all of its employees.

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9.2 Contractor shall procure and maintain Comprehensive Public Liability Insurance, both bodily injury and property damage, in an amount of not less than one million dollars (\$1,000,000) combined single limit coverage per occurrence, including but not limited to endorsements for the following coverage: personal injury, premises-operations, products and completed operations, blanket contractual, and independent contractor's liability.

9.3 Contractor shall procure and maintain Comprehensive Automobile Liability Insurance, both bodily injury and property damage, on owned, hired, leased and non-owned vehicles used in connection with Contractor's business in an amount of not less than one million dollars (\$1,000,000) combined single limit coverage per occurrence.

9.4 Contractor shall procure and maintain Professional Liability Insurance for the protection against claims arising out of the performance of services under this Agreement caused by errors, omissions or other acts for which Contractor is liable. Said insurance shall be written with limits of not less than one million dollars (\$1,000,000).

9.5 Contractor shall not commence work under this Agreement until it has obtained all the insurance required hereinabove and submitted to County certificates of insurance naming the County of Lake as additional insured. Contractor agrees to provide to County, at least 30 days prior to expiration date, a new certificate of insurance.

9.6 In case of any subcontract, Contractor shall require each subcontractor to provide all of the same coverage as detailed hereinabove. Subcontractors shall provide certificates of insurance naming the County of Lake as additional insured and shall submit new certificates of insurance at least 30 days prior to expiration date. Contractor shall not allow any subcontractor to commence work until the required insurances have been obtained.

9.7 For any claims related to the work performed under this Agreement, the Contractor's insurance coverage shall be primary insurance as to the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, agents or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.

9.8 The Commercial General Liability and Automobile Liability Insurance must each contain, or be endorsed to contain, the following provision:

The County, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds and shall be added in the form of an endorsement to Contractor's insurance on Form CG 20 10 11 85. Contractor shall not commence work under this Agreement until Contractor has had delivered to County the Additional Insured Endorsements required herein.

Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under subdivision (b) of California Civil Code Section 2782.

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9.9 Insurance coverage required of Contractor under this Agreement shall be placed with insurers with a current A.M. Best rating of no less than A: VII.

Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the Contractor for liability in excess of such coverage, nor shall it preclude County from taking other action as is available to it under any other provision of this Agreement or applicable law. Failure of County to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at a later date.

9.10 Any failure of Contractor to maintain the insurance required by this section, or to comply with any of the requirements of this section, shall constitute a material breach of the entire Agreement.

10. ATTORNEY'S FEES AND COSTS. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.

11. ASSIGNMENT. Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the same without the prior written consent of County except that claims for money due or to become due Contractor from County under this Agreement may be assigned by Contractor to a bank, trust company, or other financial institution without such approval. Written notice of any such transfer shall be furnished promptly to County. Any attempt at assignment of rights under this Agreement except for those specifically consented to by both parties or as stated above shall be void.

12. PAYROLL TAXES AND DEDUCTIONS. Contractor shall promptly forward payroll taxes, insurances, and contributions to designated governmental agencies.

13. INDEPENDENT CONTRACTOR. It is specifically understood and agreed that, in the making and performance of this Agreement, Contractor is an independent contractor and is not an employee, agent or servant of County. Contractor is not entitled to any employee benefits. County agrees that Contractor shall have the right to control the manner and means of accomplishing the result contracted for herein.

Contractor is solely responsible for the payment of all federal, state and local taxes, charges, fees, or contributions required with respect to Contractor and Contractor's officers, employees, and agents who are engaged in the performance of this Agreement (including without limitation, unemployment insurance, social security and payroll tax withholding.)

14. OWNERSHIP OF DOCUMENTS. All non-proprietary reports, drawings, renderings, or other documents or materials prepared by Contractor hereunder are the property of County.

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15. **SEVERABILITY.** If any provision of this Agreement is held to be unenforceable, the remainder of this Agreement shall be severable and not affected thereby.

16. **ADHERENCE TO APPLICABLE DISABILITY LAW.** Contractor shall be responsible for knowing and adhering to the requirements of Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, (42 U.S.C. Sections 12101, et seq.). California Government Code Sections 12920 et seq., and all related state and local laws.

17. **HIPAA COMPLIANCE.** Contractor will adhere to Titles 9 and 22 and all other applicable Federal and State statutes and regulations, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and will make his best efforts to preserve data integrity and the confidentiality of protected health information.

18. **SAFETY RESPONSIBILITIES.** Contractor will adhere to all applicable CalOSHA requirements in performing work pursuant to this Agreement. Contractor agrees that in the performance of work under this Agreement, Contractor will provide for the safety needs of its employees and will be responsible for maintaining the standards necessary to minimize health and safety hazards.

19. **JURISDICTION AND VENUE.** This Agreement shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue of any action or proceeding regarding this Agreement or performance thereof shall be in Lake County, California. Contractor waives any right of removal it might have under California Code of Civil Procedure Section 394.

20. **RESIDENCY.** The Contractor shall be registered and authorized to do business in the State of California at all times during the Term.

21. **NO THIRD-PARTY BENEFICIARIES.** Nothing contained in this Agreement shall be construed to create, and the parties do not intend to create any rights in or for the benefit of third parties.

22. **PUBLIC RECORDS ACT.** Contractor is aware that this Agreement and any documents provided to the County may be subject to the California Public Records Act and may be disclosed to members of the public upon request. It is the responsibility of the Contractor to clearly identify information in those documents that s/he considers to be confidential under the California Public Records Act. To the extent that the County agrees with that designation, such information will be held in confidence whenever possible. All other information will be considered public.