

CHALLENGE PARTNERSHIP AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
THE FOOTE PARK PROJECT

THIS AGREEMENT is entered into this 19<sup>th</sup> day of MAY, 2016, by and between the Department of the Army, represented by the District Commander, U.S. Army Engineer District, Walla Walla (hereinafter the Government) and The Foote Park Project at Lucky Peak Dam and Lake in Boise, ID.

WITNESSETH, THAT:

WHEREAS, the Government manages lands and waters at Lucky Peak Dam and Lake (hereinafter Government Property) which include recreation and land management missions; and

WHEREAS, the Foote Park Project, is interested in preserving and educating the public with regard to the features and history of the Foote House located on the Government property. See Exhibit 1 which more fully describes the relevance of the Foote House and community efforts for its preservation and interpretation; and

WHEREAS, it is mutually beneficial to the Government, and the Foote Park Project to work cooperatively to enhance the area adjacent to the Foote House; and

WHEREAS, Section 225 of the Water Resources Development Act of 1992, PL 102-580, (Oct 31, 1992), authorizes the Secretary of the Army to accept contributions from the Private Partner and apply those contributions to the Government; and

WHEREAS, the Government and the Foote Park Project have the full authority and capability to perform as hereinafter set forth and intend to cooperate in this Challenge Partnership in accordance with the terms of this Agreement;

NOW THEREFORE, the Government and the Foote Park Project agree as follows:

ARTICLE I - DEFINITIONS AND GENERAL PROVISIONS

For purposes of this Agreement:

a. The term "project" shall mean site improvements at and near the historic Foote House. Site improvements may include, but are not limited to, installing a restroom, road improvements, installing an interpretive shelter, and developing/installing interpretive panels.

b. This Agreement in no way restricts the Government from participating in similar activities or arrangements with, or accepting contributions from, other public and private agencies, organizations, and individuals.

c. All donated property, facilities and improvements placed on Government land as well as any work accomplished under this Agreement shall become the property of the Government.

## ARTICLE II - OBLIGATIONS OF THE PARTIES

a. The Government, subject to and using funds appropriated by the Congress of the United States, and using materials and services provided by the Foote Park Project, shall carry out this project, applying those procedures usually applied to Federal activities, pursuant to Federal laws, regulation and policies.

b. The Government shall provide:

(1) Improvements to the roadway approach to increase visibility and safe passing of vehicles;

(2) Sufficient parking area for turning around and parking large vehicles, including buses, and vehicles with boat trailers;

(3) A vault toilet restroom to serve the needs of additional visitors;

(4) New park signage to encourage rules compliance and responsible use of the area and to guide visitors to the facility from the Lucky Peak Dam Road;

(5) Staff to patrol the area to improve security of the facility and deter vandalism and larceny of installed features;

(6) Timely response to requests for information or approval to prevent delay of contractual processes and obligations between the Foote Park Project and its vendors;

(7) Endeavor to keep the site in a state of good repair, open, and accessible to the public;

(8) Recognize the contribution of contributors in a manner consistent with the NWW Contribution Policy and with input from the Foote Park Project.

c. The Foote Park Project shall:

(1) Perform all fundraising efforts and financial management for construction of interpretive panels and shelter;

(2) Develop appropriate, positively-themed interpretive panel content for the Foote House and Shoshone tribes and facilitate pre-decisional input by the tribes and the Government. General frame design and textual content should be reviewed and given final approval in writing by the Government prior to manufacture;

(3) Perform all necessary market research and competitive contractual processes for the advertisement, contractual award, construction and payment for the interpretive panels and interpretive structure. Design specifications and bid packages shall be approved in writing by the Government prior to invitation for bid to ensure compliance and general conformity with the National Environmental Policy Act (NEPA) approvals and stipulations provided under consultation completed in 2014. Engineer drawings and calculations should be reviewed and approved in writing by the Government prior to contractual award to ensure life safety considerations and minimal operations and maintenance needs are adequately addressed. Contractors shall be licensed and bonded. Design and Structural specifications must comply with the Structure Requirements attached as Exhibit 2;

(4) Coordinate early and frequently with Government staff regarding major project milestones, area closures during construction, timetables for work, safety measures employed, work windows, and security concerns;

(5) As opportunities become available, promote use and stewardship of the site by available means, including for instance: promote the site by word-of-mouth within the community, provide interpretive programs such as talks or in-character presentations, produce or distribute electronic or printed media, and refer to the Government potential sources of volunteerism and service projects;

(6) Conduct all work with the ultimate intent of contributing the facility to the Government for continued operation and maintenance as part of the Lydle Gulch management unit;

(7) Acknowledge that security concerns, resource limitations, and safety concerns prevent indefinitely guaranteed access to, maintenance of, and viability of the site and structure. The Foote Park Project will have no vested interest in the structure following its contribution to Lucky Peak Lake. The contribution will be memorialized by the partners in writing, at which time the Government assumes all custodial care of the facility.

d. The joint roles and responsibilities of the Parties are to work collaboratively; to afford the Foote Park Project the greatest creative latitude of concept and design while addressing public health and safety responsibilities; and to actively facilitate mutual success in its varied shapes and forms.

e. The Government shall perform a final accounting to determine the contributions provided by all parties to this Agreement and to determine whether each has met its obligation.

f. No Federal funds may be used to meet the Foote Park Project's obligations under this Agreement.

### ARTICLE III - METHOD OF PAYMENT

a. The Government shall maintain current records of contributions provided by the Partner and a current projection of total project costs. At least quarterly, the Government shall provide the Foote Park Project with a report setting forth all contributions provided to date and the current projection of total project costs, of the components of total project costs, of each party's share of total project costs, and of the Foote Park Project's contribution in accordance with Article II.b. of this Agreement. On the effective date of this Agreement, the Foote Park Project's contribution under Article II.b. of this Agreement is projected to be \$70,000 and additional volunteer hours. Such amounts are estimates subject to adjustment and are not to be construed as the total financial responsibilities.

b. Upon completion of the project and resolution of all relevant claims and appeals, the Government shall conduct a final accounting and furnish the Foote Park Project with the results of the final accounting. The final accounting shall establish total project costs, each party's contribution provided thereto, and each party's share thereof.

### ARTICLE IV - FEDERAL AND STATE LAWS

a. In exercise of their respective rights and obligations under this Agreement, the Government and the Foote Park Project agree to comply with all applicable Federal and State laws and regulations, including, but not limited to, Section 601 of Title VI of the Civil Rights Act of 1964, PL 88-352, and the Department of Defense Directive 5500.11 issued pursuant thereto and published in Part 300 of Title 32, Code of Federal Regulations, as well as Army Regulations 600.7, entitled "Non-discrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army."

### ARTICLE V - RELATIONSHIP OF PARTIES

a. In the exercise of their respective rights and obligations under this Agreement, the Government, and the Foote Park Project each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.

b. In the exercise of its rights and obligations under this Agreement, no party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights such other party may have to seek relief or redress against such contractor either pursuant to any cause of action that such other party may have or for violation of any law.

## ARTICLE VI - OFFICIALS NOT TO BENEFIT

a. No member of or delegate to the United States Congress, or resident commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom.

## ARTICLE VII - INDEMNIFICATION

a. The Foote Park Project and its contractors shall hold and save the Government free from all damages arising from services it performs or provides for the construction, repair, replacement, and rehabilitation of the activity, except for damages due to the fault or negligence of the Government or its contractors.

## ARTICLE VIII – TERM

a. This Agreement becomes effective upon the date last signed and executed by the duly authorized representative of the Parties to this Agreement.

b. This Agreement shall remain in effect until the project is constructed and complete or for (3) years from the execution date, whichever is sooner, unless terminated, extended, or cancelled prior to the expiration date.

## ARTICLE IX - TERMINATION OR SUSPENSION

a. If at any time the Foote Park Project fails to fulfill its obligations under this Agreement, the Government shall terminate this Agreement or suspend future performance under this Agreement unless the Government determines that continuation of work on the activity is in the interest of the United States or is necessary in order to satisfy agreements with any other non-Federal interests in connection with the activity.

b. If the Government fails to receive annual appropriations in amounts sufficient to meet its obligations as set forth in this Agreement for the then-current or upcoming fiscal year, the Government shall so notify the Foote Park Project, and 60 calendar days thereafter any party may elect without penalty to terminate this Agreement or to suspend future performance under this Agreement. In the event that any party elects to suspend future performance under this Agreement pursuant to this paragraph, such suspension shall remain in effect until such time as the Government receives sufficient appropriations or until either the Government or the Foote Park Project elects to terminate this Agreement.

c. In the event that any party elects to terminate this Agreement pursuant to this Article, all parties shall conclude their activities relating to the activity and proceed to a final accounting in accordance with Article II of this Agreement.

d. Any termination of this Agreement or suspension of future performance under this Agreement in accordance with this Article shall not relieve the parties of liability for any obligation previously incurred.

## ARTICLE X - NOTICES

Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or mailed by either first-class, registered, or certified mail, as follows:

a. If to the Foote Park Project:

(1) Mary Ann Arnold  
5972 Plantation Lane  
Boise, ID 83703

(2) Janet Worthington  
8109 W Powell  
Boise, ID 83714

b. If to the Government:

Matthew Walker  
9723 E Highway 21  
Boise, ID 83716  
Lucky Peak Project Operations Manager

A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed.

Routine and operational points contacts between parties:

a. If to Foote Park Project:

(1) Mary Ann Arnold  
Co-Founder  
makdarnold@aol.com  
(208) 761-8285

(2) Janet Worthington  
Co-Founder  
worthingtonjanet@msn.co  
(208)853-2599

b. If to the Government:

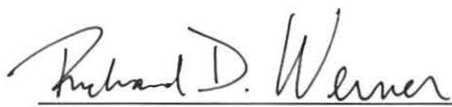
Keith Hyde  
Park Manager, Lucky Peak Dam & Lake  
keith.b.hyde@usace.army.mil  
(208) 343-0671

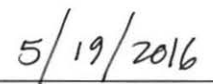
## ARTICLE XI - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

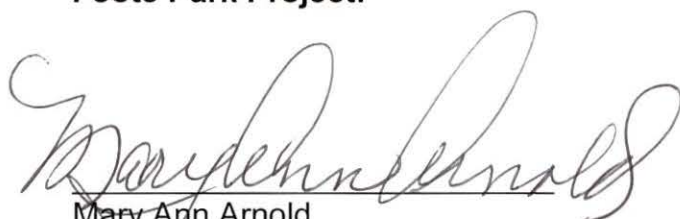
IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Commander of the U.S. Army Corps of Engineers, Walla Walla District or their designee.

### U.S. Army Corps of Engineers:

  
Richard D. Werner, P.E.  
Chief, Operations Division  
USACE Walla Walla District

  
Date

### Foote Park Project:

  
Mary Ann Arnold  
Organizer/Co-Founder

  
Date

  
Janet Worthington  
Organizer/Co-Founder

  
Date

## EXHIBIT 1

### BACKGROUND OF MARY HALLOCK FOOTE HOUSE SITE

The Foote House, located in Lydle Gulch near Lucky Peak Dam, marks a place of significance to the Treasure Valley. Mary Hallock Foote was a famous author and illustrator and a rare, genteel, female voice from the Western Frontier that created her pieces at this site along the Boise River. Her collection of published works was sourced extensively in the 1972 Pulitzer Prize-winning work, *Angle of Repose*, authored by Wallace Stegner. Arthur De Wint Foote conceptualized irrigation development of the Treasure Valley and used the site to secure equipment intended to construct the canal systems that today supply water critical to economic development in southwest Idaho. Lastly, the site is located adjacent to a small prehistoric settlement of the Shoshone tribes – inhabitants of the region between approximately 1200 until the late 1800's – before their displacement during the territorial evolution of the United States.

The Lucky Peak Master Plan describes the history of this site as “extremely colorful and interesting” and goes on to provide a management objective to “provide an interpretive facility for archaeological and historical resources.” To date, only a small, succinct, and deteriorating interpretive panel exists there, discussing Mary Hallock Foote and Arthur De Wint Foote. Lucky Peak is absent any facilities interpreting prehistoric settlement. To fulfill this management objective, improved informational displays and infrastructure are required.

Both the prehistoric site and the Foote House site were thoroughly examined during extensive archaeological excavations. Collected artifacts were placed under curation and the University of Idaho in Moscow published scientific reports of their findings. Following the dig, the prehistoric area was covered by dirt and enclosed by security fencing; the Foote House site was also covered by dirt and surrounded by split rail fencing accompanied with a brief, informative sign. Many years later, the Walla Walla District proposed the Foote House site for listing to the National Registry of Historic Places but ultimately status was not granted.

In the summer of 2013, Lucky Peak personnel were approached by Mary Ann Arnold and Janet Worthington, local history enthusiasts, who expressed dismay at the

condition of the area. They advocated on behalf of the site and offered help to improve it in any way. The two met with Operations Project Manager, Joyce Dunning, and Park Manager, Keith Hyde, in the Fall to brainstorm and explore in detail many hopeful and long-term strategies required to accomplish their vision. The Foote House Project was born.

The infrastructure proposed dovetails with existing planned recreational improvements of the area to reduce ongoing problems of dumping, illegal fires, illegal camping, illegal digging, illicit activities, and poor traffic flow. During summer and fall of 2014, the Government coordinated NEPA compliance reviews of and formal consultations regarding the Foote House Project's proposal. The Government then created a new graveled parking area, widened the approach roadway for traffic safety, installed a new vault toilet, installed a service road gate, and lined roadways with vehicle control boulders. To scarify and reclaim old, illegal vehicle trails, bare root sagebrush plantings and broadcast seeding of native grasses was performed. Park staff increased patrols and surveillance of the area, and enacted routine inspections of fencing and grounds for signs of illegal activity. The Government commitment – to improve infrastructure and make the area suitable for an interpretive facility addition – has been substantially attained as of 2015.

Mary Ann Arnold and Janet Worthington initiated a fundraising campaign in spring of 2015 to generate the necessary financial capital for interpretive panels and the interpretive structure. These efforts continue with a target date for construction in 2017. Fundraising activities are conducted entirely by the Foote House Project with no involvement or administration of funds by Government.

## **EXHIBIT 2**

### **STRUCTURE REQUIREMENTS FOOTE HOUSE INTERPRETIVE SITE**

#### **GENERAL**

The design must be performed by a Professional Engineer licensed in the State of Idaho. Submit two sets of submittal drawings and two sets of calc books, both signed and sealed by the designer of record, for Government review and approval. The Government review will ensure compliance and general conformity with NEPA approvals and stipulations provided under consultation and ensure life safety considerations are adequately addressed.

#### **REFERENCE STANDARDS**

- a. AISC - American Institute of Steel Construction Manual of Steel Construction.
- b. ASTM - American Society for Testing and Materials.
- c. AWS - American Welding Society.
- d. IBC (current version) – International Building Code.
- e. OSHA – Occupational Safety and Health Administration Steel Erection Standard 29 CFR 1926 Subpart R-Steel Erection.

#### **DESIGN REQUIREMENTS**

The building must meet the following design requirements and reference standards:

- a. Building Code: IBC (current version) or government building code (i.e. local amendments to IBC), whichever is more conservative.
- b. Ground Snow Load: As required by the IBC
- c. Basic Wind Speed: As required by the IBC
- d. Roof Pitch: Loading must be appropriately accounted for with the low-pitch roof design
- e. Under Eave Clearance: 7'-7.5"
- f. Any geotechnical investigations required to determine soil types and/or groundwater conditions are the responsibility of the designer of record

#### **GOVERNMENT REVIEW**

The calculations and drawings provided for Government review must include, at a minimum:

Calculations:

- a. References to building codes and design manuals used for calculations.
- b. Identification of lateral force resisting system.
- c. Formulas used for determining snow, wind, and seismic loads to specific project location.
- d. Three dimensional modeling input, model geometry, and analysis results.
- e. Member design results and controlling load combinations, including loading from basalt cladding.

- f. Connection design for structural bolts, welds, plate thicknesses, and anchorage to the foundation.
- g. Connection design for basalt cladding on the columns.
- h. Foundation designs must include the required combinations of gravity and lateral loads, allowable bearing capacity, earth pressures, and frost considerations.
- i. Logs of test pits or borings completed to ascertain the existing conditions.

Drawings:

- a. Anchor bolt layout.
- b. Foundation design.
- c. Three dimensional views of frame.
- d. Member sizes and locations.
- e. Structural connection details, including bolt sizes and plate thicknesses.
- f. Roof trim and connection details for installation clarity.
- g. Basalt cladding and wall.
- h. Earthwork details.
- i. Site plan and profile.

MANUFACTURER WARRANTY

- a. Shelter must have a 10 year limited warranty on steel frame members.
- b. Shelter must have a 10 year limited warranty on paint system.
- c. Shelter must have a 10 year limited warranty on roof panel coating.

FABRICATION AND ERECTION

Fabrication and erection must be in accordance with reference standards and be completed by licensed and bonded contractors. Erection must be monitored by the designer of record to ensure all design elements are properly erected, such as field modifications that could compromise the integrity of the structure.