

**CHALLENGE PARTNERSHIP AGREEMENT**

**between**

**THE DEPARTMENT OF THE ARMY**

**and**

**ADA COUNTY, IDAHO**

**and**

**BOISE COUNTY, IDAHO**

**for**

**Lucky Peak Mutual Aid Repeater**

Parties to this Challenge Partnership Agreement are the Department of the Army (hereinafter the "Government"), represented by the District Engineer, U.S. Army Corps of Engineers, Walla Walla District, and Ada County, Idaho, and Boise County, Idaho, (hereinafter the "Partners").

The purpose of this partnership is to provide an interoperable radio communication solution, at minimal equipment expense, to the leading public safety agencies that service areas of responsibility that include Lucky Peak Lake.

Witnesseth, that:

Whereas, the Government manages lands and waters of Lucky Peak Lake, which offers recreational opportunities such as recreational boating, camping, picnicking, and hunting to approximately 900,000 visitors each year within the boundaries of Ada and Boise Counties, and

Whereas, impacts to the area not recreation related, such as motor vehicle accidents, abandonment of stolen property, suicides, vehicle-wildlife collisions, wildland fire, and other threats to public safety, are increased by the presence of State Highway 21, providing one of few access routes to northeast Idaho, and by the proximity of Lucky Peak Lake to the greater Boise urban area of 400,000 residents, and

Whereas, the Ada County Emergency Communications Center operates on a distinct 700-800 MHz radio communication system not compatible with 136-174 MHz VHF radio systems employed by all other emergency services resources of the Government, the State of Idaho, Boise County Dispatch, and other Federal agencies in the area, and

Whereas, all-agency migration to a common radio communication system is profoundly cost prohibitive and extremely unlikely to occur, if ever, and

Whereas, new technology has developed in recent years allowing interoperable communications between existing systems employed by the Government and the Partners at comparably small expense, and

Whereas, it is mutually beneficial to the Government and the Partners to work cooperatively to provide resources and collaborative responses to public safety needs and emergencies at Lucky Peak Lake, and

Whereas, the Partners have voluntarily agreed to make contributions, through either funds, materials, or services for implementation and operation and maintenance of the Project, and

Whereas, Section 225 of the Water Resources Development Act of 1992, PL 102-580, (31 October 1998), authorizes the Secretary of the Army to accept contributions from the Partners and apply those contributions to the operating project, and

Whereas, the Government and the Partners have the full authority and capability to perform as hereinafter set forth and intend to cooperate in financing and partnering in accordance with the terms of this Agreement;

Now therefore, the parties agree as follows:

## Article I

For purposes of this Agreement:

a. The term "Project" shall mean purchase and installation of a Department of Defense JF12 approved radio repeater device(s) capable of cross communicating with the 700-800 MHz and 136-174 MHz VHF systems; Government licensing of VHF frequency pairs and Partner licensing of 700-800 MHz frequency pairs; all appurtenant devices and hardware such as cabling, racks, antennae, and miscellaneous hardware; labor to assemble, configure, program, and install such equipment; required battery and solar panel augmentation; operation and maintenance costs for 10 years from the date of project implementation; and radio frequency monitoring services for 10 years from the date of implementation.

b. The term "total Project costs" shall mean all costs incurred by the Government and the Partners directly related to the completion of the Project and its operation and maintenance for 10 years.

c. The term "term of Project" shall mean the construction of the Project plus 10 years of frequency monitoring, frequency licensing, and operation and maintenance.

d. 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.

## Article II – Obligations of the Parties

### a. The Government:

(1) The Government, subject to and using funds appropriated by the Congress of the United States, and with the assistance of the Partners, shall expeditiously implement the Project, applying those procedures usually applied to Federal projects, pursuant to Federal laws, regulations, and policies. The award of contracts, modifications or change orders, and performance of all work on the Project, whether the work is performed under contract or by employees of the Partners, shall be exclusively within the control of the Government.

(2) The Government shall purchase, compliant with Engineer Circular 25-1-341 (1 October 2009), approved interoperable radio communication device(s) which fulfill interoperability at a "solar friendly" minimal energy consumption rate. This includes two transmitters, two receivers, firmware, radio service software, manuals, interconnection cables, voltage regulator, amps, and racks to support the Project. The Government's role in acquisition is to acquire the core interoperable repeater components and interconnections only. Appropriated dollars will not be used to operate and maintain this equipment [see Article II, b, (2)].

(3) The Government shall license a 136-174 MHz VHF frequency pair for use by the interoperable repeater and maintain that license throughout the term of the Project.

(4) The Government shall program all Lucky Peak Lake radio equipment to have access to the interoperable repeater.

(5) The Government shall pursue and execute the appropriate real estate instrument with the Shaw Mountain Solar Repeater Site's managing agency to guarantee access to the Project equipment throughout the term of the Project.

(6) No Federal funds may be used to meet the Partner's total project costs under this Agreement.

b. Ada County:

(1) Ada County shall be responsible for installing Government purchased interoperable repeater components and for purchase and installation of hardware and equipment appurtenances of the interoperable radio repeater. This includes the supply or purchase of any coaxial cabling, antennae and mounting brackets, miscellaneous hardware, and labor for installation of the Project to an operational status.

(2) Ada County shall provide for all operation and maintenance of the Project throughout the term of the Project.

(3) Ada County shall license a 700-800 MHz frequency pair for use by the interoperable repeater and maintain that license throughout the term of the Project.

(4) Ada County shall program Sheriff Department radios to have access to the interoperable repeater for the term of the Project.

c. Boise County:

(1) Boise County shall provide for year-round, 24-hour radio frequency monitoring of the interoperable repeater for the term of the Project. This service will assure that any Partner's patrol deputy or other official can garner resources to support public safety incident responses.

(2) Boise County shall provide necessary and required storage battery upgrades and solar panel augmentation no to exceed \$5,000, as deemed appropriate by consensus of the parties of this Agreement.

(3) Boise County shall program Sheriff Department radios to have access to the interoperable repeater for the term of the Project.

### Article III – Method of Payment

Payment for the materials and services as detailed in the attached "Financial Worksheet of Estimated Project Costs" shall be the responsibility of the respective party. A copy of all receipts showing payments associated with the Project shall be provided to the Government to determine total Project costs. Such amounts are estimates subject to adjustment and are not to be construed as the total financial responsibilities of the Government or the Partners.

### Article IV – Dispute Resolution

As a condition precedent to any of the parties bringing any suit for breach of the Agreement, that party must first notify the other parties in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party. The parties shall each divide all costs paid to the third party equally for any and all costs for services provided by such third party as such costs are incurred. The existence of a dispute shall not excuse any party from performance pursuant to this Agreement.

#### Article V – Federal and State Laws

In exercise of the respective rights and obligations under this Agreement, the Government and the Partners agree to comply with all applicable Federal and State laws and regulations, including but not limited to the following: Civil Rights Act of 1964 (Public Law 88-352), Section 601 of Title VI; Department of Defense Directive 5500.11 issued pursuant thereto and published in Part 300 of Title #2, Code of Federal Regulations; and Army Regulation 600.7, entitled “Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army.”

#### Article VI – Relationship of the Parties

a. In exercise of their respective rights and obligations under this Agreement, the Government and the Partners act in an independent capacity, and none are to be considered the officer, agent, or employee of any other.

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

#### Article VII – Officials Not to Benefit

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

#### Article VIII – Indemnification

The Partners shall hold and save the Government free from all damages, including damages to Government supplies, materials, and equipment made available for the Partners’ use beyond normal wear and tear, arising from services the Partner(s) perform or provide for the construction, operation, maintenance, repair, replacement, and rehabilitation of the Project, except for damages due to the fault or negligence of the Government or its contractors.

#### Article IX – Termination or Suspension

a. If at any time either of the Partners individually or mutually fails to fulfill their obligations under this Agreement, the Government shall terminate this Agreement or suspend future performance under this Agreement unless they determine that continuance of work on the Project is in the best interest of the United States or is necessary in order to satisfy agreements with any other non-Federal interests in connection with the Project.

b. If the Government fails to receive annual appropriations in amounts sufficient to meet Project expenditures for the then-current or upcoming fiscal year, the Government shall so notify the Partners, and 60 calendar days thereafter either party may elect without penalty to terminate this Agreement or suspend future performance under this Agreement. In the event that either 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 Partner(s) elect to terminate this Agreement.

c. Ada and Boise Counties' obligation to meet Project expenditures under this Agreement shall be contingent upon the Board of Ada County Commissioners and/or Board of Boise County Commissioners appropriating the necessary funds for such payment by Ada County and/or Boise County in each fiscal year during the term of this Agreement. For the purposes of this paragraph, a fiscal year commences on October 1 of the year and continues through September 30 of the following year. In the event that the Board of Ada County Commissioners and/or the Board of Boise County Commissioners fails to appropriate the necessary funds for any fiscal year, the Agreement will terminate at no additional cost or obligation to Ada County and/or Boise County. In such event, Ada County and/or Boise County will give the Government 30 calendar days notice and thereafter either party may elect without penalty to terminate this Agreement or 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 Ada County and/or Boise County receives sufficient appropriations or until either the Government, Boise County or Ada County elects to terminate this Agreement.

d. In the event that any party elects to terminate this Agreement pursuant to this Article all parties shall conclude their activity in relation to the Project.

e. Any termination of this Agreement or suspension of future performance under this Agreement in accordance with this Article shall relieve the parties of liability for any obligation previously incurred.

#### Article X – Environmental Assessment

The initiation of this Project is dependent upon the completion of an environmental assessment as required by law. If the assessment does not result in a finding of No Significant Impact, this Agreement will be terminated immediately.

#### Article XI – Notices

a. 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 by telegram, or mailed either by first-class, registered, or certified mail, as follows:

If to the Partner: Ada County Board of Commissioners  
200 W. Front Street, 3rd Floor  
Boise ID 83704

Boise County Board of Commissioners  
420 Main Street  
Idaho City ID 83631

If to the Government: U. S. Army Corps of Engineers  
Lucky Peak Lake Project Office  
9723 E Hwy 21  
Boise ID 83716

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

c. 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 7 calendar days after it is mailed.

#### Article XII – 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 Walla Walla District.

**The Department of the Army**

By: Richard D Werner  
Richard D. Werner, PE  
Walla Walla District, Chief Operations Division

Date: 6/10/2010

**Board of Ada County Commissioners**

By: Fred Tilman  
Fred Tilman, Chairman

Date: 6/21/10

By: Sharon M. Ullman  
Sharon M. Ullman, Commissioner

By: Rick Yzaguirre  
Rick Yzaguirre, Commissioner

ATTEST:

By: J. David Navarro  
J. David Navarro, Ada County Clerk

**Board of Boise County Commissioners**

By: Terry C. Day  
Terry C. Day, Chairman

Date: 6/28/10

By: Jamie Anderson  
Jamie Anderson, Commissioner

By: Linda W. Zimmer  
Linda W. Zimmer, Commissioner

ATTEST:

Constance Swearingen  
Constance Swearingen, Boise County Clerk

**APPENDIX A  
CHALLENGE PARTNERSHIP AGREEMENT FINANCIAL WORKSHEET**

Project Address: Lucky Peak Lake Project Office  
9723 E Hwy 21  
Boise ID 83716  
208-343-0671

Project Installed Location: Shaw Mountain Solar Repeater Site  
433619N 1160336W

Contact Person: Keith Hyde

Work Project Title: Lucky Peak Mutual Aid Repeater

Description of Work: Purchase and installation of interoperable radio communications repeater equipment, allowing seamless communication among all regional emergency services agencies providing response to the 900,000 annual recreational visitors of Lucky Peak Lake.

Partners: Ada County  
7200 Barrister Drive  
Boise ID 83704

Boise County Sheriff Department  
3851 Hwy 21  
PO Box 189  
Idaho City ID 83631

Distribution of Project Costs:

	<b>In-kind Services &amp; Salaries</b>	<b>Supplies/Materials &amp; Equipment Use</b>	<b>Total Contribution</b>	<b>% Total</b>
Corps of Engineers	\$5,000	\$20,000	\$25,000*	33%
Ada County	\$25,000	\$500	\$25,500*	33%
Boise County	\$25,000	\$500	\$25,500*	33%
<b>TOTALS</b>	<b>\$55,000</b>	<b>\$21,000</b>	<b>\$76,000*</b>	<b>100%</b>

\*Values provided are anticipated for first year implementation (largely physical installation and County-wide system programming efforts). Future operations and maintenance costs incurred by Ada County and frequency monitoring services provided by Boise County are unforeseeable until accrued. Due to the nature of this project, these costs are expected to be minimal throughout the life span of the repeater hardware device.