

Authorization ID [redacted]
Contact ID [redacted]
Expiration Date [redacted]

FS-2700-14b (09/2020)
OMB 0596-0082

<Delete user notes before printing.>

<USER NOTES>

<Replace bracketed text with applicable text, and delete brackets.>

U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE

LEASE FOR FOREST SERVICE ADMINISTRATIVE SITES
APPENDIX E [current 4 digit fiscal year]
IN-KIND CONSIDERATION AGREEMENT

AUTHORITY:

Section 8623 of the Agriculture Improvement Act of 2018,
Pub. L. No. 115-334, 132 Stat. 4853, 16 U.S.C. 580d note
<Reference FSM 2750>

This In-Kind Consideration Agreement (agreement) is executed by [lessee name] (the lessee) and the U.S. Department of Agriculture, United States Forest Service, [forest name] National Forest (the Forest Service), on [date agreement is fully executed], under section 8623 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334, 132 Stat. 4853, 16 U.S.C. 580d note, and clauses IV.C.2 and VI.E of the Lease for Forest Service Administrative Sites executed on [date lease is fully executed] (lease).

<USER NOTES FOR PARAGRAPH 1>

<Include and complete the highlighted text in paragraph 1 if payment of annual rent is being consolidated for multiple years for large-scale projects. Otherwise, delete the highlighted text.>

1. Amount of Rent Subject to In-Kind Consideration. The total annual rent for the lease is \$[amount]. All or part of that rent may be paid in kind for approved costs incurred by the lessee, in accordance with this agreement and clauses VI.C.2 and VI.E of the lease, for the construction of new facilities or improvements in the lease area; Government maintenance, repair, improvement, or restoration of facilities or improvements in the lease area; and services relating to activities that occur in the lease area. Payment of the annual rent for [number of years consolidated] years of the lease is consolidated under this agreement, for a total consolidated rental payment of \$ [amount], all of which may be paid in kind.

2. Projects and Project Costs Covered by this Agreement. The actual cost of in-kind consideration that is satisfactorily completed as determined by the Forest Service may be considered as payment in kind against the lessee's rental obligation, subject to the Forest Service's determination that the actual costs are based on fair market value. Due dates and cost estimates for completion of the in-kind consideration are enumerated in the table below. In-kind consideration to be performed by the lessee shall be completed by the date specified and within the lessee's fiscal year for the year the rent is due. The Forest Service may modify the in-kind consideration and dates as necessary, after consultation with the lessee.

3. Davis-Bacon Act Requirements.

a. Improvement of Federally Owned Facilities or Improvements. Improvement of federally owned facilities or improvements in the lease area performed as in-kind consideration under this agreement is subject to the Davis-Bacon Act, 40 U.S.C. 3141 *et seq.*, and its implementing regulations at 29 CFR 5.5 when:

(1) The total estimated cost of the improvement work to be performed as in-kind consideration under this

agreement exceeds \$2,000; and

(2) The lessee is a private entity or a state or governmental entity that is subcontracting with a private entity for the work.

b. Construction of New Facilities or Improvements. Construction of new facilities or improvements in the lease area performed as in-kind consideration under this agreement is subject to the Davis-Bacon Act, 40 U.S.C. 3141 *et seq.*, and its implementing regulations at 29 CFR 5.5 when:

(1) The total estimated cost of the construction work to be performed as in-kind consideration under this agreement exceeds \$2,000;

(2) The lessee will be transferring title to the United States to the new facilities or improvements upon completion; and

(3) The lessee is a private entity or a state or governmental entity that is subcontracting with a private entity for the work.

c. Incorporation of Davis-Bacon Act Regulatory Requirements. The regulatory requirements in 29 CFR 5.5 are incorporated by reference into this agreement as if fully set forth in this agreement.

4. Documentation of Actual Costs. Upon a determination by the Forest Service that the in-kind consideration has been satisfactorily completed by the lessee, the lessee shall submit documentation of its actual costs to the Forest Service and shall certify, using Form FS-2700-453, Claim for In-Kind Consideration Costs, that the representations in that documentation are accurate and complete. The certification shall be signed and dated, and shall state that failure to sign the certification shall vitiate the claim for in-kind consideration. The Forest Service shall verify all documentation and shall determine that the actual costs are based on fair market value before accepting any in-kind consideration against the lessee's rental obligation. The Forest Service reserves the right not to accept in-kind consideration against the lessee's rental obligation if any representations made by the lessee are inaccurate or incomplete. The Forest Service also reserves the right before acceptance of in-kind consideration to adjust the actual costs as necessary to reflect fair market value.

The lessee shall perform the in-kind consideration itemized below under this agreement:

Description of In-Kind Consideration	Due Date	Estimated Cost	Completion Date	Actual Cost
[specify types of in-kind consideration]				

Signed: _____
 Lessee Name, Preceded by Name and Title of Person
 Signing on Behalf of Lessee, if Lessee is an Entity

 Date

Signed: _____
 [Name and Title of Authorized Officer]

 Date

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