

Authorization ID:
Contact ID:
Use Code:

FS-2700-12 (XX/202X)
USDA Forest Service
OMB No. 0596-0082

**AGREEMENT CONCERNING A LOAN
FOR A HOLDER OF A SPECIAL USE AUTHORIZATION**

<Delete all user notes prior to printing.>

This agreement (Agreement) is made by the UNITED STATES DEPARTMENT OF AGRICULTURE, UNITED STATES FOREST SERVICE (the Forest Service); [Name of Financer], a [Name of State] [type of institution, e.g., bank or credit union] (the Financer); and [Name of Holder], a [Name of State] [corporation, partnership, other entity, or individual] (the Holder).

A. STATEMENT OF MUTUAL BENEFITS AND INTERESTS

1. On [date], the Forest Service issued a [Name of Special Use Authorization], Authorization Identification Number _____ (the Authorization), to the Holder for a term of _____ years.
2. The Authorization authorizes the Holder to use and occupy certain National Forest System lands for the purpose of constructing, operating, and maintaining a [type of authorized use]. The Authorization covers National Forest System lands in [legal description of property], [County Name] County, [Name of State] (the Property).
3. The Property is owned by the United States and managed under statutory authority granted to the Forest Service.
4. Under the Authorization, physical improvements, machinery, and equipment owned by the Holder that are located on the Property (the Improvements) are personal property, not fixtures.
5. The Holder ["intends to provide" or "provides"] products and services to the public under the terms of the Authorization.

<USER NOTES FOR CLAUSE A.6>

<Include the phrase "and ___% of the stock issued by ___" and insert the percentage of stock and entity name if stock is being pledged as collateral. Otherwise delete this phrase.>

- 6 The Holder has applied to the Financer for financing. As collateral for the financing, the Financer has proposed to take a security interest in the Improvements [and ___% of the stock issued by _____].
7. The Financer has agreed to provide financing to the Holder [describe general terms of financing agreement, such as the amount, term, and rate].
8. The Forest Service believes that the public will benefit from the products and services provided by the Holder under the terms of the Authorization.
9. The Forest Service desires the cooperation of the Financer in connection with the Financing.
10. The Financer desires to provide the Financing to the Holder, which will finance recreational or other operations that provide a public service on National Forest System lands, thereby benefiting the Forest Service's special uses program.
11. The Financer and the Holder wish to have the cooperation of the Forest Service in connection with the Financing.

B. THE PARTIES AGREE AS FOLLOWS:

<USER NOTES FOR CLAUSE B.1>

<Include the following clause B.1 if the authorization is a special use permit. Delete the remaining clause B.1.>

1. The Authorization is revocable, terminable, and not transferable in accordance with its terms and federal regulations. The Authorization is not real property, does not convey any interest in real property, and may not be used as collateral for the Financing.

<Include the following clause B.1 if the authorization is a lease. Include the last sentence in brackets, unless the agreement is for an administrative site lease that involves housing. If the agreement is for an administrative site lease that involves housing, delete the last sentence. Delete the brackets and delete the preceding clause B.1.>

1. The Authorization is revocable, terminable, and assignable in accordance with its terms and federal regulations. [The Authorization is not real property and may not be used as collateral for the Financing.]

<USER NOTES FOR CLAUSE B.2>

<Include the following clause B.2 when stock will not be pledged as collateral in addition to authorized improvements. Delete the remaining clause B.2.>

2. As collateral for the Financing, the Holder is giving the Financer a security interest in the Improvements, and the Forest Service acknowledges the creation of that security interest at the request of the Financer. No security interest is created in the Property or in any improvements owned by the United States. Nothing in this Agreement is intended to abridge any rights that the Financer may have under applicable law in connection with the Improvements.

<Include the following clause B.2 when stock in addition to authorized improvements will be pledged as collateral. Delete the preceding clause B.2.>

2. As collateral for the Financing, the Pledgor, [Name of Pledgor], has pledged to the Financer [percentage]% of the stock issued by [Name of Entity], and the Forest Service acknowledges this pledge at the request of the Financer. As additional collateral for the Financing, the Holder is giving the Financer a security interest in the Improvements, and the Forest Service acknowledges the creation of that security interest at the request of the Financer. No security interest is created in the Property or in any improvements owned by the United States. Nothing in this Agreement is intended to abridge any rights that the Financer may have under applicable law in connection with the Improvements.

3. The Holder is in compliance with all the terms of the Authorization.

4. The United States receives land use fees from the Holder as provided in the Authorization. The land use fees and other Authorization terms may be modified or replaced in accordance with the terms of the Authorization or federal regulations.

<USER NOTES FOR CLAUSE B.5>

<Include the following clause B.5 if the agreement is for a special use permit and delete the remaining clause B.5. Include the bracketed phrases "or change in majority control of the Holder," "or have control of the Holder," and "or change in control of the Holder" if the special use permit provides for termination upon a change in control of the holder. Otherwise delete these bracketed phrases. Delete the brackets.>

5. Any transfer of title to the Improvements [or change in majority control of the Holder] shall result in termination of the Authorization. Prior to any transfer of title to the Improvements [or change in majority control of the Holder], the Forest Service shall coordinate with the Financer in obtaining a new authorization holder. Issuance of a new authorization shall be at the sole discretion of the Forest Service. The Forest Service shall determine that the prospective authorization holder meets requirements under Forest Service regulations, including financial and technical capability. Pursuant to federal regulations, the prospective

authorization holder must have title to the Improvements [or have control of the Holder]. The new authorization shall be subject to the terms of the Financing documentation.

<Include the following clause B.5 if the agreement is for a lease and delete the preceding clause B.5.>

5. The Authorization is fully assignable, provided the Holder is in compliance with all the terms of the Authorization; the assignment has prior written approval from the Forest Service; and the Forest Service may modify the terms of the Authorization, and the assignee must agree in writing to comply with the terms of the Authorization as modified. The Authorization may also be assigned to the party acquiring control of the business entity that holds the Authorization, provided the three foregoing conditions are met. Any transfer of title to the Improvements without an approved assignment of the Authorization shall result in termination of the Authorization. Prior to approving an assignment of the Authorization, the Forest Service shall coordinate with the Financer. Approval of any assignment shall be at the sole discretion of the Forest Service. The Authorization as assigned shall be subject to the terms of the Financing documentation.

6. If the Holder fails to comply with the terms of the Authorization and the noncompliance could lead to suspension or revocation of the Authorization, the Forest Service shall give written notice to the Financer of the noncompliance. The Forest Service shall give prior written notice to the Financer of any actions taken by the Forest Service to address the noncompliance, except for immediate suspension. The Forest Service shall send required notices via certified mail, return receipt requested, :

[Name and Address of Financer]

Nothing in clause B.6 limits the Forest Service's authority to administer the Authorization under its terms and federal laws, regulations, and directives. Neither the Holder, the Financer, nor any third party shall have any claim or remedy against the Forest Service because of the Forest Service's notice or failure to give notice to the Financer. The Financer shall have no obligation to take any action as a result of notice given under clause B.6.

7. The Financer shall give two weeks prior written notice to the Forest Service of any foreclosure by the Financer on the Improvements under the Financing documentation. If the Financer forecloses on the Improvements, the Forest Service shall, to the extent permitted under applicable law and upon the Financer's or Holder's written request, allow the Financer short-term access to the Authorization area strictly for the purpose of selling or securing the Improvements.

8. Upon completion of foreclosure on the Improvements under the Financing documentation, the Authorization shall terminate. The Financer must obtain a temporary authorization from the Forest Service in accordance with federal regulations to operate a business in or otherwise use and occupy the Improvements. The Forest Service shall coordinate with the Financer in obtaining a new authorization holder. Issuance of a new authorization shall be at the sole discretion of the Forest Service. The Forest Service shall determine that the prospective authorization holder meets requirements under Forest Service regulations, including financial and technical capability. Pursuant to federal regulations, the prospective authorization holder must have title to the Improvements.

9. If the Forest Service revokes the Authorization or the Authorization otherwise terminates, all the provisions of clause B.8 apply to issuing a new authorization.

10. Nothing in this Agreement precludes the Financer from exercising remedies against the Holder associated with other security interests.

11. The Holder acknowledges that its liability and the liability of any guarantors under the Financing documentation shall not be released if the Financing is assumed by a new authorization holder.

12. The parties to this Agreement do not intend to confer any rights on any third party as a beneficiary under this Agreement. In addition, this Agreement does not confer the status or privileges of an authorization holder on the Financer or any third party.

<USER NOTES FOR CLAUSE B.13>

<Include the following clause B.13 if the authorization is a special use permit. Delete the remaining clause B.13.>

13. The Holder and Financer acknowledge that the Authorization and the Property are not encumbered by any of the Financing documentation and are not subject to foreclosure if the Holder defaults. Any statement in the Authorization or the Financing documentation that purports to create a security interest in the Authorization or the Property is ineffective and contrary to law.

<Include the following clause B.13 if the authorization is a lease. If the lease is for an administrative site that involves housing, delete the phrases “the Authorization and” and “the Authorization or.” Otherwise, include the phrases in brackets. Select “is” or “or,” as applicable, in brackets. Delete the brackets and delete the preceding clause B.13.>

13. The Holder and Financer acknowledge that [the Authorization and] the Property [is/are] not encumbered by any of the Financing documentation and [is/are] not subject to foreclosure if the Holder defaults. Any statement in [the Authorization or] the Financing documentation that purports to create a security interest in [the Authorization or] the Property is ineffective and contrary to law.

14. This Agreement shall terminate automatically upon repayment of the Financing. The Financer shall give the Forest Service notice of repayment of the Financing.

15. Nothing in this Agreement shall be construed to limit in any way the sole discretion of the Forest Service to regulate use and occupancy of National Forest System lands, including decisions not to reauthorize any use which may be inconsistent with a land management plan or applicable law.

16. This Agreement is intended to foster consultation among the parties to allow them to coordinate more effectively the fulfillment of their respective rights and obligations.

17. The Financer may transfer all its interest in the Financing to a single transferee (Transferee). A Transferee shall have the same rights and obligations as the Financer under this Agreement, provided that (a) the Transferee give written notice of such transfer, including the date of the transfer and the name, address, telephone number, and email address of the Transferee, to the Holder and the Forest Service; and (b) the Transferee be substituted for the Financer in this Agreement. Notice shall be mailed via certified, return receipt requested, to the following addresses for the Holder and the Forest Service:

[Name and Address of Holder and Name and Address of Forest Service]

18. The Holder and Financer warrant that they have full authority to enter into this Agreement and that it shall be binding on their representatives and successors.

19. The undersigned official of the Forest Service warrants that that official has the delegated authority to execute this Agreement.

20. This Agreement may be executed by different parties in separate counterparts. When all parties have signed this Agreement and all executed signature pages are attached to a single counterpart, it shall be deemed an original, fully executed copy of this Agreement.

UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE

By:

Name:

Title:

Date:

[Name], **HOLDER**

By:

Name:
Title:
Date:

[Name], **FINANCER**

By:
Name:
Title:
Date:

PAPERWORK REDUCTION ACT STATEMENT

According to the Paperwork Reduction Act of 1995, a Federal agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a valid Office of Management and Budget (OMB) control number. The valid OMB control number for this information collection request is 0596-0082. Response to this information collection request is required to obtain or retain benefits, specifically, a special use authorization. The authority for this information collection request is the Organic Administration Act, 16 U.S.C. 551. The time required to complete this information collection request is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, collecting and maintaining the data needed, and completing and reviewing the information collection request. Send comments regarding this burden estimate or any other aspect of this information collection request, including suggestions for reducing the burden, to Forest Service Information Collections Officer, SM.FS.InfoCollect@usda.gov, with OMB control number 0596-0082 in the subject line.

PRIVACY ACT STATEMENT

Pursuant to 5 U.S.C. § 552a(e)(3), this Privacy Act statement serves to inform you of the following concerning the collection of the information on this form.

Purpose: The Privacy Act of 1974 requires that the Director of Recreation, Heritage, and Volunteer Resources staff and the Director of Lands, Minerals, and Geology Management staff provide the following statements to individuals from whom they request information.

Authority: Collection of this information solicited on this form is authorized by the Organic Administration Act, 16 U.S.C. 551.

Routine Uses: The information collected will be used by Forest Service officials to ensure that your use of National Forest System lands is administered in accordance with applicable statutes, regulations, and directives. The information collected from you is retained in the Special Uses Data System (SUDS) and is retrieved by the Forest Service to create reports for the Agency's Special Uses Program, generate bills for collection of land use fees for your authorization, monitor compliance with your special use authorization, and other matters pertaining to administration of your special use authorization. SUDS is a component of the Forest Service's Natural Resources Manager database (NRM). A complete list of the routine uses of NRM can be found in the system of records notice associated with this form, FS-24.

Disclosure: The submission of this information is required to obtain or retain benefits, specifically, a special use authorization.

NONDISCRIMINATION STATEMENT

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Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit the completed form or letter to USDA by (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

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