

FS Agreement No. 24-MU-11021500-005

Cooperator Agreement No. _____

MEMORANDUM OF UNDERSTANDING
Between The
ACCESS FUND
And The
COLORADO CAVE SURVEY
And The
USDA, FOREST SERVICE
WHITE RIVER NATIONAL FOREST

This MEMORANDUM OF UNDERSTANDING (MOU) is hereby made and entered into by and between the Access Fund and the Colorado Cave Survey hereinafter referred to as “the Partners,” and the United States Department of Agriculture (USDA), Forest Service, White River National Forest, hereinafter referred to as the “Forest Service.”

Background: The White River National Forest has been fostering a relationship with the Access Fund since 2014 and the Colorado Cave Survey since the mid 1980s. The preservation and protection of Deep Creek Canyon is of utmost importance to all three entities entering into this Memorandum of Understanding, as well as the Public and other interested parties.

In 2015, Deep Creek and the surrounding landscape was found to be suitable for designation as a Wild and Scenic River under the Wild and Scenic Rivers Act after decades of Public involvement. Approximately 13 miles of Deep Creek are suitable under the “Wild” classification. Wild and Scenic Rivers are managed to protect and to perpetuate eligible and designated river segments. These areas have been identified as being eligible for designation due to the presence of one or more outstandingly remarkable values (ORVs). Deep Creek’s ORVs are scenic, geologic, and ecologic. The Wild and Scenic Suitability Report for Deep Creek calls out the pristine, intact landscape, high degree of naturalness, karst features, and significant caves.

Deep Creek Canyon contains many caves found to be “significant” under the Federal Cave Resource Protection Act. The 2002 White River National Forest Plan sets management direction for the area with clear desired conditions related to the ORVs described above, specifically preservation of cave and karst, scenery and the area’s intact ecosystem.

Caves in the area contain and support fragile resources such as: important wildlife habitat, mineralogical values, rare plant communities, research values for micro-invertebrates and macro-invertebrates, nesting raptors, paleo and historical values. In addition, Deep Creek Canyon supports various recreation opportunities such as fishing,



scenic viewing, hiking, caving and recreational climbing. Caving has occurred within the area since the early 1970s. Colorado Cave Survey has worked in management and preservation of caves in the area since the mid 1980s. It is in the best interest of all three parties to solidify the relationship to enhance and build a long-term cooperation focused on preservation and protection of these unique and fragile resources.

Title: Deep Creek Canyon Area

I. PURPOSE: The purpose of this MOU is to document the cooperation between the parties to provide a framework for increased, consistent, and sustained cooperation and exchange of information between the Partners and the White River National Forest regarding cave resource preservation and management, recreational climbing and related activities on lands administered by the White River National Forest on the Eagle-Holy Cross Ranger District. The Partners and the White River National Forest currently cooperate and communicate on a variety of cave management and recreational climbing issues. This MOU will strengthen these partnerships and promote sustainable management of these geological and recreational resources which will have long term benefits for the Public. This MOU is a compliment to and will tier to broader individual MOUs held between the U.S. Forest Service and the Access Fund, and the U.S. Forest Service and Colorado Cave Survey in accordance with the following provisions.

II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

Through a cooperative effort, the U.S. Forest Service, the Access Fund, and the Colorado Cave Survey will work together to manage, provide education, and opportunities for responsible, sustainable recreational climbing on Public Lands and seek the skills, knowledge, and expertise of the Partners to assist in planning, development, and implementation of recreational climbing management efforts with the White River National Forest in the Deep Creek Canyon area.

In consideration of the above premises, the parties agree as follows:

III. THE PARTNERS SHALL:

- A. Identify a representative to work with the U.S. Forest Service and each other to facilitate discussions regarding management of the Deep Creek Canyon area.
- B. Foster an open, fluid, and positive relationship between the Access Fund and/or Access Fund affiliate and Colorado Cave Survey.
- C. Be dedicated to educating and informing their respective user groups regarding the agreements contained in this MOU.



- D. Adhere to and educate their specific user groups about the White National Forest's Travel Management Plan's Motor Vehicle Use Map which defines the season and type of motorized vehicles allowed on system roads.
- E. Educate users to not cache gear of any kind within the canyon or, more generally on National Forest System lands unless approved in writing under another agreement.
- F. Adhere to seasonal cave closure dates and permitting processes as the Rocky Mountain Regional Special Order dictates in order to address White Nose Syndrome.
- G. Collect desired or requested data from the physical resources as well as the social aspects of each user group. (climbing routes, other natural features, caves, water features, fixed lines etc.)
- H. Work with U.S. Forest Service to install and maintain approved "No Climbing" (cave buffer zone) signage and "Welcome to Deep Creek" signage, as mapped by the U.S. Forest Service.
- I. Agree to park in designated areas either at Deep Creek Overlook Day Use Site or along Forest Service Road 600 to access the canyon.
- J. Respect and educate user groups to adhere to the designated buffers determined for "No Climbing Zones" near cave openings.
- K. Work with U.S. Forest Service to remove, disable and/or camouflage all recreational climbing routes located in the "No Climbing Zones" (cave buffer zones), including fixed hardware.

IV. THE FOREST SERVICE SHALL:

- A. Provide a key contact to the partners to ensure open and productive communication.
- B. Map cave openings using a combination of remote technology, GIS, historical knowledge and other mapping tools.
- C. Draft a sign plan to aid in education regarding access and responsible climbing and caving user expectations.
- D. Define and map "No Climbing Zones" within Deep Creek Canyon incorporating existing and future planning/decision documents including available science and monitoring data.



E. If determined to be needed, establish a special order to codify the agreed-upon rules of use.

V. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

A. The parties will meet consistently to discuss management issues and set action goals for each field season.

B. Together the parties will endeavor to agree upon language for signs and intent, however, the U.S. Forest Service holds the final responsibility for language. Together the parties will install and maintain approved signs.

C. If determined to be needed, endeavor to begin a comprehensive Deep Creek Canyon planning effort during the tenure of this MOU (5 years). This may occur as a result of Wild and Scenic River Designation or Forest Plan Revision.

D. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this agreement.

Principal Partner Contacts:

Access Fund (Deep Creek Climbing Coalition) Program and Administrative Contact	Colorado Cave Survey Program and Administrative Contact
Erik Murdock PO Box 17010 Boulder, CO 80308 (303) 545-6772 erik@accessfund.org	Kristen Levy 3416 Minuteman Dr. Fort Collins, CO 80526 (970) 443-4150 kblevy@comcast.net

Principal Forest Service Contacts:

Forest Service Program Manager Contact	Forest Service Administrative Contact
Michael Beach District Recreation Staff Officer PO Box 190 Minturn, CO 81645 (970) 827-5159 michael.beach@usda.gov	Alex Specht Grants & Agreements Specialist 900 Grand Avenue Glenwood Springs, CO 81601 (605) 515-8812 alex.specht@usda.gov



- E. ASSURANCE REGARDING FELONY CONVICTION OR TAX DELINQUENT STATUS FOR CORPORATE ENTITIES. This agreement is subject to the provisions contained in the Department of Interior, Environment, and Related Agencies Appropriations Act, 2012, P.L. No. 112-74, Division E, Section 433 and 434 as continued by Consolidated and Further Continuing Appropriations Act, 2013, P.L. No. 113-6, Division F, Title I, Section 1101(a)(3) regarding corporate felony convictions and corporate federal tax delinquencies. Accordingly, by entering into this agreement the Partners acknowledges that it: 1) does not have a tax delinquency, meaning that it is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) has not been convicted (or had an officer or agent acting on its behalf convicted) of a felony criminal violation under any Federal law within 24 months preceding the agreement, unless a suspending and debarring official of the USDA has considered suspension or debarment is not necessary to protect the interests of the Government. If the Partners fails to comply with these provisions, the U.S. Forest Service will annul this agreement and may recover any funds the Partners has expended in violation of sections 433 and 434.
- F. NOTICES. Any communications affecting the operations covered by this agreement given by the Forest Service or the Partners is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:
- To the Forest Service Program Manager, at the address specified in the MOU.
- To the Partners at the Partners's address shown in the MOU or such other address designated within the MOU.
- Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.
- G. PARTICIPATION IN SIMILAR ACTIVITIES. This MOU in no way restricts the Forest Service or the Partners from participating in similar activities with other public or private agencies, organizations, and individuals.
- H. ENDORSEMENT. Any of the Partners' contributions made under this MOU do not by direct reference or implication convey Forest Service endorsement of the Partners' products or activities.
- I. NONBINDING AGREEMENT. This MOU creates no right, benefit, or trust responsibility, substantive or procedural, enforceable by law or equity. The parties shall manage their respective resources and activities in a separate,



coordinated and mutually beneficial manner to meet the purpose(s) of this MOU. Nothing in this MOU authorizes any of the parties to obligate or transfer anything of value.

Specific, prospective projects or activities that involve the transfer of funds, services, property, to a party requires the execution of separate agreements and are contingent upon numerous factors, including, as applicable, but not limited to: agency availability of appropriated funds and other resources; cooperator availability of funds and other resources; agency and cooperator administrative and legal requirements (including agency authorization by statute); etc. This MOU neither provides, nor meets these criteria. If the parties elect to enter into an obligation agreement that involves the transfer of funds, services, property, and/or anything of value to a party, then the applicable criteria must be met. Additionally, under a prospective agreement, each party operates under its own laws, regulations, and/or policies, and any Forest Service obligation is subject to the availability of appropriated funds and other resources. The negotiation, execution, and administration of these prospective agreements must comply with all applicable law.

Nothing in this MOU is intended to alter, limit, or expand the agencies' statutory and regulatory authority.

- J. USE OF FOREST SERVICE INSIGNIA. In order for the Partners to use the Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the Forest Service's Office of Communications. A written request must be submitted and approval granted in writing by the Office of Communications (Washington Office) prior to use of the insignia.
- K. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no U.S. member of, or U.S. delegate to, Congress shall be admitted to any share or part of this agreement, or benefits that may arise therefrom, either directly or indirectly.
- L. FREEDOM OF INFORMATION ACT (FOIA). Public access to MOU or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).
- M. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All cooperators, their employees, volunteers, and contractors are encouraged to adopt



and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.

- N. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS AND ELECTRONIC MEDIA. The Partners shall acknowledge Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this MOU.
- O. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. The Partners shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text:

"This institution is an equal opportunity provider."

- P. TERMINATION. Any of the parties, in writing, may terminate this MOU in whole, or in part, at any time before the date of expiration.
- Q. DEBARMENT AND SUSPENSION. The Partners shall immediately inform the Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should the Partners or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.



- R. MODIFICATIONS. Modifications within the scope of this MOU must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change.
- S. COMMENCEMENT/EXPIRATION DATE. This MOU is executed as of the date of the last signature and is effective through October 15, 2028 at which time it will expire.
- T. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this MOU.

In witness whereof, the parties hereto have executed this MOU as of the last date written below.

Kristen B Levy *10/24/2023*

 KRISTEN LEVY, Northern Colorado Grotto Date
 Representative
 Colorado Cave Survey

Erik Murdock *11/8/2023*

 ERIK MURDOCK, Vice President of Policy and Date
 Public Affairs
 Access Fund

 SCOTT G. FITZWILLIAMS, Forest Supervisor Date
 U.S. Forest Service, White River National Forest

The authority and format of this agreement have been reviewed and approved for signature.

ALEX SPECHT Digitally signed by ALEX SPECHT
 Date: 2023.10.17 11:38:16 -06'00'

 ALEX SPECHT Date
 U.S. Forest Service, Grants Management Specialist
 Region 2, White River National Forest



Burden Statement

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To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.