

*This sample is intended to serve as a skeletal guide for practitioners. Counsel should exercise independent judgment in determining what to include in each individual motion and should consult Rule 4001(c) to make sure the motion complies with the Rule.

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEW MEXICO

In re:

Case No.

Debtor.

MOTION TO OBTAIN CREDIT PURSUANT TO 11 U.S.C. § 364

_____, debtor in possession (“Debtor”), by counsel, seeks Court authority pursuant to 11 U.S.C. § 364(____) and Fed. R. Bank. P. 4001(c) to obtain credit from and grant adequate protection to [*insert full name*] (“Lender”). In support hereof, Debtor states:

1. Commencement of Case. Debtor filed this case on _____ and remains in possession of its assets and property.

2. Nature of the Debtor’s Business. [*Insert a brief description of the Debtor’s business. The description might include what the Debtor does, the location of the business, and the number and type of employees*].

3. No Committee. No unsecured creditors’ committee has been appointed. [*Or state that a committee has been appointed*].

4. Need for Post-Petition Financing. The proposed financing will benefit Debtor’s estate and creditors. Debtor needs working capital to [*insert reasons*]. [*If applicable*] Without the authority to obtain credit, Debtor will be unable to continue operations or successfully reorganize.

5. Proposed Collateral. [*If applicable*] The proposed loan would be secured by a lien on the following property of the Debtor: _____ (the “Proposed Collateral”). The

Debtor estimates that the Proposed Collateral has a current value of \$_____. This estimate is based upon the following information: _____.

6. Proposed Order and Credit Agreement. Debtor seeks an order substantially conforming to Exhibit A attached hereto (the “Proposed Order”), which *inter alia* authorizes Debtor to: (1) obtain secured post-petition financing in the amount of [insert amount] from Lender on the terms and conditions set forth in the Order and Post-Petition Loan Documents attached hereto as Exhibit B (the “Credit Agreement”); (2) [if applicable] grant Lender a lien against the Proposed Collateral; (3) [if applicable] to grant Lender additional adequate protection in the form of [describe the arrangement]; and (4) [if applicable] grant Lender an administrative claim under Section 364(c).

7. Loan Provisions. The essential terms of the proposed loan are as follows:

[Include at least the following, with citations to the location on which each provision appears in the relevant documents.]

Borrowing limit: Not to exceed [amount], subject to certain restrictions set forth more fully in the Loan Agreement and Proposed Order.

Conditions:

Interest rate:

Default rate:

Maturity date:

Events of default:

Collateral:

Lien(s)/Priority:

8. Applicable Provisions Identified in Rule 4001(c)(1)(B). The Loan Agreement and Proposed Order also include the following provisions identified in Rule 4001(c)(1)(B)(i) - (xi): *[Include here and in the notice all of those provisions that apply. If none of those provisions apply, affirmatively state that. Cite to the location where each provision appears in the relevant documents.]*.

9. Pre-petition Financing. *[If applicable]* On the bankruptcy petition date, the Debtor owed Lender \$_____, including accrued unpaid interest of \$_____ and costs or fees of \$_____. This pre-petition loan is secured by a first lien on the following Debtor property: _____ *[Or describe other collateral position]*.

10. Relationship Between Debtor and Lender. There is no insider relationship between the Debtor and Lender *[Or describe the relationship]*.

11. Better Alternative Sources of Financing Not Available. Debtor is unable to obtain any alternative and better offers for post-petition financing. Lender is the only source of funds from whom Debtor can obtain post-petition financing. *[Describe efforts to obtain alternate financing]*.

12. Loans Procured in Good Faith. *[If applicable]* Lender extended credit to Debtor in good faith within the meaning of § 364(e) and is entitled to the protections afforded by that section.

WHEREFORE, Debtor asks the Court to approve the proposal to incur credit on the terms set forth in Exhibit B, to enter a final order substantially conforming to Exhibit A, and for all other just and proper relief.

Signature
Name: _____
Address: _____

Telephone: _____
Email: _____

I certify that on _____, 20__, I served this motion by first class mail, postage prepaid, on:

[insert names, titles, addresses]

And electronically on:

[list]

Signature

***NOTE:** If the Motion is more than five pages, it must begin with a concise statement of the relief requested as required by Rule 4001(c)(1)(B).*