STATE OF FLORIDA

Mitigation Bank Irrevocable Letter of Credit

To Demonstrate (Construction and Implementation

or Perpetual Management) Financial Assurance

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Agency) (Issuing Institution)

 (Specify section and project)

 Address of Agency Address of Issuing Institution

Dear Sir or Madam:

 We hereby establish our Irrevocable Standby Letter of Credit No.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in your favor, at the request and for the account of

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Mitigation Banker’s Name and Address

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

up to the aggregate amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (in words) U.S. dollars $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, available upon presentation of

1. your sight draft, bearing reference to this letter of credit No.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and either:
2. a Certificate issued by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Agency”) in the form of Certificate I attached hereto and made a part hereof; or
3. a Certificate issued by the Agency in the form of Certificate II attached hereto and made a part hereof.

This letter of credit may be drawn on to cover (Select one: Construction and Implementation OR Perpetual Management) activities of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_(name) Mitigation Bank as authorized and required by Agency permit number \_\_\_\_\_\_\_\_\_ as such permit may be amended and including all plans approved by such permit.

This letter of credit may not be drawn on to cover any of the following:

 a) Any obligation of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Mitigation Banker’s name) under a workers’ compensation, disability benefits, or unemployment compensation law or other similar law;

 b) Bodily injury to an employee of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Mitigation Banker’s name) arising from, and in the course of employment by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Mitigation Banker’s name);

 c) Bodily injury or non-realty property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

 d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Mitigation Banker’s name) that is not the direct result of the (Select one: Construction and Implementation OR Perpetual Management) of the \_\_\_\_\_\_\_\_\_\_\_ (name) Mitigation Bank pursuant to Agency permit number \_\_\_\_\_\_\_\_\_\_\_\_;

 e) Bodily injury or property damage for which \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Mitigation Banker’s name) is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

This letter of credit is effective as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and shall expire on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ but such expiration date shall be automatically extended without amendment for additional periods of one year from the present or future expiration date unless, at least 120 days before an expiration date, we notify both you and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Mitigation Banker’s name) by certified mail that we have decided not to extend this letter of credit for any such additional period. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Mitigation Banker’s name) as shown on the signed return receipts.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into an account or trust established for this purpose, in accordance with your instructions.

We certify that the wording of this letter of credit is substantially similar to the wording specified in Form No. 62-342.700(6) which has been adopted by reference in Rule 62-342.700 of the Florida Administrative Code, as such regulations were constituted on the date shown immediately below.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature(s), Title(s) of Official(s) of Issuing Institution Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

This credit is subject to\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the

International Chamber of Commerce, " or " the Uniform Commercial Code".

CERTIFICATE I

TO

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ BANK OF \_\_\_\_\_\_\_\_\_

IRREVOCABLE LETTER OF CREDIT NO.\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_

Issuing Bank’s Name and Address

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mitigation Banker’s Name and Address

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Ladies and Gentlemen:

The undersigned \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the (insert one of the following: Secretary of the Florida Department of Environmental Protection or Executive Director of the XX Water Management District) (“Agency”), hereby certifies to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Issuing Bank’s Name) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Mitigation Banker’s Name), with reference to Irrevocable Letter of Credit No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (the “Letter of Credit”), issued by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Issuing Bank’s Name) in favor of the Agency as follows:

1. The Agency has heretofore provided written notice by U.S. Mail to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Mitigation Banker’s Name) of the Agency’s present right to draw upon the Letter of Credit in accordance with the provisions of that certain Mitigation Bank Permit #\_\_\_\_\_\_\_\_\_, issued by the Agency in favor of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Mitigation Banker’s Name).

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Mitigation Banker’s Name) has failed to comply with the terms and conditions of the Permit.

Funds paid pursuant to the provisions of the Letter of Credit shall be transferred to an account established for this for the benefit of the Agency in accordance with the following instructions:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

IN WITNESS WHEREOF, this Certificate has been duly executed and delivered on behalf of the Agency as of this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

(choose FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

or XX WATER MANAGEMENT DISTRICT)

 By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Name:

CERTIFICATE II

TO

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ OF FLORIDA

IRREVOCABLE NONTRANSFERABLE STANDBY

LETTER OF CREDIT NO.\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_, 20\_\_\_

Issuing Bank’s Name and Address

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mitigation Banker’s Name and Address

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Ladies and Gentlemen:

The undersigned \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the (choose: Secretary of the Florida Department of Environmental Protection or Executive Director of the XX Water Management District) (“Agency”), hereby certifies to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Issuing Banks’ Name) (the “Bank”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Mitigation Banker’s name), with reference to Irrevocable Letter of Credit No. \_\_\_\_\_\_\_\_\_\_\_\_\_, dated \_\_\_\_\_\_\_\_\_\_\_\_\_, (the “Letter of Credit”), issued by the Bank in favor of the Agency, as follows:

1. The Bank has heretofore provided written notice to the Agency and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Mitigation Banker’s name) of the Bank’s intent not to renew the Letter of Credit following the present Expiration Date thereof.

2. The Agency has provided prior written notice by U.S. Mail to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Mitigation Banker’s name) of the requirement that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Mitigation Banker’s name) provide the Agency with substitute Financial Assurance in compliance with the provisions of that certain Mitigation Bank Permit #\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (the “Permit”), issued by the Agency.

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Mitigation Banker’s name) has failed to provide the Agency with substitute Financial Assurance in compliance with the provisions of the Permit within the ninety (90) days of receipt of the notice described in paragraph 1 above.

Funds paid pursuant to the provisions of the Letter of Credit shall be transferred to an account established for this purpose for the benefit of the Agency, in accordance with the following instructions:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 IN WITNESS WHEREOF, this Certificate has been duly executed and delivered on behalf of the Agency as of this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

(choose

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

or XX WATER MANAGEMENT DISTRICT)

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: