### Irrevocable Standby Letter of Credit

Letter of Credit No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dated: \_\_\_\_\_\_\_\_\_, 20\_\_

Select the appropriate U.S. Army Corps of Engineers Office:

U.S. Army Engineer District, Sacramento District (“Beneficiary”)

Attn: Regulatory Division

1325 J Street, Room 1350

Sacramento, California 95814-2922

U.S. Army Engineer District, San Francisco District (“Beneficiary”)

Attn: Regulatory Division

450 Golden Gate Avenue, 4th Floor

San Francisco, California 94102-3404

U.S. Army Engineer District, Los Angeles District (“Beneficiary”)

Attn: Regulatory Division

915 Wilshire Blvd

Los Angeles, California 90017

To whom it may concern:

At the request and account of \_\_\_\_\_\_ (“Applicant”), we, \_\_\_\_\_\_\_\_\_\_ (“Bank”) hereby establish in your favor our Irrevocable Standby Letter of Credit No.\_\_\_\_\_\_\_\_\_\_\_\_\_ in the aggregate amount not to exceed \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ U.S. Dollars ($\_\_\_\_\_\_\_\_\_\_\_.00) to ensure monitoring, performance, and/or completion of work described in [*insert title of relevant mitigation plan document(s,)*] associated with Department of the Army Permit No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The Beneficiary has the exclusive right to demand payment to the Beneficiary’s designee or a standby trust agreement of any sums up to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ U.S. Dollars ($\_\_\_\_\_\_\_\_\_\_\_.00) under the terms of this letter of credit by presentation of the following:

1. This original letter of credit together with all executed written amendments hereto.
2. An original signed and dated drawing certificate from your Authorized Representative addressed to us in the form annexed hereto as Exhibit A (after complying with all instructions in brackets contained therein). An “Authorized Representative” shall mean the District Commander of the U.S. Army Corps of Engineers District, [Choose one: Sacramento, San Francisco, or Los Angeles], or their officially designated representative.

Drawing certificates shall be drawn on us and presented to us at the Letter of Credit Office (as hereinafter defined) at or before 5:00 p.m. local time of the Letter of Credit Office or delivered to the Letter of Credit Office by nationally recognized express or overnight courier or via U.S. Postal Service certified or registered mail on a Business Day (as hereinafter defined), occurring not later than the Expiration Date (as hereinafter defined). As used herein: “Letter of Credit Office” means our office located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_; and “Business Day” means any day other than a Saturday or Sunday or other day on which the Letter of Credit Office is not open for business or on which commercial banks are authorized or required to close, or are in fact closed, under the laws of California.

All drawing certificates drawn under this letter of credit shall contain the above-referenced letter of credit number. We agree to make payment of the demand by means of a certified check or electronic transfer payable to a party or parties specified by the Beneficiary in the drawing. We agree that all drawing certificates drawn on us under and in compliance with this letter of credit will be duly honored by us no later than seven (7) Business Days following presentation to the Letter of Credit Office. Our obligation hereunder is our individual obligation and is not contingent upon reimbursement. We will pay all drawings under this letter of credit with our own funds and not with funds derived from the Applicant or a subsidiary or affiliate thereof.

This letter of credit expires on \_\_\_\_\_\_\_\_\_\_\_\_ (the date on which this letter of credit expires is referred to herein as the “Expiration Date”); however, the Expiration Date shall be deemed automatically extended without amendment for additional periods of one (1) year from the present and future Expiration Date hereof, unless we provide you with written notice no later than one hundred twenty (120) calendar days before the then existing Expiration Date that we have elected not to extend this letter of credit (the “Non-Extension Notice”). The Non-Extension Notice shall be sent to you by express or overnight courier or registered mail to the address set forth above or at such other address as you may have notified us of in writing.

Partial drawings, in amounts less than the aggregate amount specified above, are permitted under this letter of credit. If a partial drawing is made, we will promptly return the original letter of credit to the Beneficiary to facilitate subsequent drawings; we at our option may note on the letter of credit the amount of such partial drawing. The amount of this letter of credit shall be automatically and permanently reduced, without amendment by the amount of each drawing paid hereunder.

This letter of credit, including the rights granted herein, may not be assigned or otherwise transferred, in whole or in part, to any other person or entity.

This letter of credit will be cancelled in whole once withdrawal of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ U.S. Dollars ($\_\_\_\_\_\_\_\_\_\_\_.00) has been completed or upon receipt by us of the original letter of credit and all executed amendments thereto accompanied by a cancellation certificate in substantially the same form as Exhibit B, attached hereto. Said certificate shall be delivered by nationally recognized express or overnight courier or via U.S. Postal Service certified or registered mail.

Standard fees apply for each extension and/or partial draw of this letter of credit (in each of the foregoing circumstances, solely to the extent expressly permitted hereby), which fees are payable by the Applicant.

We may accept documents which appear on their face to be in order without responsibility for further investigation (even as regards any purported default by the Applicant or the identity of the Authorized Representative) regardless of any notice or information to the contrary.

The Bank warrants and represents it is a federally regulated and insured financial institution. This letter of credit is subject to and governed by the International Standby Practices 1998 of the International Chamber of Commerce, Publication 590 (“ISP98”) and, as to matters not covered therein and not inconsistent therewith, shall be governed by and construed in accordance with the laws of California, including without limitation, the Uniform Commercial Code as from time to time in effect in such jurisdiction.

Sincerely,

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

Bank

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

Signature

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

Title

Exhibit A to Irrevocable Standby Letter of Credit No. \_\_\_\_\_\_

[EXHIBIT TO BE TYPED ON BENEFICIARY’S LETTERHEAD]

IRREVOCABLE STANDBY LETTER OF CREDIT DRAWING CERTIFICATE

[Bank Name]

[Bank Address]

RE: Irrevocable Standby Letter of Credit No. [insert No.] dated [insert date], issued by \_\_\_\_\_\_\_\_\_\_\_\_\_\_Bank (the “Letter of Credit”) for the account of [insert name of applicant] (“Applicant”)

To whom it may concern:

The undersigned, being the beneficiary (“Beneficiary”)(or a duly authorized representative thereof) of the Letter of Credit, hereby:

1. Demands payment from you in the amount of [insert amount in words] U.S. Dollars ($ [insert amount in figures]) under the Letter of Credit, and
2. Certifies to you that the Applicant has failed to monitor, perform, and/or complete all or part of the work described in [*insert title of relevant mitigation plan document(s)*] associated with Department of the Army Permit No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and the amount demanded represents the amount necessary to ensure outstanding work is completed.

Payment is requested in the form of a [certified check][wire transfer per the following wire transfer instructions: add wiring instructions (to include name and account number of the party or parties specified by the Beneficiary)]. Under no circumstances shall payment be made directly to the U.S. Army Corps of Engineers, [Choose one: Sacramento, San Francisco, or Los Angeles] District.

Each capitalized term used but not otherwise defined herein has the meaning ascribed thereto in the Letter of Credit.

IN WITNESS WHEREOF, the undersigned has executed and delivered this original certificate as of [insert date].

 Sincerely,

 [insert signature of Beneficiary]

 [insert name]

 [insert title; if signing as an Authorized Representative then add “Authorized Representative” under title]

Requested partial draw hereby acknowledged:

\_\_\_\_\_\_\_\_\_ Bank

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

Name: \_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_

 Exhibit B to Irrevocable Standby Letter of Credit No. \_\_\_\_\_\_\_\_

[EXHIBIT TO BE TYPED ON BENEFICIARY’S LETTERHEAD]

IRREVOCABLE STANDBY LETTER OF CREDIT CANCELLATION CERTIFICATE

[Bank Name]

[Bank Address]

RE: Irrevocable Standby Letter of Credit No. [insert Letter of Credit No.] dated [insert date], issued by \_\_\_\_\_\_\_\_\_\_\_\_\_\_Bank (the “Letter of Credit”) for the account of [insert name of applicant] (“Applicant”)

To whom it may concern:

The undersigned, being the Beneficiary (“Beneficiary”) or a duly authorized representative thereof, of the Letter of Credit, hereby unconditionally and irrevocably notifies you that the Letter of Credit is to be cancelled OR reduced to the amount of [insert amount of reduced letter of credit in words] U.S. Dollars ($[insert amount of reduced letter of credit in figures]) upon your receipt of this Letter. The original Letter of Credit and all amendments thereto are enclosed herein.

IN WITNESS WHEREOF, the undersigned has executed and delivered this original certificate as of [insert date].

 Sincerely,

 [insert signature of Beneficiary]

 [insert name]

[insert title; if signing as an Authorized Representative then add “Authorized Representative” under title]