



LETTERS OF CREDIT

ECOLOGICAL RESTORATION BUSINESS ASSOCIATION WEBINAR

Letters of Credit (LOCs) as Financial Assurance Vehicles

This presentation includes a discussion of the definition and makeup of LOCs, the parties to the LOC contract and their responsibilities, and the typical duration of the LOC contract. With that in mind, the presentation discusses the uses of LOCs and some minimum requirements established by USACE. LOCs as a form of financial assurance offer procedural and substantive benefits, but also present limitations and potential pitfalls.

Agenda:

Section I: Elements of Letters of Credit

Section II: Parties and General Responsibilities under Letters of Credit

Section III: Using a Letter of Credit

Section IV: Considerations and Recommendations



Presented by: Steve Moore

Mr. Moore is the Vice President in charge of Finance and Administration for Westervelt Ecological Services. Mr. Moore has over 30 years of experience in financial management, contract coordination and corporate strategic planning oversight.

Overview of Letters of Credit



LOC is issued by the Issuing institution (Financial Institution or Bank)



LOCs are issued for a **FIXED DOLLAR** amounts for specific performance metrics



LOC's contain forms that can be used to call upon the LOC

Elements of Letters of Credit

LOC's are:

- short documents
- require a side agreement with the mitigation banker
- universal across the Country



Letters of Credit are legal contracts. They include parties and beneficiaries to the contract and outline the responsibilities.

Elements of Letters of Credit

Letters of Credit are known as “sight draft” mechanisms. The Issuing Institution pays upon mere presentation of sight draft and other documentation specified in the LOC.



ROLE: Mitigation Bank Sponsor

Implement the contract and provide collateral



Responsibility to implement and maintain Mitigation Bank in accordance with Mitigation Bank Instrument.



Has agreement with Issuing Institution and may be required by same to provide collateral in the amount of the LOC.

ROLE: Authorizing Agency/ Beneficiary

United States Army Corps of Engineers and/or State agency in charge of regulation of mitigation banks



LOC gives Beneficiary ability to call upon LOC



Mitigation Banker has failed to comply with the terms of the MBI

OR



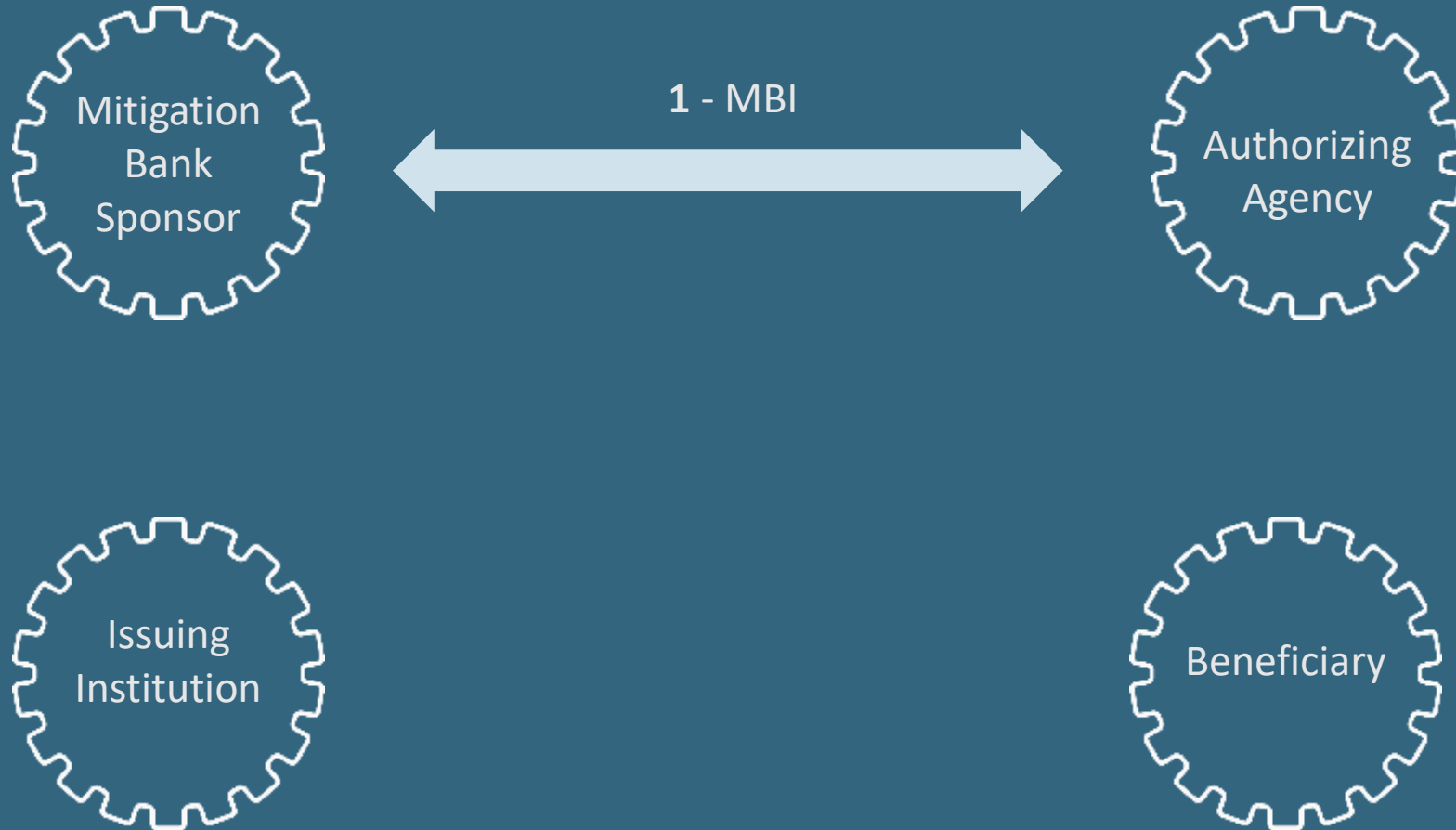
Bank has provided notice to Authorizing Agency of intent to not renew LOC

ROLE: Issuing Institution (Financial Institution or Bank)

Must provide monies up to
the amount of the LOC if
presented with request for
same



Parties and General Responsibilities



381 **6.1 Mitigation Bank Credit Release Schedule**

382 The credit release schedule for the Bank is shown in Table 2. Anticipated credit releases for
383 Years 1 through 4 are dependent on meeting performance criteria stipulated in Table 2. If
384 any performance criteria are not met within the anticipated timeframe, release of the
385 associated credits is rolled forward until the criteria have been achieved.

386 Table 2: Wetland Credit Release Schedule

Release	Wetland Credit Amount (acres)	Performance Criteria
15%	6	<input type="checkbox"/> NRCS MBI signature <input type="checkbox"/> Recordation of the conservation easement <input type="checkbox"/> Establishment of financial assurances <input type="checkbox"/> Funding 20% of the endowment
15%	6	<input type="checkbox"/> NRCS approval of as-built plans <input type="checkbox"/> Funding 40% of the endowment
10%	4	<input type="checkbox"/> Interim performance standards met for first growing season <input type="checkbox"/> Funding 60% of the endowment
20%	8	<input type="checkbox"/> Interim performance standards met for second growing season <input type="checkbox"/> Funding 80% of the endowment
40%	16	<input type="checkbox"/> Final performance standards met <input type="checkbox"/> Funding 100% of the endowment

387 Notes: MBI=Mitigation Banking Instrument, NRCS=Natural Resources Conservation Service.

388 **6.2 Financial Assurances**

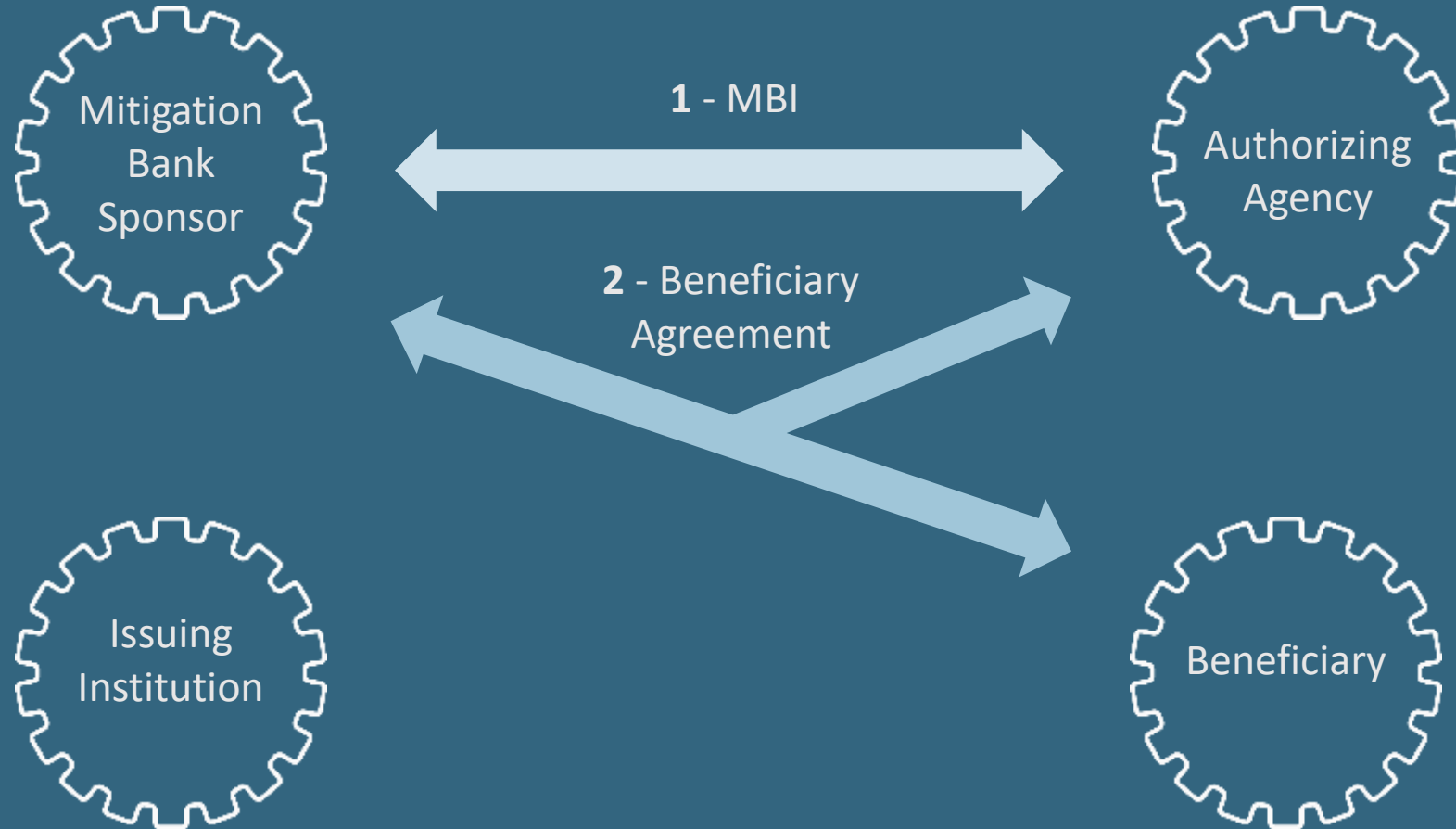
389 Financial assurances will occur via a combination of performance bond (issued for the
390 construction portion of the Project) and letter of credit (issued for the interim maintenance
391 period of the project).

392 The performance bond will be for the total cost of construction (\$400,000) and the letter of
393 credit, applicable for the duration of the interim maintenance period, will be for 20 percent
394 of the total cost of construction (\$80,000). This 20 percent is commensurate with standards
395 followed by the California interagency Project Delivery Team (PDT). It is based on the best
396 professional judgement of the PDT regarding general costs necessary to cover adaptive
397 management measures that may be required from a well-designed and Interagency Review
398 Team-approved mitigation project. The letter of credit can be used for, but is not limited to,
399 additional earthworks remedial actions, supplemental planting, adaptive management
400 regimes, irrigation, and access or drainage improvements. Scenarios of external factors

The performance bond will be for the total cost of construction (\$400,000) and the letter of credit, applicable for the duration of the interim maintenance period, will be for 20% of the total cost of construction (\$80,000).



Parties and General Responsibilities





NATIONAL FISH AND WILDLIFE FOUNDATION
1133 Fifteenth Street, N.W. Suite 1000
Washington, D.C. 20005
P 202-857-0166 | F 202-857-0162 | nfwf.org

July 20, 2021

Landrum Neer
Westervelt Ecological Services
7348 South Alton Way
Suite 9D
Centennial, CO 80112

RE: Agreement to Act as Beneficiary pursuant to the Letter of Credit in connection with the Mitigation Banking Instrument for the North Utica Agricultural Mitigation Bank

Dear Mr. Neer:

The purpose of this letter is to acknowledge that the National Fish and Wildlife Foundation ("NFWF") has been authorized by the Natural Resources Conservation Service, and hereby agrees, to serve as beneficiary under that certain letter of credit, (Bank No. 2021-1), hereinafter referred to as the "L/C" with an effective date of July 1, 2021, in the amount of Eighty-Eight Thousand Dollars (\$88,000). The L/C was issued by Bank of America, N.A. at the request of Westervelt Ecological Services (the "Sponsor") in connection with the Natural Resources Conservation Service Mitigation Banking Instrument for the North Utica Agricultural Mitigation Bank, Nebraska ("MBI"), dated March 2021, submitted in connection with the North Utica Agricultural Mitigation Bank ("Project").

The L/C was issued as security for Sponsor's obligations to perform its obligations with respect to construction and achieving certain performance standards for the Project, hereinafter referred to as the "Work" under the MBI.

The L/C represents financial assurances that the Natural Resources Conservation Service requires to secure performance of the Work if Sponsor fails to perform its obligations under the MBI. The total dollar amount of the L/C is Eighty-Eight Thousand Dollars (\$88,000) and consists of the following:

- Eighty Thousand Dollars (\$80,000), which represents the estimated cost to pay for performance of the Work as outlined in the MBI.
- Plus, an additional amount of Eight Thousand Dollars (\$8,000), which represents the administrative fee to be assessed and collected by NFWF if and when NFWF is

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required to draw funds under the L/C to administer completion of all or a portion of the Work.

NFWF will draw on the L/C if and when NFWF is notified in writing by the Natural Resources Conservation Service that either (1) Sponsor has failed to perform the Work in accordance with the MBI, and such failure has not been remedied within any applicable cure period; or (2) Sponsor has failed or refused to deliver an applicable extension, amendment, or replacement of the L/C in accordance with the terms of the MBI.

In either such event, NFWF will draw on the L/C in the amount authorized or directed by the Natural Resources Conservation Service and thereafter apply the drawn funds as authorized or directed by the Natural Resources Conservation Service, subject to applicable law, to pay for performance of the applicable Work. The Natural Resources Conservation Service and Sponsor understand that, for purposes of any such draw, NFWF will draw both the amount authorized by the Natural Resources Conservation Service to pay for performance of the applicable uncompleted Work and the fee to be collected by NFWF for NFWF's administration of such drawn funds, calculated as ten percent (10%) of the amount drawn for Work costs (such fee amount, the "Draw Administration Fee").

To compensate NFWF for its services as beneficiary under the L/C, Sponsor shall pay to NFWF the following fees:

- (1) a single, one-time payment of Three Thousand Four Hundred Dollars (\$3,400.00) for NFWF's establishment of a L/C holding account and related management measures, which payment shall be made by Sponsor to NFWF within thirty (30) days after the date of this letter; and
- (2) an annual fee of One Thousand Dollars (\$1,000.00) for NFWF's annual administration as beneficiary under the L/C, which payment shall be made by Sponsor to NFWF annually within thirty (30) days after each anniversary date of the date of this letter for each year the L/C remains effective.

For the avoidance of doubt, the fees set forth in the immediately preceding items (1) and (2) are separate and apart from, and shall not be credited against or deducted from, the Draw Administration Fee.

Thank you for the opportunity to serve as L/C beneficiary in this matter. If the foregoing accurately reflects your understanding of the purpose and operation of the L/C, and the parties' respective rights and obligations with respect thereto, please so acknowledge by signing below and returning a copy of this letter to our attention.

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If you have any questions about the foregoing, or would like to discuss our role as L/C beneficiary in more detail, please feel free to contact me or Bob Polin at your convenience.

Sincerely,

Timothy J. DiCintio
Senior Vice President, Impact-Directed Environmental Accounts

cc: Stephanie Tom Coupe, Senior Director, Impact-Directed Environmental Accounts, NFWF
Bob Polin, Director, Impact-Directed Environmental Accounts, NFWF

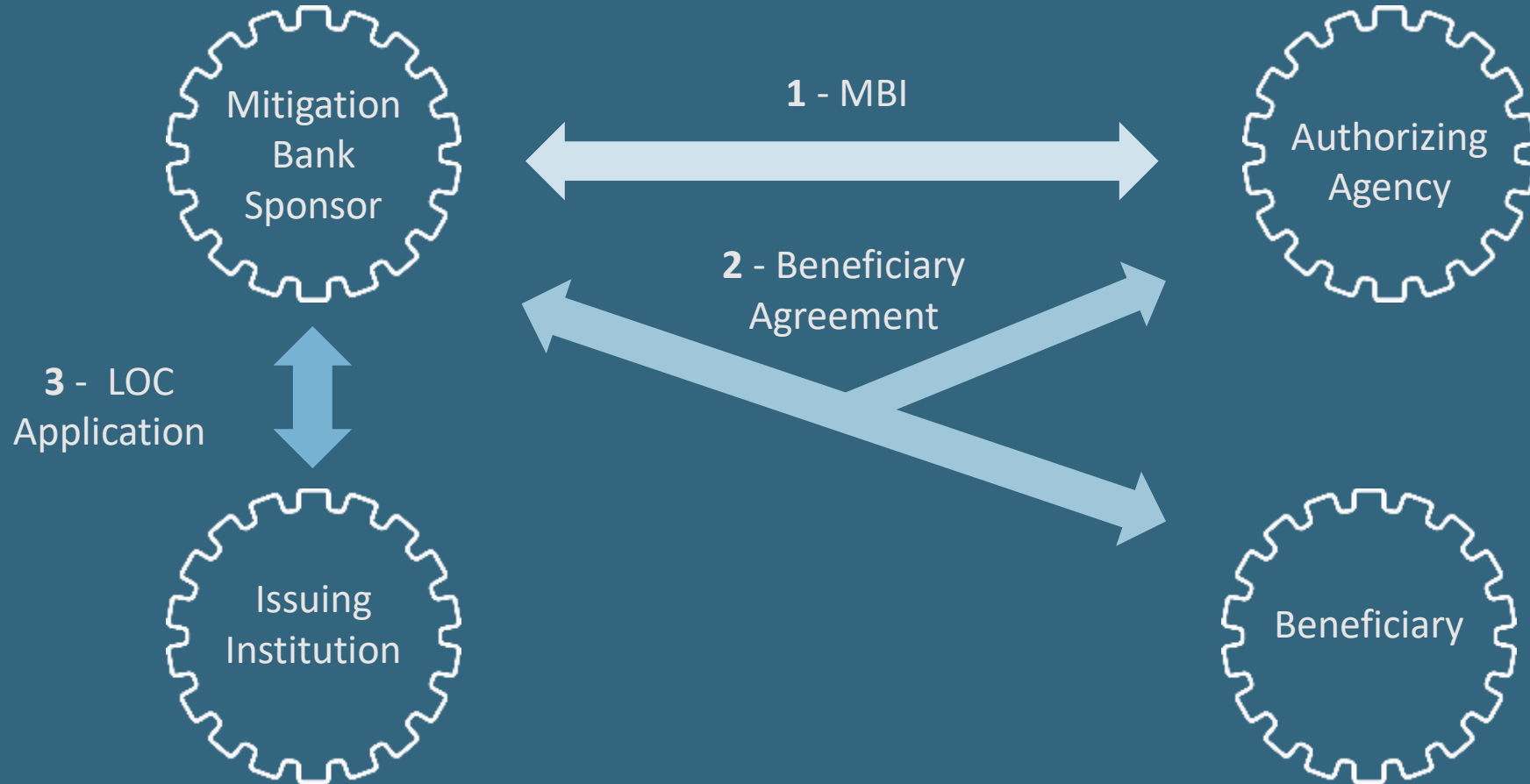
Agreed and Acknowledged:

By: _____
Name: _____
Title: _____
Date: _____

Agreed and Acknowledged:

By: Natural Resources Conservation Service
Name: Britt Weiser
Title: Acting State Conservationist
Date: 7/21/21

Parties and General Responsibilities





Application for an Irrevocable Standby Letter of Credit

Please type clear information in the boxes below. Applications that are illegible may be returned.

Date: 10/25/2021**To:** Wells Fargo Bank, National Association – **Issuing Location:** North Carolina California

The Applicant(s) signing below hereby request that Wells Fargo Bank, National Association (“Wells Fargo”) issue in Wells Fargo’s name, an Irrevocable Standby Letter of Credit (“SBLC or Credit”) on substantially the terms below:

Beneficiary of Wells Fargo SBLC (name and address): National Fish and Wildlife Foundation 1133 Fifteenth Street, N.W. Suite 1000 Washington, D.C. 20005 <input type="checkbox"/> A bank of your choosing (for use only when a local credit or guarantee is needed & Wells Fargo will select a local bank)	Advising Bank (if left blank, Wells Fargo may select):
Applicant/Obligor (name and address): The Westervelt Company DBA Westervelt Ecological Services, LLC 1400 Jack Warner Parkway NE Tuscaloosa, AL 35404	Account Party (name and address of entity to be named in Credit, if different from Applicant/Obligor):
Currency (in USD unless otherwise specified):	
Amount (in figures): 88,000.00 (in words): Eighty-Eight Thousand Dollars	
Availability: Unless otherwise specified herein, the Credit is to be available for presentation on or before the Expiration Date: (1) Only with Wells Fargo’s issuing office, at sight, by payment of draft(s) drawn on Wells Fargo. (Note: This is the default unless an option under (2) below is chosen.) or (2) Available with <input type="checkbox"/> The confirming bank or <input type="checkbox"/> Insert other:	
Expiration Date (mm/dd/yy format; this is the initial expiration date, if automatic extension is selected): or <input checked="" type="checkbox"/> Expire one year from issue date <input checked="" type="checkbox"/> Expiration Date to Be Automatically Extended (select one option below): <input checked="" type="checkbox"/> Annually on the day and month anniversary of the above Expiration Date or <input type="checkbox"/> Annually on (mm/dd) or <input type="checkbox"/> Every calendar days or <input type="checkbox"/> Every months With 60 calendar days as the minimum notice period to receive a notice of non-extension. Optional: Final Expiration Date (mm/dd/yy):	
Drawing Requirements (check and complete the appropriate boxes) (Note: For your convenience, sample drawing statements are provided in our instructions): <input type="checkbox"/> A Beneficiary’s signed and dated statement, worded substantially as follows: (attach additional signed sheet(s), if necessary, and label as attachments to this specific Application):	
Or: <input checked="" type="checkbox"/> Issue your Credit substantially in the form and with the wording attached to this Application. The attached specimen is approved by each Applicant. (Please label the attached specimen as an attachment to this specific Application.)	
Additional Requirements: <ul style="list-style-type: none"> Partial drawings are <input type="checkbox"/> permitted <input type="checkbox"/> prohibited (if left blank, partial drawings will be permitted) Multiple drawings are <input type="checkbox"/> permitted <input type="checkbox"/> prohibited (if left blank, multiple drawings will be permitted) (Note: Prohibited means that only one presentation may be made and honoured and that it may be for less than the full available SBLC amount) Facsimile drawings are <input type="checkbox"/> permitted <input type="checkbox"/> prohibited (if left blank, the SBLC will default to a paper presentation) 	
<input type="checkbox"/> Transferable (Click here if allowing the Credit to transferable to a new beneficiary, in its entirety.) <ul style="list-style-type: none"> Transfer charges for account of <input type="checkbox"/> Applicant or <input type="checkbox"/> Beneficiary Transfer is to be completed by <input type="checkbox"/> Wells Fargo or <input type="checkbox"/> Insert other bank: 	

Beneficiary: (Name and Address)

National Fish and Wildlife Foundation

Attn: Mr. Bob Polin

1133 Fifteenth St., N.W., Suite 1000

Washington D.C., 2005

Applicant/Obligor: (Name and Address)

The Westervelt Company

DBA Westervelt Ecological Services, LLC

1400 Jack Warner Parkway NE

Tuscaloosa, AL 35404





Application for an Irrevocable Standby Letter of Credit

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Applicant/Obligor (name and address): The Westervelt Company DBA Westervelt Ecological Services, LLC 1400 Jack Warner Parkway NE Tuscaloosa, AL 35404	Account Party (name and address of entity to be named in Credit, if different from Applicant/Obligor):
Currency (in USD unless otherwise specified): _____	
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Availability: Unless otherwise specified herein, the Credit is to be available for presentation on or before the Expiration Date: (1) Only with Wells Fargo’s issuing office, at sight, by payment of draft(s) drawn on Wells Fargo. (Note: This is the default unless an option under (2) below is chosen.) or (2) Available with <input type="checkbox"/> The confirming bank or <input type="checkbox"/> Insert other: _____	
Expiration Date (mm/dd/yy format; this is the initial expiration date, if automatic extension is selected): _____ or <input checked="" type="checkbox"/> Expire one year from issue date	
<input checked="" type="checkbox"/> Expiration Date to Be Automatically Extended (select one option below): <input checked="" type="checkbox"/> Annually on the day and month anniversary of the above Expiration Date or <input type="checkbox"/> Annually on (mm/dd) _____ or <input type="checkbox"/> Every _____ calendar days or <input type="checkbox"/> Every _____ months With 60 calendar days as the minimum notice period to receive a notice of non-extension.	
Optional: Final Expiration Date (mm/dd/yy): _____	
Drawing Requirements (check and complete the appropriate boxes) (Note: For your convenience, sample drawing statements are provided in our instructions): <input type="checkbox"/> A Beneficiary’s signed and dated statement, worded substantially as follows: (attach additional signed sheet(s), if necessary, and label as attachments to this specific Application):	
Or: <input checked="" type="checkbox"/> Issue your Credit substantially in the form and with the wording attached to this Application. The attached specimen is approved by each Applicant. (Please label the attached specimen as an attachment to this specific Application.)	
Additional Requirements: • Partial drawings are <input type="checkbox"/> permitted <input type="checkbox"/> prohibited (if left blank, partial drawings will be permitted) • Multiple drawings are <input type="checkbox"/> permitted <input type="checkbox"/> prohibited (if left blank, multiple drawings will be permitted) (Note: Prohibited means that only one presentation may be made and honoured and that it may be for less than the full available SBLC amount) • Facsimile drawings are <input type="checkbox"/> permitted <input type="checkbox"/> prohibited (if left blank, the SBLC will default to a paper presentation)	
<input type="checkbox"/> Transferable (Click here if allowing the Credit to transferable to a new beneficiary, in its entirety.) • Transfer charges for account of <input type="checkbox"/> Applicant or <input type="checkbox"/> Beneficiary • Transfer is to be completed by <input type="checkbox"/> Wells Fargo or <input type="checkbox"/> Insert other bank:	

Expiration Date: _____ (MM/DD/YY format, initial expiration date if automatically extending), or Expire one year from issue Date

Expiration Date to be automatically extended



The Credit will be subject to The International Standby Practices of the International Chamber of Commerce ("ICC"), Publication 590 ("ISP98"), unless otherwise indicated in the space below:

- The ICC, Uniform Customs and Practices ("UCP") Note: Current revision in effect is UCP 600; or
- Any subsequent version of either publication in effect and in use by Wells Fargo on the date the Credit is issued.

Description of Standby Purpose for Wells Fargo use only. Please include a description of the goods, services, or other underlying contract details: Security for Westervelt Ecological Services, LLC obligations to perform its obligations with respect to construction and achieving certain performance standards for the Project, hereinafter referred to as the "Work" under the Mitigation Banking Instrument for the North Utica Agricultural Mitigation Bank.

Credit Requesting Issuance of Guarantee or Another Credit/Undertaking *(to be completed only if the above Beneficiary is a bank or financial institution and said Beneficiary is being requested to issue its guarantee, Credit, or similar supported by the Wells Fargo Credit):*

Please request the above named Beneficiary to issue and deliver its _____ (specify requested issuance type: guarantee, letter of credit, etc.) in favor of _____ (beneficiary of local issuance) for an amount _____ (not exceeding the amount specified above), effectively immediately and related to _____ (specify a contract or identifying reference number) to expire _____ (specify an expiry date at least 15 days prior to the Credit date indicated above)

Note: *If both the Wells Fargo Credit and the local bank guarantee/SBLC require an auto-extension clause, Wells Fargo may provide the local bank with an option to draw against the Wells Fargo Credit upon Wells Fargo notice of non-extension.*

Applicant shall attach the expected wording to be used for such issuance with the expectation that it will be substantially adhered to by the other bank.

Or:

Local bank issuance is requested for a letter of credit or a guarantee based on their standard wording for a specific transaction type (bid bond, warranty period, etc.):

Note: *Applicant/Obligor agree that until Wells Fargo is released from its obligations under or in connection with the letter of credit or guarantee (however titled) issued by the local bank, Applicant(s) shall remain liable for the Credit issued under this Application and the Standby Letter of Credit Agreement which may include instances where a liability for the local bank's letter of credit or guarantee exceeds the face amount of the Credit or continues beyond the Expiration Date stated in the Credit.*

Other Instructions:

Transmission of Credit: Please transmit the original of the Credit yourself or through a bank selected by you to the following:
 Beneficiary Applicant Other:

Note: *By selecting a party other than the Beneficiary, I acknowledge and understand the rights of the Beneficiary under an issued Credit are unchanged regardless of where the original has been delivered.*

Applicant's Agreement and Signature: *(Each party obligated either alone or jointly and severally with others to reimburse Wells Fargo with respect to the Credit must sign this Application below.)*

Wells Fargo may, in its sole discretion, accept a photocopy, facsimile, electronically transmitted, or other reproduction of a signed copy of this Application (including a PDF version received via email) or an electronically executed copy of this Application (including via SWIFT or DocuSign) as the binding and effective record of this Application, in each case with the same effect as an original manually signed Application, whether or not an original manually signed Application is also received by Wells Fargo from Applicant. Applicant represents to Wells Fargo that the signature (whether a photocopy, facsimile, electronically transmitted copy or reproduction of an ink signature or an electronic signature) that appears on the Application that is transmitted by Applicant to Wells Fargo in any manner is intended by Applicant to authenticate the Application and evidence Applicant's agreement with its terms notwithstanding that such signature may not be an original manual signature. Applicant further agrees that any such Application received by Wells Fargo shall constitute an original document for all purposes, including establishing the provisions of the Application, shall be binding on and enforceable against Applicant, and shall be legally admissible under the best evidence rule.

Note: Each Applicant's signature below affirms that (1) it has fully read and agreed to, (2) it will be bound by, (3) the Credit will be governed by the terms of this Application and the terms of the Standby Letter of Credit Agreement signed by each Applicant in favor of Wells Fargo or any other agreement signed by each Applicant pursuant to which the Credit is issued, and (4) this request for issuance of the Credit cannot be withdrawn without Wells Fargo's consent. This Application is signed by each Applicant's duly authorized representative(s) on the date specified above.

Transmission of Credit: Please transmit the original of the Credit yourself or through a bank selected by you to the following

- Beneficiary
- Applicant
- Other

By selecting a party other than the beneficiary, I acknowledge and understand the rights of the beneficiary under an issued Standby Letter of Credit are unchanged regardless of where the original has been delivered.

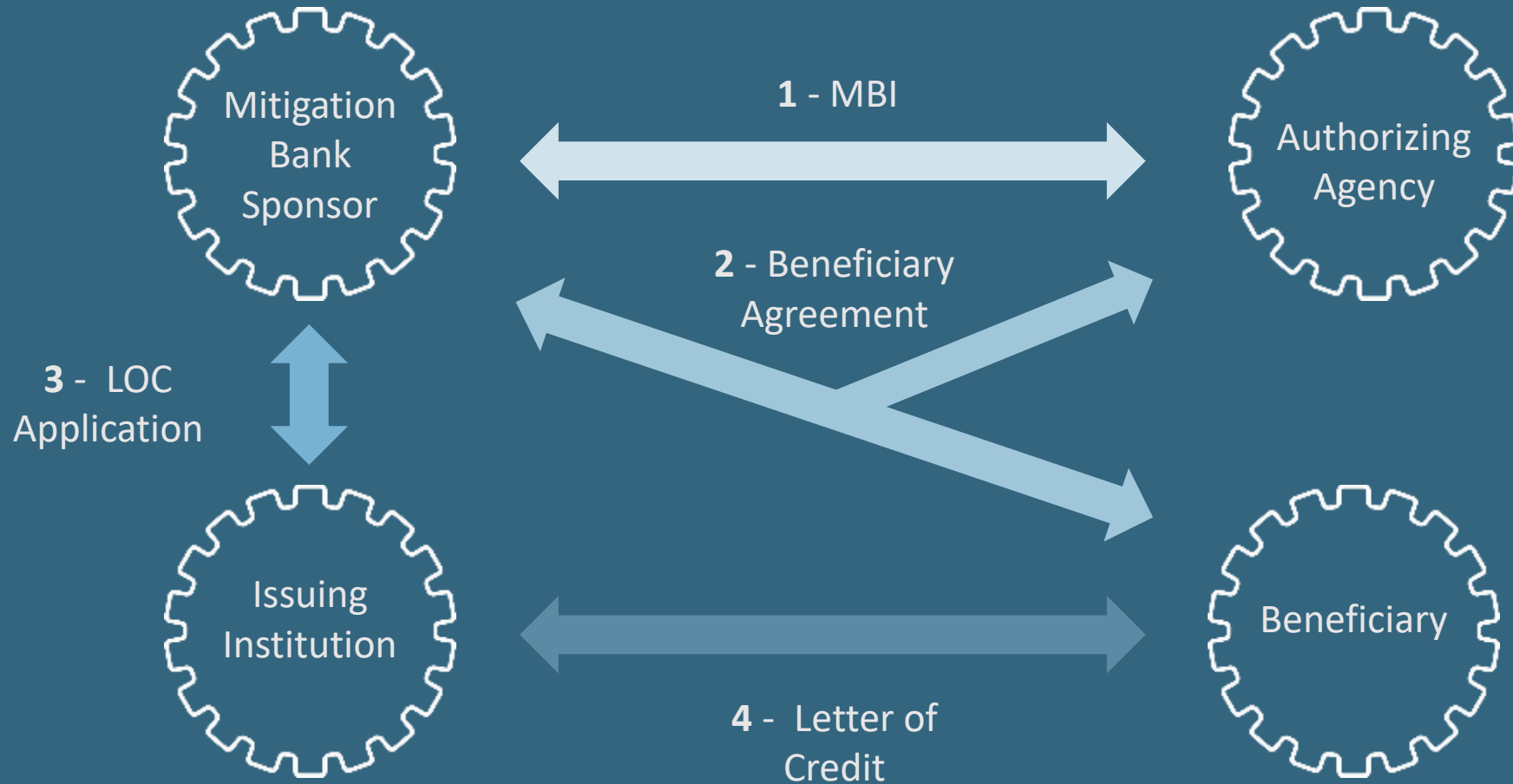


<p>The Credit will be subject to The International Standby Practices of the International Chamber of Commerce ("ICC"), Publication 590 ("ISP98"), unless otherwise indicated in the space below:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The ICC, Uniform Customs and Practices ("UCP") Note: Current revision in effect is UCP 600; or <input type="checkbox"/> Any subsequent version of either publication in effect and in use by Wells Fargo on the date the Credit is issued.
<p>Description of Standby Purpose for Wells Fargo use only. Please include a description of the goods, services, or other underlying contract details: Security for Westervelt Ecological Services, LLC obligations to perform its obligations with respect to construction and achieving certain performance standards for the Project, hereinafter referred to as the "Work" under the Mitigation Banking Instrument for the North Utica Agricultural Mitigation Bank.</p>
<p>Credit Requesting Issuance of Guarantee or Another Credit/Undertaking (to be completed only if the above Beneficiary is a bank or financial institution and said Beneficiary is being requested to issue its guarantee, Credit, or similar supported by the Wells Fargo Credit):</p> <p><input type="checkbox"/> Please request the above named Beneficiary to issue and deliver its _____ (specify requested issuance type: guarantee, letter of credit, etc.) in favor of _____ (beneficiary of local issuance) for an amount _____ (not exceeding the amount specified above), effectively immediately and related to _____ (specify a contract or identifying reference number) to expire _____ (specify an expiry date at least 15 days prior to the Credit date indicated above)</p> <p>Note: If both the Wells Fargo Credit and the local bank guarantee/SBLC require an auto-extension clause, Wells Fargo may provide the local bank with an option to draw against the Wells Fargo Credit upon Wells Fargo notice of non-extension.</p> <p><input type="checkbox"/> Applicant shall attach the expected wording to be used for such issuance with the expectation that it will be substantially adhered to by the other bank.</p> <p>Or:</p> <p><input type="checkbox"/> Local bank issuance is requested for a letter of credit or a guarantee based on their standard wording for a specific transaction type (bid bond, warranty period, etc.):</p> <p>Note: Applicant/Obligor agree that until Wells Fargo is released from its obligations under or in connection with the letter of credit or guarantee (however titled) issued by the local bank, Applicant(s) shall remain liable for the Credit issued under this Application and the Standby Letter of Credit Agreement which may include instances where a liability for the local bank's letter of credit or guarantee exceeds the face amount of the Credit or continues beyond the Expiration Date stated in the Credit.</p>
<p>Other Instructions:</p>
<p>Transmission of Credit: Please transmit the original of the Credit yourself or through a bank selected by you to the following: <input checked="" type="checkbox"/> Beneficiary <input type="checkbox"/> Applicant <input type="checkbox"/> Other: Note: By selecting a party other than the Beneficiary, I acknowledge and understand the rights of the Beneficiary under an issued Credit are unchanged regardless of where the original has been delivered.</p>
<p>Applicant's Agreement and Signature: (Each party obligated either alone or jointly and severally with others to reimburse Wells Fargo with respect to the Credit must sign this Application below.)</p> <p>Wells Fargo may, in its sole discretion, accept a photocopy, facsimile, electronically transmitted, or other reproduction of a signed copy of this Application (including a PDF version received via email) or an electronically executed copy of this Application (including via SWIFT or DocuSign) as the binding and effective record of this Application, in each case with the same effect as an original manually signed Application, whether or not an original manually signed Application is also received by Wells Fargo from Applicant. Applicant represents to Wells Fargo that the signature (whether a photocopy, facsimile, electronically transmitted copy or reproduction of an ink signature or an electronic signature) that appears on the Application that is transmitted by Applicant to Wells Fargo in any manner is intended by Applicant to authenticate the Application and evidence Applicant's agreement with its terms notwithstanding that such signature may not be an original manual signature. Applicant further agrees that any such Application received by Wells Fargo shall constitute an original document for all purposes, including establishing the provisions of the Application, shall be binding on and enforceable against Applicant, and shall be legally admissible under the best evidence rule.</p> <p>Note: Each Applicant's signature below affirms that (1) it has fully read and agreed to, (2) it will be bound by, (3) the Credit will be governed by the terms of this Application and the terms of the Standby Letter of Credit Agreement signed by each Applicant in favor of Wells Fargo or any other agreement signed by each Applicant pursuant to which the Credit is issued, and (4) this request for issuance of the Credit cannot be withdrawn without Wells Fargo's consent. This Application is signed by each Applicant's duly authorized representative(s) on the date specified above.</p>

Applicant's Agreement and Signature:
 (Each party obligated either alone or jointly and severally with others to reimburse Wells Fargo with respect to the Credit must sign this Application below.)



Parties and General Responsibilities





Wells Fargo Bank, N.A.
 U.S. Trade Services
 Standby Letters of Credit
 401 N. Research Pkwy, 1st Floor
 MAC 14904-0075
 Winston-Salem, NC 27101-4157
 Phone: 1(800) 776-3862 Option 2
 E-Mail: sblc-new@wellsfargo.com

Irrevocable Standby Letter Of Credit

Number : IS000234721U
Issue Date : November 3, 2021

BENEFICIARY	APPLICANT
NATIONAL FISH AND WILDLIFE FOUNDATION 1133 FIFTEENTH STREET, N.W. SUITE 1000 WASHINGTON, DISTRICT OF COLUMBIA 20005	THE WESTERVELT COMPANY DBA WESTERVELT ECOLOGICAL SERVICES, LLC 1400 JACK WARNER PARKWAY NE TUSCALOOSA, ALABAMA 35404

LETTER OF CREDIT ISSUE AMOUNT USD 88,000.00 EXPIRY DATE NOVEMBER 3, 2022

LADIES AND GENTLEMEN:

WE HEREBY OPEN OUR IRREVOCABLE STANDBY LETTER OF CREDIT IN YOUR FAVOR FOR THE ACCOUNT OF THE ABOVE REFERENCED APPLICANT IN THE AGGREGATE AMOUNT OF USD 88000.00 (USD EIGHTY EIGHT THOUSAND AND 00/100) WHICH IS AVAILABLE BY PAYMENT UPON PRESENTATION OF THE FOLLOWING DOCUMENTS:

1. A DRAFT DRAWN ON US AT SIGHT MARKED "DRAWN UNDER WELLS FARGO BANK, N.A. STANDBY LETTER OF CREDIT NO. IS000234721U."
2. THE ORIGINAL LETTER OF CREDIT AND ANY AMENDMENTS ATTACHED THERETO.
3. A DATED STATEMENT ISSUED ON THE LETTERHEAD OF THE BENEFICIARY AND PURPORTEDLY SIGNED BY AN AUTHORIZED REPRESENTATIVE STATING: THE APPLICANT HAS FAILED TO PERFORM IT'S OBLIGATIONS WITH RESPECT TO CONSTRUCTION AND ACHIEVING CERTAIN PERFORMANCE STANDARDS FOR THE PROJECT, HERINAFTER REFERRED TO AS THE "WORK" UNDER THE MITIGATION BANKING INSTRUMENT FOR THE NORTH UTICA AGRICULTURAL MITIGATION BANK. WE THEREFORE DEMAND PAYMENT IN THE AMOUNT OF (INSERT AMOUNT) AS SAME IS DUE AND OWING.

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE DEEMED AUTOMATICALLY EXTENDED WITHOUT WRITTEN AMENDMENT FOR ONE YEAR PERIODS FROM THE PRESENT OR ANY FUTURE EXPIRY DATE UNLESS AT LEAST 60 CALENDAR DAYS PRIOR TO SUCH EXPIRATION DATE, WE SEND THE BENEFICIARY NOTICE AT THE ABOVE STATED ADDRESS BY OVERNIGHT COURIER THAT WE ELECT NOT TO EXTEND THIS LETTER OF CREDIT BEYOND THE INITIAL OR ANY EXTENDED EXPIRY DATE HEREOF.

THIS IRREVOCABLE LETTER OF CREDIT SETS FORTH IN FULL THE TERMS OF OUR UNDERTAKING. THIS UNDERTAKING IS INDEPENDENT OF AND SHALL NOT IN ANY WAY BE MODIFIED, AMENDED, AMPLIFIED, OR INCORPORATED BY REFERENCE TO ANY DOCUMENT, CONTRACT, OR AGREEMENT REFERENCED HEREIN.

Ladies and Gentlemen:

We hereby open our irrevocable standby letter of credit in your favor for the account of the above referenced applicant in the aggregate amount of USD 88000.00 (USD Eighty Eight thousand and 00/100) which is available by payment upon presentation of the following Documents:





Wells Fargo Bank, N.A.
 U.S. Trade Services
 Standby Letters of Credit
 401 N. Research Pkwy, 1st Floor
 MAC 14904-0017
 Winston-Salem, NC 27101-4157
 Phone: 1(800) 776-3862 Option 2
 E-Mail: sblc-new@wellsfargo.com

Irrevocable Standby Letter Of Credit

Number : IS000234721U
Issue Date : November 3, 2021

BENEFICIARY	APPLICANT
NATIONAL FISH AND WILDLIFE FOUNDATION 1133 FIFTEENTH STREET, N.W. SUITE 1000 WASHINGTON, DISTRICT OF COLUMBIA 20005	THE WESTERVELT COMPANY DBA WESTERVELT ECOLOGICAL SERVICES, LLC 1400 JACK WARNER PARKWAY NE TUSCALOOSA, ALABAMA 35404

LETTER OF CREDIT ISSUE AMOUNT USD 88,000.00 EXPIRY DATE NOVEMBER 3, 2022

LADIES AND GENTLEMEN:

WE HEREBY OPEN OUR IRREVOCABLE STANDBY LETTER OF CREDIT IN YOUR FAVOR FOR THE ACCOUNT OF THE ABOVE REFERENCED APPLICANT IN THE AGGREGATE AMOUNT OF USD 88000.00 (USD EIGHTY EIGHT THOUSAND AND 00/100) WHICH IS AVAILABLE BY PAYMENT UPON PRESENTATION OF THE FOLLOWING DOCUMENTS:

1. A DRAFT DRAWN ON US AT SIGHT MARKED "DRAWN UNDER WELLS FARGO BANK, N.A. STANDBY LETTER OF CREDIT NO. IS000234721U."
2. THE ORIGINAL LETTER OF CREDIT AND ANY AMENDMENTS ATTACHED THERETO.
3. A DATED STATEMENT ISSUED ON THE LETTERHEAD OF THE BENEFICIARY AND PURPORTEDLY SIGNED BY AN AUTHORIZED REPRESENTATIVE STATING: THE APPLICANT HAS FAILED TO PERFORM IT'S OBLIGATIONS WITH RESPECT TO CONSTRUCTION AND ACHIEVING CERTAIN PERFORMANCE STANDARDS FOR THE PROJECT, HEREINAFTER REFERRED TO AS THE "WORK" UNDER THE MITIGATION BANKING INSTRUMENT FOR THE NORTH UTICA AGRICULTURAL MITIGATION BANK. WE THEREFORE DEMAND PAYMENT IN THE AMOUNT OF (INSERT AMOUNT) AS SAME IS DUE AND OWING.

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE DEEMED AUTOMATICALLY EXTENDED WITHOUT WRITTEN AMENDMENT FOR ONE YEAR PERIODS FROM THE PRESENT OR ANY FUTURE EXPIRY DATE UNLESS AT LEAST 60 CALENDAR DAYS PRIOR TO SUCH EXPIRATION DATE, WE SEND THE BENEFICIARY NOTICE AT THE ABOVE STATED ADDRESS BY OVERNIGHT COURIER THAT WE ELECT NOT TO EXTEND THIS LETTER OF CREDIT BEYOND THE INITIAL OR ANY EXTENDED EXPIRY DATE HEREOF.

THIS IRREVOCABLE LETTER OF CREDIT SETS FORTH IN FULL THE TERMS OF OUR UNDERTAKING. THIS UNDERTAKING IS INDEPENDENT OF AND SHALL NOT IN ANY WAY BE MODIFIED, AMENDED, AMPLIFIED, OR INCORPORATED BY REFERENCE TO ANY DOCUMENT, CONTRACT, OR AGREEMENT REFERENCED HEREIN.

1. A draft drawn on us at sight marked "drawn under Wells Fargo Bank, N.A. standby letter of credit No. IS000234721U
2. The original letter of credit and any amendments attached thereto.
3. A dated statement issued on the letterhead of the beneficiary and purportedly signed by an authorized representative stating: the applicant has failed to perform it's obligations with respect to construction and achieving certain performance standards for the project, hereinafter referred to as the "work" under the mitigation bank instrument for the North Utica Agricultural Mitigation Bank. We therefore demand payment in the amount of (insert amount) as same is due and owing.





State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shew Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

EDMUND G. BROWN, JR., Governor
CHARLTON H. BONHAM, Director



IRREVOCABLE LETTER OF CREDIT NO. IS0321966U
ISSUED BY WELLS FARGO BANK, N.A.

CERTIFICATE FOR CANCELLATION

Wells Fargo Bank, N.A.
U.S. Trade Services
401 North Research Parkway, 1st Floor
MAC D4004-017
Winston-Salem, North Carolina 27101
ATTN: Standby Letter of Credit

Re: Irrevocable Letter of Credit No. IS0321966U

The undersigned, a duly Authorized Representative of the California Department of Fish and Wildlife ("CDFW"), as defined in paragraph 11 in the above-referenced Irrevocable Standby Letter of Credit ("Credit"), hereby certifies to the Issuer that:

1. The Applicant has presented documentary evidence of compliance with the terms of the Grasslands Mitigation Bank Bank Enabling Instrument ("BEI) referenced in paragraph 3 of the Credit.
2. The Department therefore requests the cancellation of the Credit.

Therefore, the CDFW has executed and delivered this Certificate for Cancellation as of the 11th day of December, 2015.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: 
Julie A. Vance
REGIONAL MANAGER, CENTRAL REGION

Conserving California's Wildlife Since 1870

Using a letter of Credit

- Payable simply upon presentation
- Paid out for two reasons
- General exclusions prevent LOCs for being called upon for reasons unrelated to MBI



Where did we put that certificate again?

Other things to know when creating the LOC:

Language is open to modification- BE PERCISE!!

The LOC can be amended to reduce the amount as performance milestones are met

The LOC ties up the Sponsor's debt capacity in the amount of the LOC



QUESTIONS?

