

STATE OF FLORIDA

MITIGATION BANK PERFORMANCE BOND
TO DEMONSTRATE CONSTRUCTION AND IMPLEMENTATION FINANCIAL ASSURANCE

Date bond executed: _____

Period of coverage: _____

Effective date: _____

Principal:

Legal Name and Business Address of Mitigation Banker

Type of Organization: _____ Individual
 _____ Joint Venture
 _____ Partnership
 _____ Corporation

State of Incorporation: _____

Surety(ies):

Name(s) and Business Address(es)

Scope of coverage: Construction and implementation of the _____ mitigation bank pursuant to the requirements of permit number _____ issued by the Southwest Florida Water Management District including the plans approved by said permit.

Total penal sum of bond: _____

Surety's bond number: _____

Know All Persons By These Presents, that we, the Principal and Surety(ies) hereto are firmly bound to the Southwest Florida Water Management District in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum

"jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be full amount of the penal sum.

WHEREAS, said Principal is required, under Section 373.4136, Florida Statutes, as amended, to have a permit in order to construct, implement and manage the mitigation bank identified above, and

WHEREAS, said Principal is required by Section 373.4136, Florida Statutes, and the administrative rules of the District to provide financial assurance for construction and implementation of the mitigation bank as a condition of the permit(s) as further described in the scope of coverage above, and

WHEREAS, said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

NOW, THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully construct and implement the _____ mitigation bank, for which this bond guarantees construction and implementation, as required by District permit number _____ and the plans approved by such permit, as such permit and plans may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

Or, if the Principal shall provide alternate financial assurance, as specified in the administrative rules of the District, and obtain the District's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the District from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

Such obligation does not apply to any of the following:

- (a) Any obligation of (insert banker's name) under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
- (b) Bodily injury to an employee of (insert banker's name) arising from, and in the course of, employment by (insert banker's name);
- (c) Bodily injury or 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 (insert banker's name) that is not the direct result of a construction or implementation activity for the _____ mitigation bank required pursuant to District permit number _____;

- (e) Bodily injury or property damage for which (insert banker's name) is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the Deputy Executive Director of Resource Regulation of the District that the Principal has been found in violation of the requirements of permit number _____ by failing to perform the construction and implementation activities for the _____ mitigation bank for which this bond guarantees performance, the Surety(ies) shall, within 60 days of receiving such notice, either perform such construction and implementation in accordance with the permit and other permit requirements and pursuant to the written directions of the District, or place the bond amount guaranteed for the _____ Mitigation Bank (the total penal sum of this bond) into the standby trust fund as directed by the District.

Upon notification by the Deputy Executive Director of Resource Regulation of the District that the Principal has failed to provide alternate financial assurance and obtain written approval of such assurance from the District during the 90 days following receipt by both the Principal and the District of a notice of cancellation of the bond, the Surety(ies) shall place funds in the amount guaranteed for the _____ Mitigation Bank (the total penal sum of this bond) into the standby trust fund as directed by the District.

The Surety(ies) hereby waive(s) notification of amendments to the _____ Mitigation Bank plans, permits, applicable laws, statutes, rules, and regulations and agree(s) that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum shown on the face of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and the District; provided, however that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the District, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies); provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the District.

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond every two years so that it guarantees increased or decreased construction and implementation cost provided that no decrease in the penal sum takes place without the written permission of the District.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this Performance Bond is substantially similar to Form MB/PB which form has been adopted by reference in Rule 40D-1.659, Florida Administrative Code.

PRINCIPAL

Signature

Type Name and Title

Corporate Seal

CORPORATE SURETY(IES)

For each co-surety provide the following

Name and Address

State of Incorporation

Liability Limit \$ _____

Signature

Type Name and Title

Corporate Seal