

**CHECKLIST FOR A LETTER OF CREDIT (LOC):**

**IF THE LETTER OF CREDIT PRESENTED TO THE  
DEPARTMENT COMPLIES IN ALL RESPECTS  
WITH THE FOLLOWING, IT WILL BE  
ACCEPTABLE AND EXPEDITE PROCESSING OF  
AN APPLICATION**

**EACH LOC SHOULD CONTAIN THE FOLLOWING, OR VERY SIMILAR, LANGUAGE:**

- "This letter of credit specifically authorizes recovery by the Department of Financial Services on behalf of a prevailing party in an action for damages sustained under the Florida Construction Materials Mining Activities Administrative Recovery Act, Sections 552.32-.44, F.S., in the event that the applicant for the Letter fails to pay damages awarded within 30 days after a final order awarding damages is issued by an administrative law judge of the Division of Administrative Hearings, or within 30 days after entry of an appellate mandate affirming a final order awarding damages."*
- "This letter of credit is perpetual."*
- "Payment for this letter of credit shall be made to the Department of Financial Services but it is assignable and transferable from the Department of Financial Services to the Department's assignee or transferee."*
- "This letter of credit is payable on or before the seventh day after presentation of a document evidencing satisfaction of the conditions for payment."*
- "This letter is payable on or before the seventh day after presentation of a document evidencing satisfaction of the condition of the undertaking."*
- "This letter is governed by the laws of the State of Florida."*
- "Venue for any cause of action brought under this letter in state court shall lie in the circuit court of the Second Judicial Circuit of Florida, in and for Leon County, and, if an action is brought under the laws of the United States of America, venue shall lie in the United States District Court for the Northern District of Florida, Tallahassee Division."*
- "Once issued, this letter of credit may not be altered or amended in any manner except with the written approval of the Department of Financial Services."*

**EACH LOC MUST MEET THE FOLLOWING REQUIREMENTS:**

- ✓ The issuer of the Letter must be a financial institution chartered under the laws of the United States of America or of the State of Florida.
- ✓ Each Letter must be authenticated by a signature which is on file with the Department of Financial Services or in accordance with the standard practices in Section 675.108(5), F.S.
- ✓ The beneficiary of each Letter shall be the Department of Financial Services on behalf of a prevailing party in an action for damages sustained under the Florida Construction Materials Mining Activities Administrative Recovery Act, Sections 552.32-.44, F.S., if any person referred to in paragraph (a) fails to pay damages awarded within 30 days after a final order awarding damages is issued by an administrative law judge of the Division of Administrative Hearings, or within 30 days after the entry of an appellate mandate affirming a final order awarding damages.
- ✓ The applicant for the Letter must be an applicant for a Construction Materials Mining Company or User of Explosives Permit.
- ✓ The original of each Letter, once issued, must be maintained in the custody of the department.
- ✓ No Letter is permitted to contain a statement that it is revocable. If a Letter contains a statement that it is revocable, such Letter is void and of no effect for purposes of complying with the Florida Construction Materials Mining Activities Administrative Recovery Act, Sections 552.32-.44, F.S., or the rules of the Department of Financial Services.
- ✓ Each letter of credit shall provide security for payment of any award against the user or permit holder in the initial amount of not less than \$100,000.00, which amount shall be maintained at all times the user or permit holder engages in construction materials mining activities. If the user or permit holder wishes, such letter of credit may be maintained in an amount that exceeds \$100,000.00.