
SOUTH DAKOTA CONSERVANCY DISTRICT

SOUTH DAKOTA STATE REVOLVING FUND PROGRAM

SECOND AMENDMENT

Dated as of September 1, 2024

TO:

FIFTH AMENDED AND RESTATED
MASTER TRUST INDENTURE

Dated as of September 1, 2010

by and between

SOUTH DAKOTA CONSERVANCY DISTRICT

and

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,

as Trustee

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SECOND AMENDMENT

TO:

FIFTH AMENDED AND RESTATED MASTER TRUST INDENTURE

THIS SECOND AMENDMENT, dated as of September __, 2024 (the “Second Amendment”), to that certain FIFTH AMENDED AND RESTATED MASTER TRUST INDENTURE, dated as of September 1, 2010, by and between the SOUTH DAKOTA CONSERVANCY DISTRICT, a governmental agency, body politic and corporate of the State of South Dakota (the “District”) and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association, as trustee (the “Trustee”).

WITNESSETH:

WHEREAS, the District is duly constituted as an instrumentality of the State of South Dakota exercising public and governmental functions under the operation, management and control of the Board of Water and Natural Resources of South Dakota (the “Board of Water and Natural Resources”), pursuant to SDCL Chapters 46A-1 and 46A-2 (the “Act”); and

WHEREAS, pursuant to the Act and the Clean Water Act, as hereinafter defined, the District has established a state revolving fund program (the “Clean Water Program”); and

WHEREAS, pursuant to the Act and the Drinking Water Act, as hereinafter defined, the District has established a state revolving fund program (the “Drinking Water Program”); and

WHEREAS, pursuant to the Act, the District is authorized to issue bonds and to make loans to Borrowers of the State of South Dakota through the purchase of municipal securities or loans in connection with the Clean Water Program and the Drinking Water Program (each a “Program” and collectively, the “Programs”); and

WHEREAS, to fund the Programs, the United States Environmental Protection Agency presently makes annual capitalization grants to the states, on the condition that each state provide an appropriate match for such state’s related revolving fund; and

WHEREAS, the Board of Water and Natural Resources has heretofore determined it necessary and expedient to enter into a Fifth Amended and Restated Master Trust Indenture dated September 1, 2010 (as heretofore amended, the “Restated Master Trust Indenture” and, as amended and supplemented from time to time, the “Master Trust Indenture”) with the Trustee for the purpose of authorizing the issuance of bonds and administering capitalization grants; and

WHEREAS, Section 11.01 of the Restated Master Trust Indenture authorizes certain amendments or supplements thereto without the necessity of obtaining the consent of any Bondholder under certain circumstances, including in order to enter into one or more supplemental indentures that, when effective, would amend or modify any provisions of the Master Trust Indenture if, in the judgment of an Authorized Representative, the rating then in effect on any Outstanding Bonds and Notes from each Rating Agency immediately preceding the

time such supplemental indenture becomes effective will be maintained or improved after such supplemental indenture becomes effective; and

WHEREAS, for the purposes of Section 11.01 described above, the Authorized Representative must certify its judgment to the Trustee, and such judgment will be based upon the written ratings report or other written evidence provided by each Rating Agency; and

WHEREAS, the Board of Water and Natural Resources has determined it necessary to implement the provisions of Section 11.01 of the Restated Master Trust Indenture by entering into this Second Amendment to Fifth Amended and Restated Master Trust Indenture (the "Second Amendment") and a written certification of the Chairman of the Board of Water and Natural Resources satisfying Section 11.01(h) of the Restated Master Trust Indenture has been filed with the Trustee; and

WHEREAS, the execution and delivery of this Second Amendment have been duly authorized by the Board of Water and Natural Resources; and

WHEREAS, the Trustee has accepted the trust created by the Master Trust Indenture and agrees to be bound by this Second Amendment thereto and in evidence thereof has joined in the execution hereof.

NOW, THEREFORE, THIS SECOND AMENDMENT TO AMENDED AND RESTATED MASTER TRUST INDENTURE WITNESSETH:

ARTICLE I

Definitions and Interpretation

Section 1.01 Definitions. All terms not defined herein shall have the meanings assigned thereto in the Restated Master Trust Indenture.

Section 1.02 Interpretation. This Second Amendment is governed by and shall be construed in accordance with the laws of South Dakota.

ARTICLE II

Amendments

Section 2.01 Amendment to Section 1.01 (Definitions). Section 1.01 of the Amended and Restated Indenture is hereby amended by adding the following defined terms to be inserted in alphabetical order:

"Assumed Amortization Period" means the period of time specified in paragraph (a) or paragraph (b) below, as selected by an Authorized Representative of the District in connection with a Coverage Certificate:

(a) Five (5) years; or

(b) The period of time, exceeding five (5) years, set forth in a written opinion of the Financial Advisor as being not longer than the maximum period of time over which indebtedness having comparable terms and security issued or incurred by similar issuers of comparable credit standing would, if then being offered, be marketable on reasonable and customary terms.

"Assumed Interest Rate" means the rate per annum (determined as of the last day of the calendar month next preceding the month in which the determination of Assumed Interest Rate is being made) set forth in a written opinion of the Financial Advisor as being not lower than the lowest rate of interest at which indebtedness having comparable terms, security and federal income tax status amortized on a level debt service basis over a period of time equal to the Assumed Amortization Period, and issued or incurred by similar issuers of comparable credit standing would, if being offered as of such last day of the calendar month, be marketable on reasonable and customary terms; provided that such rate shall be neither (a) lower than the rate specified as a nationally recognized index plus fifty basis points as in effect on the date of such opinion, and matched to each maturity allowed for under the Assumed Amortization Period, nor (b) higher than the highest rate permitted by law at which such Bonds could be sold on said day.

"Balloon Bonds" means any Bonds (other than capital appreciation bonds) (a) 25% or more of the principal payments of which are due in a single year, excluding any such principal payments that are subject to mandatory sinking fund requirements in a prior year, or (b) 25% or more of the principal of which may, at the option of the Holder or Holders thereof, be redeemed or tendered at one time.

"Financial Advisor" means PFM Financial Advisors LLC or any other firm or person (other than an employee or member of the District) with demonstrated expertise in matters of public finance, designated or engaged by the District to serve as its financial advisor with regard to (among other things) the structuring and sale of the District's debt obligations.

Section 2.02 Amendment to Section 2.11(b). Section 2.11(b) of the Amended and Restated Indenture is hereby deleted in its entirety and shall be replaced with the following text:

(1) Except in the case of (A) Refunding Bonds issued to pay principal of or interest on Bonds for the payment of which sufficient funds are not expected to be available and (B) Bonds issued to refund Notes, a Coverage Certificate, with supporting schedules, estimating that, as of each Bond Year, Projected Revenues available for deposit (i) in the State Match Bond Accounts of the Bond Funds will, in the aggregate, equal an amount which will be no less than 105% of the amount necessary to pay the State Match Portion of principal and interest due on each Bond Payment Date on (x) all Bonds then Outstanding (except Bonds and Notes and interest thereon to be refunded

from the proceeds of the Bonds or Notes to be issued), (y) the State Match Portion of Bonds to be issued, and (z) principal and interest estimated to be due and payable on Refunding Bonds to be issued as State Match Portion Refunding Bonds to refund Notes calculated as provided in Section 2.11(b)(2) hereof, and (ii) in the Leveraged Bond Accounts of the Bond Funds (including, for such purposes, the amounts on deposit in the Unrestricted Interest Repayments Accounts of the Bond Funds and not otherwise required to pay the State Match Portion of principal and interest due on such Bond Payment Date) will, in the aggregate, equal an amount which will be no less than 105% of the amount necessary to pay the Leveraged Portion of principal and interest due on each Bond Payment Date on (x) all Bonds then Outstanding (except Bonds and Notes and interest thereon to be refunded from the proceeds of the Bonds or Notes to be issued), (y) the Leveraged Portion of Bonds to be issued and (z) principal and interest estimated to be due and payable on Refunding Bonds to be issued as Leveraged Portion Refunding Bonds to refund Notes calculated as provided in Section 2.11(b)(2) hereof. For purposes of the foregoing, interest payable on any future Bond Payment Date with respect to (i) any Bonds or proposed Bonds with respect to which a Qualified Interest Rate Agreement applies shall be calculated as provided in Section 2.13 hereof and any related Series Resolution and (ii) any Variable Rate Bonds shall be calculated as provided in Sections 2.13 and 2.15 hereof and any related Series Resolution.

(2) For purposes of calculating the State Match Portion and Leveraged Portion of debt service, any Coverage Certificate (A) shall disregard principal and interest due or to become due with respect to any Notes which will be Outstanding during any such period; (B) shall include estimated principal and interest amounts to become due as a result of the issuance of Refunding Bonds the proceeds of which are to be used to pay the Redemption Price of any such Notes; provided, if Notes are to be issued to refund Outstanding Notes, the interest on such refunding Notes shall be taken into account for the period such Notes are expected to remain Outstanding and (C) in the event that all or any portion of any Bonds have been issued as or are proposed to be issued as Balloon Bonds, then in order to compute the State Match Portion and Leveraged Portion of debt service on such Bonds for the purposes of determining (i) whether Bonds, regardless of whether they are to be Balloon Bonds, may be issued in compliance with the requirements of Section 2.11(b)(1) hereof when any Balloon Bonds are outstanding and (ii) whether Bonds that are Balloon Bonds may be issued in compliance with the requirements of Section 2.11(b)(1) hereof shall be determined: (a) by assuming that such Balloon Bonds are to be amortized on the basis of level debt service over the Assumed Amortization Period and that such Bonds bear interest at the Assumed Interest Rate; or, (b) if certified by the Financial Advisor to be appropriate given the then current accepted custom and practice of the public finance industry, by assuming that such Balloon Bonds are to be amortized on a basis other than level debt service over the Assumed Amortization Period and that such Bonds bear interest at the Assumed Interest Rate.

(3) For purposes of such estimates, the Coverage Certificate shall also assume such Refunding Bonds shall be issued on a date within three months of the stated maturity date of the Notes to be refunded, with substantially level annual debt service for a stated term of not to exceed twenty-five years, and bearing interest at a rate or rates

which are 100 basis points (1.0% per annum) in excess of the then applicable rates for comparable maturities of municipal bonds of comparable credit rating as set forth in a nationally recognized municipal market publication, including, without limitation, interest rate scales published by Municipal Market Data, a divisions of Thomson Reuters, any successor or any other similar nationally recognized service.

(4) Further, in connection with the determinations and calculations required by Section 2.11 hereof, any obligations entered into in by the District as provided by Section 2.12, 2.13 or 2.14 shall be disregarded.

Section 2.03 Amendment to Section 5.10(b). Section 5.10(b) of the Amended and Restated Indenture is hereby deleted in its entirety and shall be replaced with the following text:

(b) To cause one or more Loan Obligations, Loan Agreements and other assets to be released from the lien of this Master Indenture pursuant to the provisions of this Section 5.10, the District shall notify the Rating Agency as provided in (d) below and shall cause to be prepared and shall file with the Trustee (1) a list of Loan Obligations, Loan Agreements and other assets together with any related instruments to be released as herein provided and (2) a Coverage Certificate which, with supporting schedules, shall demonstrate that (a) for the most recently completed Bond Year the Adjusted Projected Revenues (which, for such purposes shall not include any amounts received with respect to the proposed Released Obligations or any earnings received thereon) equaled or exceeded 105% of (x) the principal and interest due in such year on the State Match Portion and the Leveraged Portion on all then Outstanding Bonds (but expressly excluding Outstanding Notes and interest thereon which are intended to be refunded from the proceeds of Refunding Bonds or Notes to be issued) and (y) the principal and interest estimated to be due and payable in each such year on the State Match Portion and the Leveraged Portion of all Refunding Bonds to be issued as to refund any Notes (calculated as provided in Section 2.11(b) hereof) and (b) during each year that the Bonds are scheduled to be Outstanding, the Adjusted Projected Revenues (which, for such purposes, shall not include any amounts receivable with respect to the proposed Released Obligations) will be at least 105% of (x) the principal and interest due in such year on the State Match Portion and the Leveraged Portion on all then Outstanding Bonds (but expressly excluding Outstanding Notes and interest thereon which are intended to be refunded from the proceeds of Refunding Bonds or Notes to be issued) and (y) the principal and interest estimated to be due and payable in each such year on the State Match Portion and the Leveraged Portion of all Refunding Bonds to be issued as to refund any Notes (calculated as provided in Section 2.11(b) hereof). The District shall provide a copy of the items described in clauses (1) and (2) hereof to any rating agency then maintaining a rating with respect to any Outstanding Bonds or Notes. For purposes of the foregoing, interest payable on any future Bond Payment Date with respect to (x) any Bonds or proposed Bonds with respect to which a Qualified Interest Rate Agreement applies shall be calculated as provided in Section 2.13 hereof and any related Series Resolution and (y) any Variable Rate Bonds shall be calculated as provided in Sections 2.13 and 2.15 hereof and any related Series Resolution.

Section 2.04 Amendment to Section 6.08. Section 6.08(b) of the Amended and Restated Indenture is hereby deleted in its entirety and shall be replaced with the following text:

(b) In the event that the District determines it is necessary or appropriate to waive prepayment restrictions described in (a) in an amount which will exceed the Annual Prepayment Amount for a Program in a Bond Year, then prior to waiving such prepayment restrictions and accepting prepayments which are not otherwise permitted by the terms of the Loan Obligations, the District shall first cause to be prepared and shall file with the Trustee (1) a list of Loan Obligations to be so prepaid in an amount in excess of the Annual Prepayment Amount as described in this subsection (b), and (2) a Coverage Certificate which, with supporting schedules, shall demonstrate that the Adjusted Projected Revenues (which, for such purposes shall reflect such Loan Obligations as prepaid and applied as the District shall reasonably project) will be at least 105% of the Allocable Portion of principal and interest due in such year on the State Match Portion and the Leveraged Portion on all then Outstanding Bonds for such Program plus any Refunding Bonds contemplated by Section 2.11(b) hereof. Within 30 days of receipt of any such prepayment in excess of the Annual Prepayment Amount, the District shall provide a copy of the items described in clauses (1) and (2) hereof to any Rating Agency then maintaining a rating with respect to any Outstanding Bonds or Notes.

ARTICLE III

Authority

Section 3.01 Authority for Which This Supplemental Indenture May be Executed. The District and the Trustee hereby find, determine and agree that they are authorized to enter into this Second Amendment as a supplemental indenture to the Restated Master Indenture without the consent of any Bondholder because in the judgment of an Authorized Representative, the rating now in effect on any Outstanding Bonds and Notes from each Rating Agency immediately preceding the time this amendment becomes effective will be maintained after this amendment becomes effective, and such judgment is based upon the written ratings report or other written evidence provided by each Rating Agency.

ARTICLE IV

Miscellaneous

Section 4.01 Execution of Second Amendment in Counterparts. This Second Amendment may be simultaneously executed in several counterparts, each of which, when so executed, shall be deemed to be an original, and such counterparts shall together constitute one and the same instrument.

Section 4.02 Headings Not Controlling. The headings of the several Articles and Sections hereof are inserted for the convenience of reference only and shall not control or affect the meaning or construction of any of the provisions hereof.

Section 4.03 Effective Date. This Second Amendment shall become effective on the date hereof.

IN WITNESS WHEREOF, the District, by the Board of Water and Natural Resources, has caused this Second Amendment to be signed in its name by the Chairman and the corporate seal of the District has been hereunto affixed, and U.S. Bank Trust Company, National Association, as Trustee, to evidence its acceptance of the trust hereby created, has caused this Second Amendment to Amended and Restated Master Trust Indenture to be signed in the name of the Trustee by an authorized officer of the Trustee, as of the day and year first above written.

SOUTH DAKOTA CONSERVANCY DISTRICT

By: 
Chairman

(Seal)

U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION, as Trustee

By: _____
Its: _____

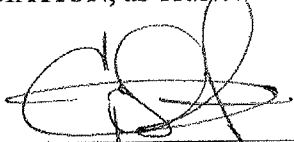
IN WITNESS WHEREOF, the District, by the Board of Water and Natural Resources, has caused this Second Amendment to be signed in its name by the Chairman and the corporate seal of the District has been hereunto affixed, and U.S. Bank Trust Company, National Association, as Trustee, to evidence its acceptance of the trust hereby created, has caused this Second Amendment to Amended and Restated Master Trust Indenture to be signed in the name of the Trustee by an authorized officer of the Trustee, as of the day and year first above written.

SOUTH DAKOTA CONSERVANCY DISTRICT

By: _____
Chairman

(Seal)

U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION, as Trustee

By:  _____
Its: Vice President _____