

STATE OF SOUTH DAKOTA  
OFFICE OF PROCUREMENT MANAGEMENT  
523 EAST CAPITOL AVENUE  
PIERRE, SOUTH DAKOTA 57501-3182

Clean Water/Drinking Water State Revolving Fund (SRF) Program Trustee, Loan Servicer, Paying  
Agent/Registrar  
PROPOSALS ARE DUE NO LATER THAN August 5, 2022

RFP #: \_\_\_\_\_ BUYER: South Dakota Department of  
Agriculture and Natural Resources (DANR)

EMAIL: mike.perkovich@state.sd.us

**READ CAREFULLY**

FIRM NAME: \_\_\_\_\_ AUTHORIZED SIGNATURE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ TYPE OR PRINT NAME: \_\_\_\_\_

CITY/STATE: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

ZIP (9 DIGITS): \_\_\_\_\_ FAX NO: \_\_\_\_\_

FEDERAL TAX ID#: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

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PRIMARY CONTACT INFORMATION

CONTACT NAME: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

FAX NO: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

## GENERAL INFORMATION

### 1.1 Standard Contract Terms and Conditions

Any contract or agreement resulting from this RFP will include the Department of Agriculture and Natural Resources (DANR) standard contract terms listed in Appendix A, along with any additional contract terms as negotiated by the parties. As part of the negotiation process the contract terms listed in Appendix A may be altered or deleted. The Offeror should indicate in their response any issues they have with specific contract terms. If the Offeror does not indicate that there are any issues with any contract terms, DANR will assume those terms are acceptable to the Offeror.

### 1.2 Purpose for Request Proposal (RFP)

#### 1.2.1 Background:

The South Dakota Conservancy District (the District) is a governmental agency, body politic and corporate within the State of South Dakota. Under state law, the District administers the South Dakota Drinking Water State Revolving Fund and Clean Water State Revolving Fund ("SRF") programs.

The SRF programs each receive capitalization grants from the federal Environmental Protection Agency (EPA). The state must provide match dollars for these capitalization grants. The District does that by issuing taxable and tax-exempt revenue bonds. Under South Dakota Codified Law (SDCL 46A-1-31), the District has the authority to issue bonds for the purpose of funding all or part of the revolving funds required as state match for either or both of the programs. The District may also issue leveraged bonds above what is required for the state match to meet program demand. Appendix B recaps bonds and notes issued by the District and provides the outstanding principal balances as of June 30, 2021.

**1.2.2 Goals and Objectives:** The primary objective of the project is to select a qualified bank to represent the District as Trustee, Loan Servicer, and Paying Agent/Registrar for the issuance of bonds and bond anticipation notes during calendar years 2023, 2024, and 2025 and to fulfill the requirements of the SRF programs and the Master Trust Indenture, as well as the Series Resolutions, the Tax Exemption Agreements and Certificates, the Investment Agreements, and other pertinent documents for each earlier series of Bonds issued thereunder.

**1.2.3 Available Documents:** The Master Trust Indenture, the Series Resolutions,, Tax Exemption Agreements, Investment Agreements, Annual Reports and other pertinent documents for each series of Bonds issued previously may be viewed at <http://danr.sd.gov/Funding/EnvironmentalFunding/default.aspx>.

**Appendix B provides a list of District bonds.**

**Appendix C outlines required services to be performed with regard to the SRF programs.**

### 1.3 Issuing Office and RFP Reference Number

DANR is the issuing office for this document and all subsequent addenda relating to it, on behalf of the State of South Dakota, DANR. The reference number for the transaction is RFP# \_\_\_\_\_. This number must be referred to on all proposals, correspondence, and documentation relating to the RFP.

#### **1.4 Scheduling of Activities (Subject to Change)**

RFP Publication: July 15, 2022

Questions accepted until July 26, 2022

Answers posted by August 1, 2022

Proposal Submission Deadline: August 5, 2022

Anticipated Award Decision/Begin Contract Negotiation: September 29-30, 2022

Contract execution: January 1, 2023

#### **1.5 Submitting Your Proposal**

All proposals must be completed and received by SD DANR by the date and time indicated in the Schedule of Activities.

Proposals received after the deadline will be late, and ineligible for consideration. An original and three identical copies of the proposal shall be submitted along with the signed transmittal letter. Also, Offerors are required to provide an electronic copy of their response on a flash drive. The electronic copy should be provided in MS WORD or in PDF format.

All proposals must be signed, in ink, by an officer of the responder, legally authorized to bind the responder to the proposal, and sealed in the form intended by the respondent. Proposals that are not properly signed may be rejected. The sealed envelope must be marked with the appropriate RFP Number and Title.

The words "Sealed Proposal Enclosed" must be prominently denoted on the outside of the shipping container. **Proposals must be addressed and labeled as follows:**

**REQUEST FOR PROPOSAL # \_\_\_\_\_ PROPOSAL TITLE: Clean Water/Drinking Water State  
Revolving Fund Trustee (SRF)/Loan Servicer/Paying Agent**

**DUE: August 5, 2022**

**BUYER: South Dakota Department of Agriculture and Natural Resources**

**Attention: Clean Water/Drinking Water State Revolving Fund Trustee/Loan Servicer RFP # \_\_\_\_\_**

**Mike Perkovich**

**Address: 523 E. Capitol Avenue**

**Pierre, SD 57501-3182**

DANR will accept questions pertaining to this RFP from all potential bidders electronically.

All questions must be sent via email. Questions shall be directed to Mike Perkovich, Water and Water Funding Program Administrator, at the following e-mail address:

mike.perkovich@state.sd.us.

Please note that the "subject" line of your e-mail must specifically reference this RFP as follows:

"RFP for Clean Water/Drinking Water State Revolving Fund Trustee (SRF)/Loan Servicer/Paying Agent"

Questions will be accepted until 12:00 pm CST on July 26, 2022, and responses will be posted no later than 12:00 pm CST on August 1, 2022.

No proposal shall be accepted from, or no contract or purchase order shall be awarded to any person, firm or corporation that is in arrears upon any obligations to the State of South Dakota, or that otherwise may be deemed irresponsible or unreliable by the State of South Dakota.

### **1.6 Certification Regarding Department, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions**

By signing and submitting this proposal, the Offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation, by any Federal department or agency, from transactions involving the use of Federal funds. Where the Offeror is unable to certify to any of the Statements in this certification, the bidder shall attach an explanation to their offer.

### **1.7 Non-Discrimination Statement**

The State of South Dakota requires that all vendors, and suppliers doing business with any State agency, department, or institution, provide a statement of non-discrimination. By signing and submitting their proposal, the Offeror certifies they do not discriminate in their employment practices with regards to race, color, creed, religion, age, sex, ancestry, national origin or disability.

### **1.8 Modification or Withdrawal of Proposals**

Proposals may be modified or withdrawn by the Offeror prior to the established due date and time.

No oral, telephonic, telegraphic or facsimile responses or modifications to informal, formal bids, or Request for Proposals will be considered.

### **1.9 Proprietary Information**

The proposal of the successful Offeror(s) becomes public information. Proprietary information can be protected under limited circumstances such as client lists and non-public financial statements. Pricing and service elements are not considered proprietary. An entire proposal may not be marked as proprietary. Offerors must clearly identify in the Executive Summary and mark in the body of the proposal any specific proprietary information they are requesting to be protected. The Executive Summary must contain specific justification explaining why the information is to be protected. Proposals may be reviewed and evaluated by any person at the discretion of the Board. All materials submitted become the property of the State of South Dakota and may be returned only at the Board's option.

### **1.10 Presentations/Demonstrations**

Any presentation or demonstration by an Offeror to clarify a proposal may be required at the sole discretion of the Board. However, the Board may award a contract based on the initial proposals received without a presentation or demonstration by the Offeror. If presentations and/or demonstrations are required, they will be scheduled after the submission of proposals. Presentations and demonstrations will be made at the Offeror's expense.

### **1.11 Discussions**

At the Boards' discretion the Offeror may or may not be invited to have discussions with the Board. The discussions can be before or after the RFP has been submitted. Discussions will be made at the Offeror's expense.

### **1.12 Restriction of Boycott of Israel**

For contractors, vendors, suppliers, or subcontractors with five (5) or more employees who enter into a contract with the State of South Dakota that involves the expenditure of one hundred thousand dollars (\$100,000) or more, by submitting a response to this solicitation or agreeing to contract with the State, the bidder or offeror certifies and agrees that the following information is correct:

The bidder or offeror, in preparing its response or offer or in considering proposals submitted from qualified, potential vendors, suppliers, and subcontractors, or in the solicitation, selection, or commercial treatment of any vendor, supplier, or subcontractor, has not refused to transact business activities, has not terminated business activities, and has not taken other similar actions intended to limit its commercial relations, related to the subject matter of the bid or offer, with a person or entity on the basis of Israeli national origin, or residence or incorporation in Israel or its territories, with the specific intent to accomplish a boycott or divestment of Israel in a discriminatory manner. It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to reject the bid or response submitted by the bidder or offeror on this project and terminate any contract awarded based on the bid or response. The successful bidder or offeror further agrees to provide immediate written notice to the contracting executive branch agency if during the term of the contract it no longer complies with this certification and agrees such noncompliance may be grounds for contract termination.

## **2.0 Format of Submission**

All proposals should be prepared simply and economically and provide a direct, concise explanation of the Offeror's proposal and qualifications. Elaborate brochures, sales literature and other presentations unnecessary to a complete and effective proposal are not desired.

Offerors are required to provide an electronic copy of their response. The electronic copy should be provided in MS WORD or in PDF format, except for the project plan. The submission must be delivered as indicated in Section 1.5 of this document.

The Offeror is cautioned that it is the Offeror's sole responsibility to submit information related to the evaluation categories and that the State of South Dakota is under no obligation to solicit such information if it is not included with the proposal. The Offeror's failure to submit such information may

cause an adverse impact on the evaluation of the proposal.

The proposal should be page numbered and should have an index and/or a table of contents referencing the appropriate page number. Each of the sections listed below should be tabbed.

Offerors are cautioned that use of the State Seal in any of their documents is illegal as per South Dakota Codified Law 1-6-3.1. *Use of seal or facsimile without authorization prohibited--Violation as misdemeanor. No person may reproduce, duplicate, or otherwise use the official seal of the State of South Dakota, or its facsimile, adopted and described in §§ 1-6-1 and 1-6-2 for any for-profit, commercial purpose without specific authorization from the secretary of state. A violation of this section is a Class 1 misdemeanor.*

Proposals should be prepared using the following headings, and in the order that they are presented below. Please reference the section for details on what should be included in your proposal.

## **2.1 Executive Summary**

A one- or two-page executive summary that briefly describes the vendor's proposal. This summary should highlight the major features of the proposal. It must indicate any requirements that cannot be met by the vendor. The reader should be able to determine the essence of the proposal by reading the executive summary. Proprietary information requests should be identified in this section.

## **2.2 Transmittal Letter**

Each respondent shall prepare a transmittal letter summarizing the principal points in the respondent's proposal. The letter must be signed by the representative who would serve as the primary contact for this project and include that person's address, telephone number, fax number, and email address.

## **2.3 Experience**

Describe the respondent's experience and capabilities as well as any proposed subcontractor's experience and capabilities. The Trustee, Loan Servicer, and Paying Agent/Registrar will be required to perform services with regard to the SRF programs of the type outlined in Appendix C. The Board may request services in addition to those listed. The Trustee, Loan Servicer, and Paying Agent/Registrar will work closely with the District's Bond Counsel, Financial Advisor, and Rebate Consultant as well as the Board and staff and will be expected to respond to specific requests made by the Board and staff.

## **2.4 Proposed Approach**

Describe the activities proposed to accomplish the project's objectives.

## **2.5 Project Team**

Identify the members of your firm as well as any proposed subcontractors that will participate in the completion of these services. The use of a subcontractor(s) to increase the effectiveness of the respondent's proposal is allowable. A joint venture is not allowed.

## **2.6 Compensation**

Provide a detailed description of the proposed compensation by the respondent's team, to include any proposed subcontractors.

### **2.7 Respondent's must also provide the following information:**

- 2.7.1** A detailed description of their specialized expertise, capabilities, and technical competence to meet the project requirements;
- 2.7.2** A detailed description of their project management techniques and resources available to perform the work, including any specialized services, within the specified time limits for the project;
- 2.7.3** A detailed record of past performance which must include price and cost data from previous projects, a statement of its quality of work, a demonstration of its ability to meet schedules, demonstration cost control measures, and contract administration experience;
- 2.7.4** Resources available to perform the work, including any specialized services, within the specified time limits for the project;
- 2.7.5** Availability to the project locale;
- 2.7.6** Familiarity with the project locale;
- 2.7.7** Compensation proposal.

## **3.0 COST PROPOSAL**

Offerors may submit multiple cost proposals. All costs related to the provision of the required services must be included in each cost proposal offered.

Cost will be evaluated as part of the technical proposal. Offerors may submit multiple costs in their proposal.

All costs related to the provision of the required services must be included in each proposal offered.

## **4.0 PROPOSAL EVALUATION AND AWARD PROCESS**

**4.1** Proposals will be evaluated according to the following criteria and points:

- 4.1.2** Experience, demonstrated knowledge, and performance history acting as a Trustee, Loan Servicer, Paying Agent/Registrar (30 points);
- 4.1.3** Familiarity with State Revolving Fund Programs and their program requirements (30 points);
- 4.1.4** Overall depth and perceived ability of the respondent to meet or exceed the project's objectives (30 points);
- 4.1.5** Personnel resources committed to the project and staff stability (25 points);

**4.1.6** Compensation (20 points);

**4.1.7** Resources available to perform the work, including any specialized services, within the specified time limits for the project (5 points);

**4.1.8** Availability to the project locale (1 point);

**4.1.9** Familiarity with the project locale (1 point).

This is not a competitive bidding proposal. DANR personnel will review and rank the submitted proposals and then make a recommendation to the Board. At the discretion of the Board, respondents may be invited to make oral presentations to the Board. The Board reserves the right to hire more than one contractor if the Board deems doing so would be in the best interest of the State of South Dakota.

Proposals which in the judgment of DANR fail to meet the requirements of this RFP, or which are in any way incomplete, conditional, or which contain additions or deletions not called for, alterations or other irregularities, or in which errors occur, may be rejected at DANR's discretion. The DANR reserves the right to waive any requirements of or informalities in any proposal or to reject any or all proposals if it determines that it is in DANR's best interest to do so.

## **5.0 TERMS AND CONDITIONS**

**5.1** DANR will make a recommendation to the Board on which contractor to hire. The Board will make the final determination regarding the selection of the contractor.

**5.2** The Board reserves the right to reject any and all proposals.

**5.3** The Board may combine portions of different proposals if the Board deems this action to be warranted.

**5.4** The Board may negotiate the compensation and hire the successful respondent subject to the terms and conditions specified by the Board.

**5.5** If the Board is not able to successfully negotiate a contract with the highest ranked respondent, negotiations shall cease. The Board shall then begin negotiations with the second highest ranked respondent. This process may continue until negotiations are successful.

**5.6** The successful respondent may not subcontract with any firm not previously identified in its RFP without the prior, written consent of the Board.

**5.7** All respondents will be notified in writing of the selection.

**5.8** Neither the Board nor DANR shall be liable for any expenses incurred by any respondent in preparing or presenting the proposal.

## **6.0 AWARD**

**6.1** The DANR and the highest ranked offeror shall mutually discuss and refine the scope of services for the project and shall negotiate terms, including compensation and performance schedule.

**6.2** If the DANR and the highest ranked offeror are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the DANR, the DANR shall, either orally or in writing, terminate negotiations with the contractor. The DANR may then negotiate with the next highest ranked



contractor.

**6.3** The negotiation process may continue through successive offerors, according to DANR ranking, until an agreement is reached or the DANR terminates the contracting process.

Offeror's name:

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**APPENDIX A –Contract Terms and Conditions**

**STATE OF SOUTH DAKOTA  
Consultant Contract  
for Services  
Between**

State of South Dakota  
The South Dakota Conservancy District

523 E. Capitol Avenue  
Pierre, SD 57501-3182

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Referred to as Vendor

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Referred to as State

The State hereby enters into this agreement (the “Agreement” hereinafter) for services with the Vendor. While performing services hereunder, Vendor is an independent contractor and not an officer, agent, or employee of the State of South Dakota.

**A. STANDARD PROVISIONS**

**1. VENDOR**

The Vendor will provide the State with its Vendor Number, Employer Identification Number, Federal Tax Identification Number or Social Security Number upon execution of this Agreement.

**2. PERIOD OF PERFORMANCE OF THIS AGREEMENT**

This agreement shall be effective on January 1, 2023, and will end on December 31, 2025, unless sooner terminated pursuant to the terms hereof. The State in its sole discretion may renew the Agreement under the same terms and conditions for up to one (1) additional three-year period. Notice of intent to renew shall be given by the State to the Vendor in writing prior to a term’s expiration as provided in the Agreement. If notice of intent to renew is given, the Agreement shall renew unless terminated by either party pursuant to the Termination Provision of the Agreement.

**3. NOTICE**

Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to \_\_\_\_\_ on behalf of the State, and by and to \_\_\_\_\_, on behalf of the Vendor, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

**4. PROVISIONS**

The Purpose of this Consultant Contract is to:

- A. Provide services as Trustee, Loan Servicer and Paying Agent/Registrar for the State's Clean Water and Drinking Water State Revolving Fund programs.

The Vendor agrees to perform the following services:

- A. The Vendor will perform those activities described in the Scope of Work attached hereto as Attachment A and incorporated herein.

The Vendor further agrees, represents, and warrants that:

- A. The Vendor will not use state equipment, supplies or facilities.

- B. Will the State pay Vendor expenses as a separate item?

YES ( ) NO ( )

If YES, expenses submitted will be reimbursed as identified in this Agreement.

- C. The TOTAL CONTRACT AMOUNT will not exceed \$\_\_\_\_\_.

#### 5. BILLING AND PAYMENT

The State will make payment for services upon satisfactory completion of the services. Vendor agrees to submit an itemized invoice for services semi-annually for reimbursement. Vendor agrees to submit a final itemized invoice within thirty (30) days of the Agreement end date to receive payment for completed services. As used herein, the term "end date" shall include the completion of any services pursuant to the Agreement, any extension period, or early termination of the Agreement. If a final itemized invoice cannot be submitted in thirty (30) days, then a written request for extension of time and explanation must be provided to the State.

Payment will be made consistent with SDCL ch. 5-26, as such, payment will be made within forty-five (45) days of the receipt of an itemized invoice submitted by the Vendor with a signed state voucher. The Vendor acknowledges that it would be difficult or impracticable for the State to provide the notice of disagreement provided for by SDCL 5-26-5 within the ten days provided for by that section. Accordingly, Vendor hereby agrees that the State shall have thirty (30) days to provide the requisite notice of disagreement

#### 6. OVERPAYMENT

All payments to the Vendor by the State are subject to site review and audit as prescribed and carried out by the State. Any overpayment of this Agreement shall be returned to the State within thirty (30) days after written notification to the Vendor

#### 7. LICENSING AND STANDARD COMPLIANCE

The Vendor agrees to comply in full with all laws, regulations, ordinances, guidelines, permits, requirements and other standards applicable to providing services under this Agreement, promulgated by any federal, state, tribal, or local government, and will be solely responsible for obtaining current information regarding the foregoing.

#### 8. TERMINATION

This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Vendor breaches any of the terms or conditions hereof, this Agreement may be terminated by the State for cause at any time,

with or without notice. If termination for such a default is effected by the State, any payments due to Vendor at the time of termination may be adjusted to cover any additional costs to the State because of Vendor's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by Vendor it is determined that Vendor was not at fault, then the Vendor shall be paid for eligible services rendered and expenses incurred up to the date of termination. Upon termination of this Agreement in all other circumstances, all accounts and payments shall be processed according to financial arrangements set forth herein for services rendered to date of termination. In addition, termination shall be subject to the provisions of the Master Trust Indenture including, without limitation, Sections 8.15 through 8.17

In the event this Agreement is to be terminated by the State pursuant to Paragraph 9 (FUNDING), the Agreement may be terminated by the State upon five (5) business days written notice.

## 9. FUNDING

This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of the law or federal funds reduction, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

## 10. ASSIGNMENT AND AMENDMENT

This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

## 11. CONTROLLING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota, without regard to any conflicts of law principles, decisional law, or statutory provision which would require or permit the application of another jurisdiction's substantive law. Venue for any lawsuit pertaining to or affecting this Agreement shall be in the Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

## 12. SUPERCESSION

All prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

## 13. SEVERABILITY

In the event that any provision of this Agreement shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement, which shall remain in full force and effect.

## 14. THIRD PARTY BENEFICIARIES

This Agreement is intended only to govern the rights and interests of the parties named herein. It is not intended to, does not and may not be relied upon to create any rights, substantial or procedural, enforceable at law by any third party in any matters, civil or criminal.

#### 15. SUBCONTRACTORS

The Vendor may not use subcontractors to perform the services described herein without express prior written consent from the State.

The Vendor will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Vendor will cause its subcontractors, agents, and employees to comply with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance. The State, at its option, may require the vetting of any subcontractors. The Vendor is required to assist in this process as needed.

#### 16. STATE'S RIGHT TO REJECT

The State reserves the right to reject any person from the Agreement who the State believes would be detrimental to the project, presents insufficient skills, presents inappropriate behavior or is considered by the State to be a security risk.

#### 17. HOLD HARMLESS AND INDEMNIFICATION

The Vendor agrees to hold harmless and indemnify the State of South Dakota, its officers, agents and employees, from and against any and all actions, suits, damages, liability or other proceedings which may arise as the result of performing services hereunder, including reasonable attorney's fees. This section does not require the Vendor to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees. The foregoing indemnification language likewise applies to claims arising from or relating to a third party claim that any of the services or deliverables provided by Vendor to the State under this Agreement infringes that party's U.S. patent, U.S. trademark or copyright or misappropriates that party's trade secret or other intellectual property right; provided that Vendor, in this circumstance, shall not be required to indemnify State and its affiliates for any claims that result from or are related to: (i) the State's or other party's combination, operation, or use of the software in a manner not specifically authorized by Vendor; or (ii) alterations or modifications to the software not performed or authorized by Vendor.

#### 18. INSURANCE

Before beginning work under this Agreement, Vendor shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement. The Vendor, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits listed below. In the event of a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of a policy, the Vendor agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Vendor shall furnish copies of insurance policies if requested by the State.

A. Commercial General Liability Insurance:

Vendor shall maintain occurrence-based commercial general liability insurance or an equivalent form with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two times the occurrence limit.

B. Business Automobile Liability Insurance:

Vendor shall maintain business automobile liability insurance or an equivalent form with a limit of not less than \$1,000,000 for each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles.

C. Worker's Compensation Insurance:

Vendor shall procure and maintain Workers' Compensation and employers' liability insurance as required by South Dakota law.

19. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION

By signing this Agreement, Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by the federal government or any state or local government department or agency. Vendor further agrees that it will immediately notify the State if during the term of this Agreement either it or its principals become subject to debarment, suspension or ineligibility from participating in transactions by the federal government, or by any state or local government department or agency.

20. REPORTING PROVISION

Vendor agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to any person or property, or which may otherwise subject Vendor, or the State of South Dakota or its officers, agents or employees to liability. Vendor shall report any such event to the State immediately upon discovery.

Vendor's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Vendor's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Vendor to report any event to law enforcement or other entities under the requirements of any applicable law.

21. FORCE MAJEURE

Notwithstanding anything in this Agreement to the contrary, neither party shall be liable for any delay or failure to perform under the terms and conditions of this Agreement, if the delay or failure is caused by war, terrorist attacks, riots, civil commotion, fire, flood, earthquake or any act of God, or other causes beyond the party's reasonable control. Provided, however, that in order to be excused from delay or failure to perform, the party must act diligently to remedy the cause of such delay or failure and must give notice to the other party as provided in this Agreement as soon as reasonably possible of the length and cause of the delay in performance.

22. DILIGENCE AND SKILL

A. In the performance of these services and providing the deliverables under the Agreement, Vendor, and its employees shall exercise the degree of skill and care consistent with customarily accepted practices and procedures for the performance of the type of services required. The Vendor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services and deliverables

furnished by the Vendor and any subcontractors, if applicable, under this Agreement.

B. Vendor represents and warrants that:

- i. It shall give high priority to the performance of the services; and
- ii. The services shall be performed in a timely manner.

C. It shall be the duty of the Vendor to assure that its services and deliverables are technically sound and in conformance with all pertinent technical codes and standards.

D. The Vendor shall be responsible to the State for material deficiencies in the contracted deliverables and services which result from the failure to meet the standard given herein. Vendor shall promptly correct or revise any material errors or omissions in deliverables and re-perform any services which are not in compliance with such representations and warranties at no cost to the State, provided that Vendor's failure to comply is not related or attributable, in whole or in part, to the actions, errors or omissions of the State.

E. Permitted or required approval by the State of any services or deliverables furnished by the Vendor shall not in any way relieve the Vendor of its responsibility for the professional quality and technical accuracy and adequacy of its work. The State's review, approval, acceptance, or payment for any of the Vendor's services or deliverables herein shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and except as provided herein the Vendor shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to the State caused by the Vendor's performance or failure to perform under this Agreement.

F. In the event of a breach of these representations and warranties, the State shall provide telephonic notice to the Vendor. The State may, in its sole discretion, require Vendor to cure such breaches. If it is necessary for Vendor to send at least one qualified and knowledgeable representative to the State's site where the system is located, this will be done at Vendor's sole expense. This representative will continue to address and work to remedy the deficiency, failure, malfunction, defect, or problem at the site. The rights and remedies provided in this paragraph are in addition to any other rights or remedies provided in this Agreement or by law.

## 23. THIRD PARTY RIGHTS

The Vendor represents and warrants that it has the full power and authority to grant the rights described in this Agreement without violating any rights of any third party, and that there is currently no actual or, to Vendor's knowledge, threatened suit by any such third party based on an alleged violation of such rights by Vendor. The Vendor further represents and warrants that the person executing this Agreement for Vendor has actual authority to bind Vendor to each and every term, condition and obligation to this Agreement, and that all requirements of Vendor have been fulfilled to provide such actual authority.

## 24. COMPLIANCE WITH EXECUTIVE ORDER 2020-01

Vendor certifies and agrees that by signing this Agreement, that it has not refused to transact business activities, has not terminated business activities, and has not taken other similar actions intended to limit its commercial relations, related to the subject matter of the contract, with a person or entity that is either the State of Israel, or a company doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel to do business, or doing business in the State of Israel, with the specific intent to accomplish a boycott or divestment of Israel in a discriminatory manner. Vendor understands and agrees that, if this certification is false, such false certification will constitute grounds for the State to terminate this Agreement. Vendor further agrees to provide immediate written notice to the State if during the term of the Agreement it no longer complies with this certification, and agrees such noncompliance may be grounds for contract termination.

**B. AUTHORIZED SIGNATURES:**

**State**

**Vendor**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

BY: Jerry Soholt

BY: \_\_\_\_\_

(Name)

Board Chair

\_\_\_\_\_  
(Title)

DATE: \_\_\_\_\_

\_\_\_\_\_  
(Vendor)



## APPENDIX B

SOUTH DAKOTA CONSERVANCY DISTRICT  
STATE REVOLVING FUND PROGRAMS  
BONDS and BOND ANTICIPATION NOTE ISSUES

<b>Issue</b>	<b>Par Amount</b>	<b>Purpose</b>
1989	\$ 5,785,000	CWSRF State Match
1992	\$4,180,000	CWSRF State Match
1994A	\$10,220,000	Refunding and CWSRF State Match
1995A	\$7,970,000	CWSRF State Match and Leveraged
1996A	\$2,770,000	CWSRF State Match
1998A	\$6,450,000	DWSRF State Match
2001	\$5,270,000	DWSRF State Match
2001	\$4,405,000	CWSRF State Match
2004	\$38,460,000	Refunding, DWSRF State Match and Leveraged
2005	\$50,000,000	State Match and Leveraged
2008	\$40,000,000	State Match and Leveraged
2009	\$55,000,000	BANs for State Match and Leveraged
2010	\$54,330,000	BANs to Refinance the 2009 BANs
2010A/B	\$92,380,000	Refunding of 1998 Bonds, 2008 Bonds, and 2010 BANs
2012A/B	\$123,305,000	Refunding of 2001, 2004, and 2005 Bonds and CWSRF State Match and Leveraged
2014A	\$9,060,000	CWSRF and DWSRF State Match
2014B	\$50,755,000	CWSRF and DWSRF Leveraged
2017A/12B/01	\$16,730,000	CWSRF and DWSRF State Match and Refunds 12B
2017B/10B/08	\$77,870,000	CWSRF and DWSRF Leveraged and Refunds 10B
2018	\$96,355,000	CWSRF and DWSRF Leveraged
2020	\$76,310,000	CWSRF Leveraged Sioux Falls only Issue

SOUTH DAKOTA CONSERVANCY DISTRICT  
STATE REVOLVING FUND PROGRAMS  
OUTSTANDING BONDS PRINCIPAL BALANCES  
As of June 30, 2021

<b>Series</b>	<b>Clean Water SRF</b>	<b>Drinking Water SRF</b>	<b>Series Totals</b>
2010A	24,915,000.00	12,135,000.00	37,050,000.00
2010B	1,963,984.64	1,611,015.36	3,575,000.00
2012A	16,465,000.00	11,305,000.00	27,770,000.00
2012B	7,410,000.00	-	7,410,000.00
2014B	35,410,000.00	4,710,000.00	40,120,000.00
2017A	2,920,000.00	3,755,000.00	6,675,000.00
2017B	61,405,000.00	12,115,000.00	73,520,000.00
2018	54,350,000.00	37,060,000.00	91,410,000.00
2020SF	76,310,000.00	-	\$76,310,000
<b>Totals</b>	<b>281,148,984.64</b>	<b>82,691,015.36</b>	<b>363,840,000.00</b>

## APPENDIX C

### Scope of Trustee Services

1. The Trustee holds and administers 168 accounts according to the Master Trust Indenture and more accounts may be created as more bonds are issued.
2. The Trustee maintains a loan account for each SRF borrower (552 active loans as of May 15, 2022).
3. Any moneys held as part of any fund or account are immediately invested and reinvested by the Trustee in accordance with the Master Trust Indenture, Tax Agreements, and any applicable Investment Agreements.
4. The Trustee provides monthly statements on all funds and accounts.
5. The Trustee consults with the Board, Bond Counsel and the Rebate Consultant, including the calculation agent who works with Bond Counsel which is currently Willdan Financial Services.
6. The Trustee is the responsible party for disbursement from various bond proceeds accounts.
7. The Trustee is responsible to assist the Rebate Consultant in accounting for and preparing investment reports for the outstanding bond issues (1996, 2010A, 2010B, 2012A, 2012B, 2014A, 2014B, 2017A, 2017B, 2018, 2020 and any new series of Additional Bonds) under the SRF programs, including the allocation of funds and accounts and investment proceeds, to each of the bond issues, the outstanding Series of taxable bonds (Series 2012A, 2014A, and 2017A) and any additional bonds to be issued in the future.
8. The current Rebate Consultant is the District's Bond Counsel and Bond Counsel subcontracts certain calculation agent services to Willdan Financial Services. Bond Counsel takes the responsibility for the preparation of the actual rebate reports and opinion letter, but the Trustee is responsible for furnishing information in a manner and form that facilitates the calculation. Such reports require the Trustee to generate detailed investment data in a form that is available for use by the Rebate Consultant.
9. The bank must be DTC eligible.
10. The bank must be eligible to receive EPA wire transfers and be eligible to serve as EPA Letter of Credit depository.
11. The bank must be a qualified depository of state funds pursuant to South Dakota law.

### General Fees For Trustee Services (please provide a quote for each of the following):

1. Administration fee;
2. Legal fees related to the issuance of Bonds or Bond Anticipation Notes;
3. Legal fees relating, if applicable, to the closing of each underlying loan to a municipality or other public or private entity, and if applicable, annual legal expenses for ordinary services under the Indenture;
4. Investment fees (per transaction or percentage of securities held, etc. ); and
5. Any other fees or expenses (please specify).

### Scope of Loan Servicer Services

1. The Trustee acts as Loan Servicer and is the responsible party for disbursement to the Borrowers from various accounts and the computation and recomputation of amortization and payments under each loan (current portfolio of 552 active loans as of May 15, 2022).
2. The Trustee is responsible for Program Maintenance, including:
  - a. Disbursement of borrower payments;
  - b. Collection of borrower repayments;
  - c. Computation of outstanding loan amount; and
  - d. Consultations with the Board, Bond Counsel, and Borrowers.
3. In providing its Loan Servicing services, the Trustee will be required to :
  - a. Set up an accounting system that treats the SRF programs as if they are branch banks;
  - b. Provide monthly status reports on each loan; and
  - c. Set up amortization schedule(s) for each loan

General Fees for Loan Servicing Duties:

1. Administration fee per loan, if applicable;
2. Annual administration fee; and
3. Other fees (consultation or transaction).

Registrar/Paying Agent Services

The Trustee will act as the paying agent/registrar and will authenticate, register, and transfer the District's bonds.

1. Registrar Services:
  - a. Authenticate, register, and transfer the District's bonds.
2. Paying Agent Services:
  - a. Pay semiannual interest on the District's bonds;
  - b. Pay annual principal on the District's bonds; and
  - c. Combine federal funds with bond proceeds and other state moneys for disbursement to Borrowers.

Other Services

1. Assist with SRF Annual Reports to EPA;
2. Attend District's board meetings, drafting sessions, and other meetings as requested;
3. Provide escrow services for advance refundings;
4. Send redemption notices as appropriate;
5. Assist with the annual state audit for each SRF program;
6. Assist with secondary market disclosure; and
7. Turnaround time for funds must be less than 72 hours.

Please state your minimum charges for all services listed above, along with a cumulative bid for the program.