

**FIRST AMENDMENT TO
REVENUE OBLIGATION LOAN AGREEMENT**

THIS FIRST AMENDMENT TO REVENUE OBLIGATION LOAN AGREEMENT made and entered into this _____ day of _____ 2021, by and between the **SOUTH DAKOTA CONSERVANCY DISTRICT** (the "District"), a governmental agency, body politic and corporate of the State of South Dakota (the "State"), and the **CITY OF MITCHELL, SOUTH DAKOTA** (the "Borrower").

RECITALS

WHEREAS, the parties entered into a Revenue Obligation Loan Agreement dated the 9th day of August 2019 (the "Loan Agreement") pursuant to which the District agreed to loan the Borrower the sum of \$690,000 (the "Loan") for the purposes specified in Appendix A to the Loan Agreement; and

WHEREAS, the Environmental Protection Agency (EPA") has directed that effective August 13, 2020, recipients and sub-recipients of EPA funded assistance agreements, including borrowers under EPA funded state revolving loan funds, must comply with regulations at 2 CFR 200.216, Prohibition on certain telecommunication and video surveillance services or equipment, implementing section 889 of Public Law 115-232; and

WHEREAS, The regulation prohibits the use of Federal funds to procure (enter into, extend, or renew contracts) or obtain equipment, systems, or services that use "covered telecommunications equipment or services" identified in the regulation as a substantial or essential component of any system, or as critical technology as part of any system; and

WHEREAS, Prohibitions extend to the use of Federal funds by recipients and sub-recipients to enter into a contract with an entity that "uses any equipment, system, or service that uses covered telecommunications equipment or services" as a substantial or essential component of any system, or as critical technology as part of any system. Certain equipment, systems, or services, including equipment, systems, or services produced or provided by entities subject to the prohibition are recorded in the System for Award Management exclusion list.

WHEREAS, the parties desire to amend the Loan Agreement to comply with the EPA requirements as set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree to amend the Loan Agreement as follows:

1. Definitions. Definitions, capitalized words and phrases used herein shall have the same meaning as that provided for such words and phrases in the Original Loan Agreement.
2. A new Section 1.3 is added to read as follows:

Section 1.3 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.

As required by 2 CFR 200.216, EPA recipients and sub-recipients, including borrowers under EPA funded revolving loan fund programs, are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Recipients, sub-recipients, and borrowers also may not use EPA funds to purchase:

a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

b. Telecommunications or video surveillance services provided by such entities or using such equipment.

c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. Consistent with 2 CFR 200.471, costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, and cloud servers are allowable except for the following circumstances: Obligating or expending EPA funds for covered telecommunications and video surveillance services or equipment or services as described in 2 CFR 200.216 to:

- (1) Procure or obtain, extend or renew a contract to procure or obtain;
- (2) Enter into a contract (or extend or renew a contract) to procure; or
- (3) Obtain the equipment, services, or systems. Certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the System for Award Management exclusion list.

3. Effect of Amendment. Except as specifically modified herein, the Loan Agreement shall remain in full force and effect in accordance with its original terms and conditions.

IN WITNESS WHEREOF, the parties hereto set their hands and seals as of the date first above written.

**SOUTH DAKOTA
CONSERVANCY DISTRICT**

By: _____
Its: Chairman

Attest:

Its: Secretary

CITY OF MITCHELL, SOUTH DAKOTA
as Borrower

By: _____
Its Mayor

By: _____
Its Finance Officer

Countersigned on behalf of Borrower by:

Todd V. Meierhenry, Resident Attorney

Accepted and agreed to by:

U.S. BANK NATIONAL ASSOCIATION, as
Trustee

By: _____
Title: Assistant Vice President