

Dollar and Energy Saving Loans  
Participation Agreement

To Be Completed By Lender

FORM  
11

Name of Financial Institution

\_\_\_\_\_(LENDER) hereby certifies that the Nebraska Department of Water, Energy, and Environment (DWEE) has contributed a sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) toward a current advance evidenced by a promissory note signed as maker by the Borrower, the amount, date and maturity of the note and security therefor, if any, being shown below.

Borrower's Name

County of Residence For Borrower

Borrower's Mailing Address

Note for Current Advance:

.\$ \_\_\_\_\_

Maturity Date

Note Date

This promissory note is ☐ unsecured ☐ secured. If secured, the security is:

The terms and conditions of this note are further detailed in a Loan Summary dated \_\_\_\_\_, and subsequent Summary of Changes, if any, dated \_\_\_\_\_, which is/are made a part hereof by reference.

It is agreed:

1. The LENDER is a Nebraska bank, savings institution or credit union and the promissory note evidencing this shared obligation will be held and serviced by one of its offices located within the State of Nebraska.
2. This loan participation evidences a sale of a percentage ownership in the approved loan and the corresponding note or notes, collateral security, and other loan documents under the Dollar and Energy Saving Loan Program and shall in no way be construed as an extension of credit by DWEE to LENDER.
3. DWEE's share of the amount advanced under the promissory note bears no interest.
4. The LENDER will exercise the same degree of care and discretion in continuing to service the loan and collecting the payments thereunder as LENDER would ordinarily take in the payments thereunder solely for its own account. The loan is considered in default if any scheduled payment is past due ninety (90) days or more. In the event such a default occurs, the LENDER is required to pursue the collection of the defaulted loan until it is brought current, collected in full or reduced to a judgement which has been executed and has resulted in no less than a lien on the borrower's real property. Should the borrower have no real property, the lien is to be on personal property or a garnishment of wages. Collection efforts by the LENDER on a defaulted loan may be terminated upon providing documentation to DWEE that the borrower has been discharged of their debts by the U.S. Bankruptcy Court and the LENDER has filed a claim with the Court if permitted, or that the borrower has died and a claim was filed against the estate and there were insufficient assets in their estate for a full recovery. All costs of collecting shall be borne by the LENDER. Any recovery on the loan will go first to repay the LENDER its share of the principal balance, accrued interest due, and the collection costs, with the balance applied to DWEE's share.
5. LENDER will report on the status of all loans in default, on DWEE forms, within thirty (30) days of the end of each calendar quarter. LENDER will no longer be obligated to report on a defaulted loan after receiving written notice from DWEE that it has received proper documentation pursuant to paragraph 4 showing the LENDER has no further recourse against the borrower.
6. LENDER makes no representations or warranties, whether expressed or implied, to DWEE as to the collectibility of the loan, the continued solvency of the Borrower or as to the existence, sufficiency or value of the collateral securing the loan; or to DWEE as to the validity and enforceability of the documentation for the loan, other than that to the extent required under applicable law, the deed of trust and/or security agreements under the loan were (and/or will be) properly recorded in order to result in the valid perfection of a security interest on the collateral subject to such agreements. The parties hereto further agree that DWEE shall have no interest in any other property of the Borrower or of any co-maker, guarantor, endorser, taken as security for any other and/or additional loan or loans made by LENDER or acquired by LENDER or in any property now or hereafter in the possession or control of LENDER, which other property may indirectly secure repayment of the loan by reason of "cross-collateralization"; except that if any such other property or the proceeds thereof is applied to the reduction of the loan, then DWEE shall be entitled to share in such an application of payment or payments as provided herein.
7. LENDER will make available to DWEE, during its ordinary business hours, the Borrower's loan file, as it relates to the loan, for DWEE's review and will arrange with the Borrower for DWEE staff to make an on-site inspection, as DWEE deems necessary, of any improvement(s), replacement(s), or equipment purchases made under this program or accompany DWEE staff on inspections.
8. LENDER will retain the Borrower's loan file for a period of at least three (3) years after the Dollar and Energy Saving Loan has been paid in full.
9. LENDER has verified the improvement(s), replacement(s), or purchases made by the Borrower with the proceeds of this loan either through a physical inspection or proof of purchase, and has verified that any appliance which has been replaced has been disposed of or traded-in at the time of the new purchase.



COMPLETE REVERSE SIDE

10. LENDER will remit DWEE's share of any loan payment collected during the course of a calendar month and the status of the loan to DWEE no later than the end of the third month following, except for the pay off on a refinance of an existing loan, which must be remitted to DWEE prior to DWEE disbursing funds on the new loan. The LENDER will provide this information on forms supplied by DWEE.

11. LENDER has charged the Borrower only fees associated with the recovery of LENDER'S actual out-of-pocket expenses incurred to a non-affiliated third party in processing the loan and has charged no discount points or fees for LENDER'S indirect or overhead costs, unless specifically authorized under the current program guidelines promulgated by DWEE. A copy of the Disclosure Statement or Settlement Statement detailing all loan fees and closing costs, and the signed promissory note are attached and made a part hereof by reference.

12. LENDER certifies that if the approved loan amount eligible for a Dollar and Energy Saving Loan is less than 100% of the total cost of the project, it was at the Borrower's request and not mandated by the LENDER.

13. LENDER certifies that the approved loan is a new loan, not a refinance of an existing debt or the financing of work completed or replacements made prior to loan approval, unless it is a refinance of a previously approved loan under the program, which was a construction loan or an amortized loan with a balloon payment prior to the end of the maximum loan term.

14. LENDER certifies that the approved loan amount eligible for a Dollar and Energy Saving Loan is only for the cost of the project, not for labor provided by the Borrower.

15. LENDER has received from the Borrower two other bids for the cost of goods or services the Borrower proposes to have supplied by an electric or natural gas utility, where the same utility has provided the Borrower with the energy calculations supporting the improvements or replacements which are or will be made with the proceeds of the approved loan.

16. LENDER shall have the right, at its sole and exclusive option, to repurchase DWEE's ownership interest in the approved loan. The repurchase price shall be equal to DWEE's principal interest in the approved loan as then outstanding.

17. LENDER will not without DWEE's written consent (a) renew, extend or consent to a revision in the provisions of the note evidencing the shared obligation or a security document; (b) make or consent to any release, subordination, substitution or exchange of security for the shared obligation (provided that if the security is collateral in the form of accounts or inventory, then when no portion of the shared obligation is overdue or where DWEE has not otherwise instructed LENDER in writing, LENDER may permit the Borrower to collect accounts, sell inventory and use the proceeds thereof, all in the ordinary course of the Borrower's business); (c) sell, assign or transfer any of said security, waive any claim against the Borrower, the guarantor or a standby or substituted creditor in connection with the shared obligation; (d) cause or allow the principal of the shared obligation to be increased; (e) to negotiate, sign, discount, endorse or guarantee any note or obligation of the Borrower or issue any letter of credit as to the Borrower.

18. The note evidencing this shared obligation may not be held by any entity other than a Nebraska bank, savings institution or credit union in a Nebraska office. Any transfer of ownership of said note may be only to a Nebraska bank, savings institution or credit union. LENDER will notify DWEE in writing within thirty (30) calendar days if the ownership of the note evidencing this shared obligation has been transferred and will provide DWEE with the name, mailing address, and telephone number of the Nebraska bank, savings institution or credit union to whom ownership has been transferred and the Nebraska office(s) which will hold and service the note.

19. LENDER will not sell or contract loan service for the note evidencing this shared obligation to any entity other than a Nebraska company. Said company's office servicing the loan must be located in Nebraska. LENDER will notify DWEE in writing within thirty (30) calendar days following said sale or contract of loan service and will provide DWEE with name, mailing address and telephone number of the Nebraska company to whom loan service has been sold or contracted and the Nebraska office which will provide the service.

20. No employee of DWEE shall participate in any decision relating to the agreement which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is indirectly interested or have any interest, direct or indirect, in the agreement or the proceeds thereof.

21. Any amendments to this Agreement shall be in writing and shall be executed by the same parties who executed the original Agreement or successors in office.

22. If a court holds that any term of this Agreement is invalid, that holding shall not affect the other terms, which shall remain in full force and effect.

23. Parties failure to comply with the terms of this agreement will be considered a breach of contract.

24. The promises, conditions, benefits and powers herein contained shall bind and inure to the respective successors of the parties. Whenever used herein, the singular number shall include the plural, the plural the singular, and the terms LENDER and DWEE will include any payee thereof, whether by operation of law or otherwise.

\_\_\_\_\_  
Name of Financial Institution

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Lender Federal Taxpayer #

The Nebraska Department of Water, Energy, and Environment hereby accepts all conditions of this Participation Agreement without recourse.

Nebraska Department of Water, Energy, and Environment

by \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**Submit To: [DWEE.DESL@NEBRASKA.GOV](mailto:DWEE.DESL@NEBRASKA.GOV)**

**Nebraska Department of Water, Energy, and Environment**

**245 Fallbrook Blvd Ste 100 Lincoln, NE 68521**

**<https://dwee.nebraska.gov/> OR call us at 402.471.2186**