

AGREEMENT – AMERICAN RESCUE PLAN ACT FUNDS

Between the

Nebraska Department of Environment and Energy

and

«Participant» at «Participant Address» «Town», NE

for a

Private Well Reverse Osmosis Small Water Treatment Installation

NDEE REFERENCE «REFERENCE #»

THIS Agreement is made and entered into by and between the Nebraska Department of Environment and Energy (NDEE) and the «Participant», hereafter referred to as the Participant, per Section 51 of Legislative Bill No. 1014e signed into law by Governor Pete Ricketts on April 13, 2022.

WHEREAS, funds are being awarded to the Participant for rebates for reverse osmosis small treatment installations on drinking water provided from private wells, those effective for the removal of nitrates above 10 parts per million; and

NOW, THEREFORE, the parties do hereby agree to the terms and conditions of this Agreement as follows:

I. TERM OF AGREEMENT

This Agreement shall become effective upon the latter date of the signatures in Section (§) VI of this Agreement and will remain in effect until all identified tasks are completed for the PRIVATE WELL REVERSE OSMOSIS SMALL WATER TREATMENT INSTALLATION, unless terminated under §IV(B)(13) of this Agreement, but will not remain in effect past September 30, 2024.

II. WORK DESCRIPTION

This Agreement encompasses the project commonly known as the PRIVATE WELL REVERSE OSMOSIS SMALL WATER TREATMENT INSTALLATION. The installation shall complete that noted in Attachment A: Rebate Application, which is hereby incorporated in full to this Agreement, according to Program Requirements pursuant to § IV(A)(1) of this Agreement.

III. FINANCIAL REQUIREMENTS

A. Rebate Award. The NDEE shall pay the Participant not to exceed a total amount of four thousand dollars (\$4,000) for the PRIVATE WELL REVERSE OSMOSIS SMALL WATER TREATMENT INSTALLATION.

B. Statement of Costs

1. Reimbursement Requests. The Participant shall submit no more often than twice, a properly documented statement of costs for which reimbursement is sought pursuant to the terms of this Agreement, the approved Rebate Application, pursuant to § IV(A)(3) of this Agreement. Documentation of costs may consist of paid receipts, signed time reports, and/or similar verification of expenditures. Post-installation testing through the Nebraska Department of Health and Human Services Public Health Environmental Laboratory to confirm that treated private well water is below 10 parts million for nitrate must be provided with any reimbursement request.

C. Disbursements

1. Costs Incurred Review. All requests for reimbursement of costs incurred by the Participant shall be reviewed by the NDEE for eligibility;

2. Costs Incurred Outside Agreement. No expenses incurred prior the signing of this Agreement or outside of the terms of this Agreement are reimbursable unless amended per this Agreement;
3. Statement of Costs. Submitted requests for reimbursement must be supported by a proper statement of costs for the installation eligible costs;
4. Right to Withhold Disbursements. If required documentation or reports are not up to date, the NDEE will withhold reimbursements until all required documentation or reports are submitted; and
5. Final Request for Reimbursement Term. The Participant has thirty (30) days after the expiration date of this Agreement to submit all requests for reimbursement.

IV. REQUIREMENTS

A. Program Requirements

1. Rebate Application Approval. The Rebate Application shown in Attachment A is approved and can only be amended with approval from the NDEE prior to the disbursement of funds.
2. Reports. The funding must meet the requirements of ARPA noted in the U.S. Department of Treasury Coronavirus State and Local Fiscal Recovery Funds Final Rule ([SLFRF-Final-Rule.pdf \(treasury.gov\)](#)), notably the Compliance and Reporting guidance ([SLFRF Compliance and Reporting Guidance \(treasury.gov\)](#)). Additional information may be found at [SLFRF-Final-Rule-FAQ.pdf \(treasury.gov\)](#).
 - a. Other Documents. The applicant will provide any other documentation required by NDEE related to the Agreement, as requested.
3. Installation Contract Approvals. To ensure eligibility the Participant agrees that any installation contract under this Agreement must receive written approval by the NDEE Project Manager prior to expenditure of funds may only be expended for eligible activities. Copies of all installation contracts must be provided to the NDEE.
4. Information Collected. The Participant agrees that all information collected under this Agreement shall be provided to the NDEE.
5. Procurements. The Participant will use the Agreement to acquire, construct, and equip the PRIVATE WELL REVERSE OSMOSIS SMALL WATER TREATMENT INSTALLATION, in accordance with LB1014e, and any applicable federal law that includes, but is not limited to, the ARPA, Coronavirus State and Local Fiscal Recovery Fund Final Rule and the U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions.
6. Installation Completion. The sum of the Agreement and other moneys on hand or lawfully available to the Participant are sufficient to complete the Installation, and the Participant understands that the NDEE is not in any manner obligated to provide additional grants or any other funds for the installation.
7. Operation and Maintenance. The Participant will operate and maintain the Installation in accordance with LB 1014e and manufacturer's recommended documentation.
8. Davis-Bacon. For all installations in excess of \$2,000, the Participant agrees that all work and labor will comply with the prevailing wage provision known as the Davis Bacon Act pursuant to:

https://www.epa.gov/sites/default/files/2014-11/documents/davis_bacon_interim_guidance_sec.pdf

<https://sam.gov/content/wage-determinations>.

Modifications to the Davis Bacon wage may also be issued from time to time changing only a portion of the wage decision. Superseded decisions and modifications are applicable to the installation provided they were published not less than 10 days prior to the Installation.

B. State Requirements

1. Amendments. This Agreement and Rebate Application may be amended in writing at any time by mutual agreement of the parties, except insofar as any proposed amendments are in any way contrary to applicable law or NDEE.
2. Forfeiture, Repayment, and Delays in Disbursement of Funds. Violation of any of the requirements of this Agreement including the Rebate Application by the Participant, or failure of the Participant to complete, operate and maintain the installation in the manner described in the NDEE approved Rebate Application, including amendments, may result in the forfeiture of any funds not disbursed.

The NDEE retains the right to hold or delay any and all funds if a potential violation or noncompliance has occurred and is being investigated. Funds may be withheld until the potential violation or noncompliance has been resolved.

In addition, the NDEE may recover from the Participant any costs associated with the violation of any of the conditions of this Agreement by the Participant, or failure of the Participant to complete, operate and maintain the installation in the manner described in the approved Rebate Application; including any amendment there to which has been properly approved.

3. Remedies Not Exclusive. The use by either the Participant or the NDEE of any remedy specified herein for the enforcement of this Agreement is not exclusive and shall not deprive the party from using such remedy or limit the application of any other remedy provided by law.
4. Assignment. No assignment or transfer of this Agreement or any part hereof, rights hereunder, or interest, herein by the Participant, shall be valid unless and until it is approved by the NDEE and made subject to such reasonable terms and conditions as the NDEE may impose.
5. Waiver of Rights. The Participant or the NDEE may from time to time waive any of their rights under this Agreement. However, any waiver of rights with respect to a default of any condition of this Agreement shall not be deemed to be a waiver with respect to any other default.
6. Applicable Rules and Regulations. Both parties shall abide by all applicable rules and regulations of the NDEE including any that may be adopted subsequent to the effective date of this Agreement except those that would invalidate or be inconsistent with the provisions of this Agreement.
7. Inspection of Books, Records, and Reports. The duly authorized representative of either party shall have the right to inspect and make copies of any books, records, or reports of the other party pertaining to this Agreement or related matters during regular office hours. Each party shall maintain and make available for such inspection accurate records of all its costs, disbursements, and receipts with respect to its activities under this Agreement.

8. Independent Contractor. The Participant is and shall perform this Contract as an independent contractor and as such shall have and maintain exclusive control over all of its employees, agents, and operations. Neither the Participant nor any person employed by the Participant shall act, propose to act, or be deemed the NDEE's agent, representative, or employee.

The Participant assumes full and exclusive responsibility for the reimbursement of all premiums, contributions, payroll taxes, and other taxes now or hereafter required by any law or regulation and agrees to comply with all applicable laws, regulations and orders relating to social security, unemployment compensation, OSHA, affirmative action, equal employment opportunity and other laws, regulations, and orders of like nature.

9. Nondiscrimination. The Nebraska Fair Employment Practice Act prohibits contractors to the State of Nebraska and their subcontractors from discriminating against any employee, or applicant for employment in the performance of such contracts, with respect to hire, tenure, terms, conditions, or privileges of employment because of race, color, religion, sex, disability, or national origin. The Participant's signature is a guarantee of compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of this Agreement. The Participant shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this Agreement.
10. Drug Free Workplace. The Participant, by executing this Agreement, certifies and assures that it operates a drug free workplace as addressed in the State of Nebraska Drug Free Workplace Policy of July 7, 1989.
11. Publication Rights. All parties shall have publication and reproduction rights for all reports and materials that are produced as a result of this Agreement.
12. Termination. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be affected unless the other party is given:
- a. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate; and
 - b. An opportunity for consultation with the terminating party prior to termination.
13. Employment Eligibility Verification. The Contractor is required and hereby agrees to use, and require sub-contractors to use, a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee. If the Contractor is an individual or sole proprietorship, the following applies:
- a. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website.
 - b. If the Contractor indicates on such attestation form that he or she is a qualified alien, the contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.

c. The Contractor understands and agrees that lawful presence in the United States is required, and the Contractor may be disqualified, or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. § 4-108.

14. Hold Harmless. The Participant agrees to hold the NDEE harmless for loss or damage sustained by any person as a direct result of the negligent or willful acts by the Participant, its employees, sub-contractors, or agents in the performance of this Agreement including all associated costs of any defending action.

V. INSTALLATION MANAGERS

The Project Manager for each party to this Agreement shall be as follows. The Project Manager may be changed upon written notification.

NDEE
To Be Determined
Federal Aid Administrator II
State Revolving Fund Section
P.O. Box 98922
Lincoln, NE 68509
Email: [\[Need to Insert\]@nebraska.gov](mailto:[Need to Insert]@nebraska.gov)
(402) 471-4269

Participant
«Participant»
«Participant Address»
«Town», NE «Zip Code»

Email: «Participant Email»
«Participant Phone Number»

VI. SIGNATORIES TO THIS AGREEMENT

NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY:

PARTICIPANT:

BY: _____

BY: _____

TITLE: Deputy Director

TITLE: Private Well Owner

DATE: _____

DATE: _____

ATTACHMENT A: REBATE APPLICATION