

**Alternative Agricultural Water Transfer Methods – Competitive Grant Program  
Water Activity Summary Sheet  
Agenda Item 30.e.**

**Applicant:** Ducks Unlimited and Aurora

**Water Activity Name:** FLEX Water Market--Education and Implementation Phase

**Water Activity Purpose:** Non-Structural

**Drainage Basin:** Statewide/South Platte

**Water Source:** Statewide

**Amount Requested:** \$120,250

**Matching Funds:** \$22,278 (cash)

<b>Staff Recommendation</b>
Staff recommends approval of up to \$120,250 from the Alternative Agricultural Water Transfer Methods Program to help fund the “FLEX Water Market--Education and Implementation Phase” project contingent upon resolution of the items in the issues/additional needs section of this summary.

**Water Activity Summary:**

Applicants were recipients of the Colorado Water Conservation Board sponsored January, 2008 and 2010 Competitive Grant Programs for Alternative Agricultural Water Transfer Methods, Arkansas and South Platte Basins. The focus of the 2008 study was to examine five alternative transfer methods and create a business plan that could be used by agricultural producers, M&I users, etc. to evaluate and to implement alternative agricultural water transfers in the South Platte River basin and across Colorado. The 2010 study expanded on the “private market” business plan concept (relabelled the “FLEX Water Market”) and resulted in a model FLEX Market Contract and model Water Court Terms and Conditions. Distinguishing characteristics of the FLEX Water Market include:

- 1) A cooperative agreement to change the use of a senior water right to allow multiple uses, including agricultural, municipal and industrial, and conservation uses;
- 2) Cooperative use of the senior water right by agricultural, M&I and environmental users pursuant to further agreements whereby the owner of the rights receives appropriate compensation established by market conditions; and
- 3) A focus on use of recharge sites and other environmentally beneficial delivery methods and management.

The proposed pilot project will build upon the 2008 and 2010 grant studies by implementing a FLEX Water Market. Based on public feedback received during a large group meeting (the FLEX Market Summit meeting) as part of the 2010 study and the substantial number of inquiries received following the meeting, the Sponsors are becoming more aware of the potentially high demand for more information and assistance in exploring or implementing the FLEX market concept. In fact, we understand that some FLEX markets are being explored outside the scope of this request.

The goal of this project will be to successfully implement the FLEX market concept through education, facilitation, and consultation throughout the state, with specific focus on developing FLEX markets in Water Division One with municipal, industrial, agricultural, and environmental conservation partners. In addition the project will seek to address concerns raised in Draft Technical Memorandum, “Alternative Agricultural Transfer Methods Grant Program Summary of Key Issues Evaluation,” July 16, 2010 and the Alternative Agricultural Water Transfer Methods Grant Program Summary and Status Update, November 2012.

The overall goal of the project will be met by achieving several objectives. A description of the project objectives is provided below:

- Provide Education, Facilitation, and Consultation. The project team (the Sponsors, LJCG, and Brown and Caldwell) will serve as a team who will help parties seeking to explore or implement the FLEX Market concept.
- Evaluate Index Based Pricing. The project team will evaluate ways to adjust water pricing based on the increasing value of water and the volatile market for agricultural commodities.
- Explore Large-Scale Implementation of the FLEX Market in the Front Range. The project team will promote and discuss the implementation of the FLEX Market with large water providers, irrigators, and environmental water users in Division 1 along the Front Range.

**Discussion:**

Staff is very supportive of the FLEX Market concept and believes that such creative agreements between irrigators and municipalities will become more commonplace, helping to ease the pressures on irrigated agriculture. As mentioned, the project sponsors have received previous ATM grant funding and through this funding have developed a model FLEX Market Contract and a model FLEX Market Water Court Terms and Conditions. The team should be commended for bringing in water attorneys and engineers to help provide key input in these documents. Task 3 – 5 are geared towards facilitating the implementation of a FLEX Market in the Front Range which staff believes is directly in line with the ATM program criteria and guidelines. In addition, this effort is clearly building off of the work previously performed.

**Issues/Additional Needs:**

The proposal requests funds to undertake a relatively robust education and outreach effort to promote the FLEX Market throughout the state and to other ATM sponsors (Tasks 1 and 2). While this is definitely worthwhile, staff does not believe that the grant funds should be used for this purpose and should be absorbed by the project sponsors. Regarding the discussions amongst other ATM recipients, staff will consider reconvening a working group that provided a forum for all project sponsors to share ideas and lessons learned. Staff recommends that the Board not fund Tasks 1 and 2 based on the explanation above.

It is unclear which entity will contract with the State of Colorado. Please specify the contracting entity.

All products, data and information developed as a result of this grant must be provided to the CWCB in hard copy and electronic format as part of the project documentation. This information will in turn be made widely available to Basin Roundtables and the general public and will help promote the development of a common technical platform.

In accordance with the Criteria and Guidelines of the Alternative Agricultural Water Transfer Methods Competitive Grant Program, staff would like to highlight additional reporting and final deliverable requirements. The specific requirements are provided below.

**Reporting:** The applicant shall provide the CWCB a progress report every 6 months, beginning from the date of the executed contract. The progress report shall describe the completion or partial completion of the tasks identified in the scope of work including a description of any major issues that have occurred and any corrective action taken to address these issues.

**Final Deliverable:** At completion of the project, the applicant shall provide the CWCB a final report that summarizes the project and documents how the project was completed. This report may contain photographs, summaries of meetings and engineering reports/designs.

**Engineering:** All engineering work ( as defined in the Engineers Practice Act (§12-25-102(10) C.R.S.)) performed under this grant shall be performed by or under the responsible charge of professional engineer licensed by the State of Colorado to practice Engineering.