



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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John Hickenlooper, Governor

Mike King, DNR Executive Director

Rebecca Mitchell, CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Craig Godbout, Program Manager
Alternative Agricultural Water Transfer Methods Grant Program (ATM)
Water Supply Planning Section

DATE: June 29, 2017

AGENDA ITEM: 30; Supplemental Funding Request: Larimer County - Open Space ATM Pilot Project. Alternative Agricultural Water Transfer Methods Grant Request

Staff Recommendation - Action Items: ATM Grant Request

Larimer County requests a \$51,750 supplemental funding approval for an existing ATM Grant the CWCB Board approved during their September 2015 meeting for \$178,425.

If approved, the supplemental funding for the "Larimer County: Open Space Pilot Project" project will constitute the 26th ATM Grant approved by the CWCB. Of the previous 25 projects, 10 are in-progress, and 15 have been completed or closed-out.

Staff's review of the applications involves the following steps:

- 1) Applications are reviewed for completeness based on the information requirements, which are primarily outlined in the Criteria and Guidelines (C&G).
- 2) Applications are reviewed to verify that the water activity meets the eligibility requirements in the C&G.
- 3) Staff then prepares the Water Activity Summary Sheet which documents the outcome of the review process and contains staff's recommendations.

Staff concludes this ATM Grant application is complete and the proposed activity meets the eligibility requirements in the C&G. The Water Activity Summary Sheet, ATM Grant Application and Statement of Work are attached.

Staff recommendation:

Staff recommends approval of up to \$51,750 from the Alternative Agricultural Water Transfer Methods Grant Program to help fund the "Supplemental Funding Request: Larimer County - Open Space ATM Pilot Project".



Alternative Agricultural Water Transfer Methods – Competitive Grant Program
Water Activity Summary Sheet
July 19-20, 2017
Agenda Item 30

Applicant & Grantee: Larimer County

Water Activity Name: Supplemental Funding for Open Space ATM Pilot Project

Water Activity Purpose: Pilot project to implement in the South Platte basin a permanent interruptible ATM water supply for a M&I provider while providing perpetual protection of irrigated lands.

Drainage Basin: South Platte

Water Source: CB-T and native South Platte basin water

Amount Requested: \$51,750

Matching Funds: \$5,018,250 total cash match (Larimer County & 3rd Parties)

Staff Recommendation

Staff recommends approval of up to \$51,750 from the Alternative Agricultural Water Transfer Methods Program to help fund the “Larimer County Open Space ATM Project.”
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Water Activity Summary: The Larimer County Open Lands Program (LCOLP) will lead the effort to prove the concept of implementing a permanent Alternative Agricultural Water Transfer Methods (ATM) water supply for an M&I provider located within the South Platte River basin. This project will implement an ATM pilot project providing for the perpetual protection of irrigated farm land and perpetual use and ownership of interruptible water supplies by a participating M&I water provider. LCOLP has acquired the fee title for the Malchow Farm (publicly known as the Little Thompson Farm) with the land and water; this purchase alone exceeded LCOLP’s annual budget and sales tax revenues.

Alongside the project team hired with CWCB grant funds (project manager, water engineer, economist, agronomist, and water attorney), Larimer County communicated with 25 water providers throughout the boundaries of Northern Water Conservancy District (“Northern”), 11 of which Larimer County met with in-person at least once. Each of these meetings began by educating the M&I provider about the mechanics and considerations of an agriculture-to-M&I water sharing arrangement. If the provider was interested in the concept, the County proceeded to negotiate a water sharing agreement that would ensure a viable farm into the future, protect the conservation values for which it was preserved, and create a model interruptible supply contract. The supply contracts are intended to be used by private landowners and municipal entities as a tool to negotiate future water transfers that don’t result in permanent dry-up and still provide a reliable drought supply to the M&I provider. The County quickly learned that each M&I entity has different water supply goals, different policies around acquiring the water it needs, as well as differing water infrastructure and budgetary constraints.

The team has overcome various obstacles in these negotiations and now feels they are on the cusp of closing on the first-of-its-kind agriculture-to-municipal interruptible supply contract that perpetually

protects irrigated farm land while providing the M&I partner a perpetual, reliable supply of drought, drought- recovery, and emergency water. The legal aspects of the deal have been worked out with Northern's rules expressly allowing these types of agreements with Colorado Big Thompson (C-BT) water and the County Attorneys, M&I Partner's Attorneys and Northern Attorneys are working together on the final draft of the IGA. The technical aspects of how the farm will operate under the ATM and remain perpetually viable are being provided by the project team in a Farm and Water Plan that will be finalized after the ATM closes. Institutionally, the County has educated county representatives, boards, and staff about this tool and its benefits, and have achieved great support from within the County, the Handy ditch board, and the greater farming community in figuring out the first deal like this. The purchase of the farm in 2016 received a lot of media attention. Interestingly, it has proved a great catalyst of interest as additional area farmers have now reached out wanting to pursue similar options.

The last remaining hurdle to overcome, to close on this important ATM project, is to receive grant funding to fill the small negotiation gap between us and our municipal partner. Should CWCB choose to fund this proposal, the County and our M&I partner will be poised to close on the ATM.

Discussion: The CWCB Board approved an ATM Grant for \$178,425 during their September 2015 meeting.

Issues/Additional Needs: No issues or additional needs have been identified.

CWCB Project Manager: Craig Godbout



COLORADO WATER CONSERVATION BOARD
ALTERNATIVE AGRICULTURAL WATER TRANSFER
METHODS COMPETITIVE GRANT PROGRAM
GRANT APPLICATION FORM



Supplemental Funding Request to Help Implement Larimer County ATM Project
South Platte Basin

Program/Project Name

River Basin Name

\$51,750

\$100,000 Private Foundation cash
contribution to be disbursed upon
closing an ATM
\$3,770,000 ATM partner
\$1,147,750 Larimer County
Total cash match: \$5,018,250

Request is 1% of total project costs

Instructions: This application form must be submitted in electronic format (Microsoft Word or Original PDF). The application can be emailed or a disc can be mailed to the address at the end of the application form. The Alternative Agricultural Water Transfer Methods Competitive Grant Program, Criteria and Guidelines can be found at <http://cwcb.state.co.us/LoansGrants/alternative-agricultural-water-transfer-methods-grants/Pages/main.aspx>. **The criteria and guidelines must be reviewed and followed when completing this application.** You may attach additional sheets as necessary to fully answer any question, or to provide additional information that you feel would be helpful in evaluating this application. Include with your application a cover letter summarizing your request for a grant. If you have difficulty with any part of the application, contact Craig Godbout of the Water Supply Planning Section (Colorado Water Conservation Board) for assistance, at (303) 866-3441 x3210 or email at craig.godbout@state.co.us. Generally, the applicant is also the prospective owner and sponsor of the proposed program/project. If this is not the case, contact Craig before completing this application.

Alternative Agricultural Water Transfer Methods – Grant Application Form

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Part A. - Description of the Applicant(s) (Program/Project Sponsor);

1.	Applicant Name(s):	Larimer County Open Lands Program		
	Mailing address:	Larimer County Department of Natural Resources 1800 S County Road 31, Loveland, CO 80537		
	Taxpayer ID#:	98-04270	Email address:	krollins@larimer.org
	Phone Numbers: Business:	970-619-4577		
	Home:			
	Fax:			

2. Person to contact regarding this application if different from above:

Name:	Kerri Rollins
Position/Title	Larimer County Open Lands Manager

3. If the Contracting Entity is different then the Applicant, please describe the Contracting Entity here.

n/a

Alternative Agricultural Water Transfer Methods – Grant Application Form

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4. Provide a brief description of your organization. The applicant may be a public or private entity. Given the diverse range of potential applicants, not all of the following information may be relevant. Where applicable and relevant the description should include the following:

- a) Type of organization, official name, the year formed, and the statutes under which the entity was formed, a contact person and that person's position or title, address and phone number. For private entities, a copy of the Articles of Incorporation and By-laws should be appended to the application.**

Larimer County is a public entity that was created in 1861 as one of seventeen original counties in the Colorado Territory. Larimer County Open Lands Program (LCOLP), a subset of the County's Department of Natural Resources, was formed in 1996 by the voters to preserve and protect significant open space, natural areas, and wildlife habitat, and develop parks and trails for present and future generations.

The contact person for this project is Kerri Rollins, Larimer County Open Lands Manager, at 1800 S CR 31, Loveland, CO 80537. Ms. Rollins' direct number is: 970-619-4577.

- b) For waters suppliers, information regarding the number of customers, taps, service area, and current water usage, and future growth plans, water related facilities owned or used, funding/revenue sources (existing service charges, tap fees, share assessments, etc.), the number of members or shareholders and shares of stock outstanding or a description of other means of ownership.**

LCOLP is partnering with a municipal and industrial (M&I) water provider to implement a perpetual water sharing partnership that will serve both a conserved, irrigated farm and provide drought supply water for municipal needs. To date of application, we are actively negotiating the fine details of an Inter-Governmental Agreement (IGA) and working toward a closing in August.

- c) For other entities, background, organizational size, staffing and budget, and funding related to water that is relevant in determining whether the applicant has the ability to accomplish the program/project for which funding is sought.**

Larimer County's e Open Lands Program, alongside the CWCB-funded project team, has the ability to complete this project. Funded through a ¼ cent sales and use tax and guided by a 12-person citizen advisory board, the program has conserved over 26,000 acres in fee acquisitions, and over 10,000 in conservation easements.

The Department of Natural Resources, within which the Open Lands Program resides, currently employs approximately 46 permanent and over 100 seasonal staff members who provide support for and implement the development, maintenance, and management of properties for recreation and conservation. The staff members who will bring the water sharing project to fruition include the property acquisitions team that constitute a portion of the Open Lands Program, with support from across the Natural Resources Department, including the land stewardship program, and support from the County Attorney's office. The County Attorneys are funded through County general fund, and the Open Lands Program is funded through

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a ¼ cent sales and use tax that was renewed for 25 years in 2014 by 82% of the voters, and is now scheduled to sunset in 2043. Last year, Larimer County's Open Lands Program had actual operational expenses of \$3.6 million and collected just over \$6 million in sales tax dollars.

Additionally, LCOLP received \$178,425 in September of 2015 from the CWCB Alternative Agricultural Water Transfer Methods Grant to hire a consultant team to provide the expertise we need to accomplish this goal. The project team, including the project manager, water engineer, economist, agronomist, and water attorney, have been under contract since January 2016 putting together the components of this water sharing arrangement that will ensure farm viability into the future, create a positive model for ATMs going forward, and will also serve the needs of our M&I partner.

d) A brief history of the Applicant(s).

Larimer County Department of Natural Resources (then the Parks Department) was created in 1954 to manage recreation on the Colorado Big Thompson project reservoirs in the County, with Horsetooth Reservoir and Carter Lake being the most well-known. In 1981, a 6-month sales tax was passed by the citizens of Larimer County to purchase Horsetooth Mountain Open Space, and its management was placed under this County department. In 1995, a ¼-cent sales and use tax was passed by voters to preserve open space in Larimer County, and the County's Open Lands Program was formed the following year as a program within the Natural Resources Department. As discussed above, the Help Preserve Open Spaces sales and use tax has been renewed twice since, most recently in 2014. Today, with support from Open Space tax dollars and many partners, Larimer County Department of Natural Resources manages a variety of reservoir parks, open spaces, and trails throughout the County, from Estes Park in the west to the County's northern border with Wyoming, eastern border with Weld County, and southern border with Boulder County. The acquisition team in the Open Lands Program works with willing landowners to conserve new properties throughout the County using various conservation methods, including placing conservation easements on private properties and acquiring fee title to land, with the purpose of protecting the natural resource values including agriculture, scenic and open space, habitat and wetlands, historic and buffers to communities and other open spaces.

e) Please include any relevant Tabor issues relating to the funding request that may affect the Contracting Entity.

In 1999, voters in Larimer County voted to "De-Bruce" and therefore are not subject to the restrictions imposed by the TABOR Act.

Part B. - Description of the Alternative Water Transfer Program/Project –

1. Purpose of the Program/Project

Please provide a summary of the proposed program/project, including a statement of what the program/project is intended to accomplish, the need for the program/project, the problems and opportunities to be addressed, the expectations of the applicant(s), and why the program/project

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is important to the applicant(s). The summary must include a description of the technical, institutional (i.e., how the program/project will be organized and operated), and legal elements that will and/or have been addressed by the applicant and proposed program/project. The summary should also discuss relevant project history, if applicable, and any other relevant issues.

Previous Studies

To the maximum extent possible, the results of any previous studies and investigation should be utilized and incorporated into the proposed program/project. The application for funding should include a brief summary of the results of previous studies and how they will be utilized.

Larimer County Open Lands Program has conserved approximately 37,000 acres and less than 1,000 acres of which is irrigated farmland because the associated water rights have been cost-prohibitive. At the same time, Larimer County's farmland is currently being converted to other uses at a rate of 4,500 acres each year. Between 1997 and 2007, 8.4% of farmland in Larimer County was converted to a non-agricultural use. This loss threatens a way of life in Larimer County as well as a major component of the local economy.

Through various public planning efforts from 2012-2015, Larimer County Open Lands Program heard from citizens emphasizing the importance of acquiring water rights to protect prime agricultural lands, providing land for emerging farmers and small-acreage farming, and conserving working farms and ranch lands as important conservation goals for us to pursue. The Larimer County Agricultural Advisory Board, a citizen board of local farmers and ranchers, has also been advocating the protection of irrigated agricultural land in Larimer County. As a result of this feedback, the 2015 Open Lands Program Master Plan set a specific goal of conserving irrigated agricultural lands.

In implementing this goal, LCOLP acquired the subject farm (known as Malchow Farm and publicly as Little Thompson Farm) with the land and water, and this purchase alone exceeded LCOLP's annual budget and sales tax revenues. In recognition of this challenge, LCOLP pursued innovative means to leverage our funds and maximize our impact in conserving irrigated farmland. By coupling land preservation tools with a water sharing agreement with an M&I provider, it is feasible for LCOLP to preserve irrigated agricultural lands at a reduced cost, thereby preserving fast-disappearing farmlands and creating a broader positive impact than we could have on our own.

In pursuit of this goal, and alongside the project team hired with CWCB grant funds, we have been seeking and negotiating with various water providers throughout the boundaries of Northern Water Conservancy District ("Northern"), 25 in total, 11 of which we met with in-person at least once. Each of these meetings began by educating the M&I provider about the mechanics and considerations of an agriculture-to-M&I water sharing arrangement. Then, if they were interested in the concept, we would proceed to negotiating a water sharing agreement that would ensure a viable farm into the future, protect the conservation values for which it was preserved, and create a model interruptible supply contract that could be used by private landowners and municipal entities as a tool to negotiate future water transfers that don't result in permanent dry-up and still provide a reliable drought supply to the M&I provider. We learned quickly that each M&I entity has different water supply goals, different policies around acquiring the water it needs, as well as differing water infrastructure and budgetary constraints.

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The team has overcome various obstacles in these negotiations and feels we are now on the cusp of closing on the first-of-its-kind agriculture-to-municipal interruptible supply contract that perpetually protects irrigated farm land while providing our M&I partner a perpetual, reliable supply of drought, drought-recovery, and emergency water. The legal aspects of the deal have been worked out with Northern's rules expressly allowing these types of agreements with Colorado Big Thompson (C-BT) water, and the County Attorneys, M&I Partner's Attorneys and Northern Attorneys are working together on the final draft of the IGA. The technical aspects of how the farm will operate under the ATM and remain perpetually viable are being provided by the project team in a Farm and Water Plan that will be finalized after the ATM closes. Institutionally, we have educated our representatives, boards, and staff about this tool and its benefits, and have achieved great support from within the County, the Handy ditch board, and the greater farming community in figuring out the first deal like this. The purchase of the farm in 2016 received a lot of media attention. Interestingly, it has proved a great catalyst of interest as additional area farmers have now reached out wanting to pursue similar options.

The last remaining hurdle we have to overcome to close on this important ATM project is to receive grant funding to fill the small negotiation gap between us and our municipal partner. Should CWCB choose to fund this proposal, the County and our M&I partner will be poised to close on the ATM.

In short, LCOLP is enlisting CWCB's help once again to actually execute a permanent Alternative Agricultural Water Transfer Methods (ATM) partnership with an M&I provider located in the South Platte River Basin. As of application submission, Larimer County staff, the CWCB consultant team and a municipal partner have been working diligently to negotiate an ATM arrangement on the Little Thompson Farm that will serve the farmer's needs long-term and that will meet the emergency, drought, and drought-firming water supply needs of an M&I water provider as well.

2. Study Area/Service Area Description

The study area/service area is generally the geographic area that is the subject of the proposed program/project (include both the source of supply and location and type of new use). The description should include the following items:

- a) A narrative description of the study area/service area including: the county, the location of towns or cities, topography, and locations of major surface and ground water features.**

Larimer County is located in north-central Colorado. It is the sixth largest county in Colorado by population. The county extends to the Continental Divide and includes several mountain communities and part of Rocky Mountain National Park. The County encompasses 2,640 square miles that include some of the finest irrigated farmland in the state, as well as vast stretches of scenic ranch lands, forests, and high-mountain peaks. Over 50% of Larimer County is publicly owned, most of which is in the foothills and mountains of Roosevelt National Forest and Rocky Mountain National Park, while most of the privately-held lands are in the plains and prime farmland areas. Cities and towns in the County include Fort Collins, Loveland, Berthoud, Estes Park, Johnstown, Timnath, Wellington, and Windsor.

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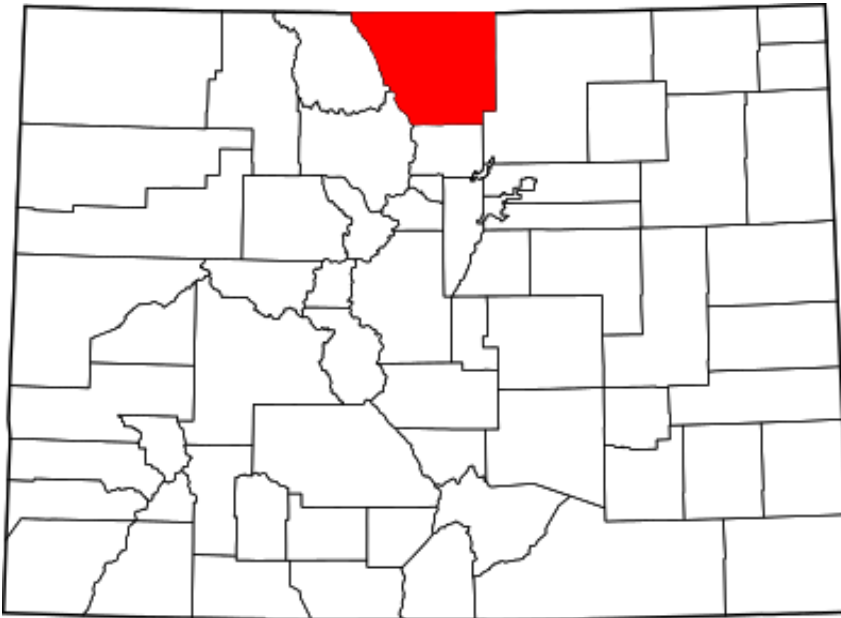
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Early growth of agriculture in Larimer County depended highly on direct river irrigation from the Cache La Poudre River, Big Thompson River, the Little Thompson River, and numerous creeks and tributaries. The Colorado-Big Thompson Project provided a significant increase in the agricultural productivity of the region in the 1930's by providing the needed supplemental water to finish the crops in the late season when direct river rights become scarcer. This project collects Western Slope water and carries it to the Front-Range communities of Boulder, Larimer and Weld Counties, along with an extensive water storage and distribution system, which significantly extended the irrigable season.

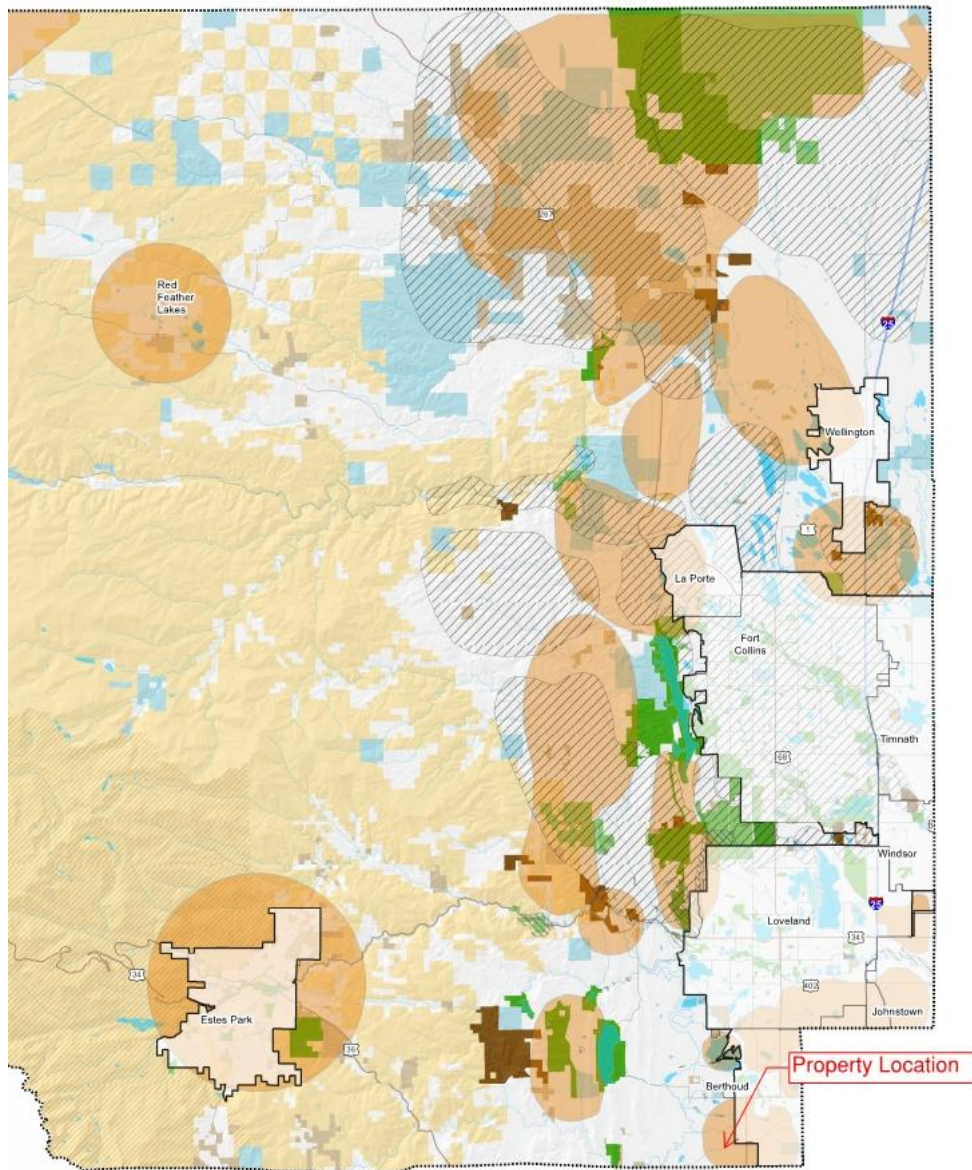
The geographic area of this application is centered around the Little Thompson watershed, and the subject farm is adjacent to the north of the Little Thompson River.

- b) **An area map showing each of the items above, as well as the locations of existing facilities, proposed project facilities and boundaries of lands involved in the proposed program/project.**



Location of Larimer County in Colorado

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Location of farm in Larimer County

- c) **Information regarding the irrigated lands that are involved in the program/project. This must include a tabulation of total irrigated acreage, description of cropping types, crop yields, and total average annual water diversions for existing agricultural lands.**

The Farm, comprising 211 acres, is located along Highway 287, one mile south of the Town of Berthoud and just north of the Little Thompson River in Larimer County. The short legal description of the property is: The North ½ of the Southwest ¼ of Section 27, Township 4 North, Range 69W of the 6th P.M., and Lot 1A of the Second Amended Malchow MRD No 93-EX0382. The irrigated area of the Farm

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is served primarily by a 2003 Zimmatic center pivot that covers approximately 141 acres. For the 1992 to 2002 time period, the total average annual diversions from the river is 372 AF/yr prior to calculating ditch and farm losses. This water supply is a combination of natural flow diversions and releases from storage via 16 shares of Handy for the Malchow farm (204 AF/yr) and the 240 C-BT units (168 AF/yr assuming 0.7 AF/unit). Both corn and sugar beets have been the predominant crops grown on the farm. The corn yields have ranged from 210 bushels/acre in wet years to 170 bushels/acre in dry years and the beet yields have ranged from 42 tons/acre in wet years to 29 tons/acre in dry years. The pivot-irrigated field has most recently been planted in corn or half sugar beets and half corn, on a rotational basis. The south end of the farm is level to gently sloping bottomland. The southern area, separated from the center pivot by a ditch and row of cottonwood trees, has historically been planted to alfalfa and flood-irrigated, depending on the water supply, and may be somewhat sub-irrigated by the river. In recent years, the lessee has planted this area in Sudan grass or dryland wheat to avoid the need for irrigation.

A Land Evaluation-Site Assessment (LESA) was completed for the Farm and the overall rating of cropland quality was good-excellent in large part due to the prevalence of Class II (highly productive soils) and water availability. Class II soils represent 81 percent of the property, and are characterized as deep, well-drained, with a surface layer of loam or sandy loam to clay loam and sandy loam, a subsoil of loam to silty, sandy or clay loam and slopes of 0-3%. These soils are mainly suitable for corn, sugar beets, barley, alfalfa, beans and wheat. The southern field immediately north of the Little Thompson River is comprised of Class II and some Class III soils, which are deep to moderately deep, well- to poorly-drained, a surface layer of loam to clay loam, a subsoil of loam to clay and slopes of 3-5%. These soils are mainly suitable corn, sugar beets, barley, alfalfa, beans, wheat and some more suitable for pasture.

The farm has historically been irrigated with 16 Handy Ditch and Reservoir Company shares (Handy shares) and 240 C-BT units. Both sources of water are diverted from the Big Thompson River at the Handy Ditch head gate and are delivered to the farm via the Handy Ditch and then the Dry Creek Lateral which is unlined and is approximately 8 miles long. The farm is the second-to-last head gate on the Dry Creek Lateral, which ends just on the east side of Highway 287. Once the water enters the property, it is conveyed through a concrete-lined ditch that runs along the west property boundary to either an underground pipe and pumped to the pivot, or conveyed through surface pipe and lateral to the southern fields.

Under the current ATM terms, 45 of the 240 C-BT units will remain on the farm unencumbered and 80 of the units will be available to the farm subject to the M&I provider exercising its 3-in-10 year interruptible supply right. The remaining 115 C-BT units will be sold to the M&I provider subject to the County's first right to lease the water when it is not used by the M&I provider. The County also intends to purchase additional Handy Ditch shares to help sure up the farm's water supply. The consultant team, including the water engineers, agronomist, and economist, have been working to finalize a Farm and Water Plan under the currently negotiated terms that will assure farm viability with the new water portfolio. Additionally, the plan will provide guidance to the County and farm lessee about farm operations in years when the ATM is exercised by the M&I provider, years following the prolonged exercise of the ATM (2 or 3 years in a row), and years with a full water supply under varying hydrologic

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conditions based on historic data. Preliminarily, the data seems to show that the cropping pattern will primarily remain much the same, with some years fallowing (2 or 3 out of 11), with the possibility of a lower water crop such as sorghum or Sudan grass, or a water-short corn crop under the center pivot. There is also the possibility for the farm to be partially or completely fallowed and the water leased on the market. We expect this plan to be finalized soon after closing (August 2017) and made publicly available.

d) Information regarding the location of the new water use(s) that will be served by transferred water including the estimated number of users/taps and/or uses served.

The farm and its current water portfolio are located within Larimer County. The M&I water partner is located in Northern Colorado, and within Northern's district boundaries.

Northern Colorado Water Conservancy District, the entity that administers C-BT water, is located in Northern Colorado just outside of Berthoud. Any water sharing agreement is subject to Northern's adopted rules published in August 2016 regarding the use of C-BT water when it is subject to an ATM or "sub-contract."

e) Socio-economic characteristics of the area such as population, employment and land use.

The Colorado State Demographer's Office provides that 315,728 people reside in Larimer County as of 2013. According to the U.S. Census Bureau, the county has a total area of 2,634 square miles. The latest data shows that both Fort Collins and Greeley (Weld County) were two of the fastest growing metropolitan areas in the entire country in 2014. The data shows that more than 14,000 residents moved into the region in the recent 12 month span. The Fort Collins-Loveland metro has grown 2.4 percent year over year, which resulted in a gain of 7,628 people. This places Fort Collins as the 12th fastest growing area in the Country. Greeley's ranking is 8th after adding 7,110 residents when comparing year after year. This is an increase of 2.6 percent for the region.

Agriculture is a cultural and economic cornerstone of Larimer County. Much of the county's landscape is dominated by expanses of farm and ranch lands. Approximately 1,760 farms and ranches cover nearly a half-million acres or 30 percent of the county's total land area. While the number of farms in the county has increased, these farms have become considerably smaller. The average farm size decreased by nearly 100 acres between 1997 and 2007. Overall the county is losing farmland due to residential and commercial development and the purchase and transfer of valuable water rights from agricultural to urban uses. This loss not only threatens a way of life in Larimer County, but also threatens a major component of the local economy.

3. Description of the Alternative Water Transfer Method

Please describe the type(s) of water transfers that will be examined/utilized (i.e., conceived transfer methods include, but are not limited to: 1) interruptible water supply agreements; 2) long-term agricultural land fallowing; 3) water banks; 4) reduced consumptive use through efficiency or cropping changes while maintaining historic return flows; and 5) purchase by end

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users with leaseback under defined conditions). In addition, please describe how the transferable consumptive use will be calculated and quantified, and how return flow patterns will be addressed/maintained.

Our number one project goal has been to negotiate the strongest ATM we can that ensures a viable farm. If that goal is achieved, we hope it will set an example that farmers might consider entering into as an alternative to an outright sale, particularly with the extremely fungible and valuable C-BT water resource. The ATM water sharing agreement Larimer County is hoping to bring to the finish line is, in its essence, an interruptible supply agreement, but also incorporates aspects of a lease back arrangement as well as a potential crop rotation.

Much of the negotiations over the past year have centered on the value of a 3-in-10 year right. M&I providers have pushed for a proportional buy-in payment to the ATM. However, our economic team looking at the historic water market indicates that the years in which an M&I provider would utilize the ATM will likely be the years in which the water values on the rental market and for crops would be at their highest. With this analysis, Larimer County pushed hard for a higher-than-proportional buy-in price. For farm viability, we have also pushed for a dry-year payment that the M&I provider would pay as a locked-in “lease” payment in the years they use the water. Again, with the advice of our economic team and historic water lease market under drought and drought-recovery conditions, rental rates in these scenarios have ballooned, and we think there is value in securing a reasonable rate and also a value to the farm in providing some substitute for the potential lost income due to the water being unavailable in those years. We are tying the dry-year payment to a price escalator designed by our economist to ensure that the lease payment keeps up with the price of farming and providing municipal services. The dry-year payment will help the farm cover continuing on-farm expenses such as establishing a cover crop, weed control, equipment and infrastructure maintenance, etc.

Lastly, the opportunity to purchase a large block of C-BT water was an attractive part of the deal to the M&I provider, and certainly a “carrot” in negotiations. As in any negotiation, the parties must look out for their best interests, particularly when public agencies are involved. Larimer County was adamant it could not sell these 115 units at a price below what it paid, and our M&I partner feels that, in light of the active C-BT water market, and the complexity and additional staff and attorney time of negotiating a water sharing partnership as compared to the simplicity of buying water outright, a financial incentive is needed to make the deal worthwhile, particularly being the first in the door to these yet-unproven agreements.

This is the identified gap in negotiations that make or break this revolutionary ATM deal, and where this CWCB funding request comes in to play. Ironically, with the overall deal of nearly \$4 million and the many complexities of the terms and agreements, we have a remaining negotiation gap of only \$51,750. With this request, CWCB has the opportunity to bring this agreement to the finish line!

4. Program/Project Eligibility

Please describe how the proposed program/project meets each of the following eligibility requirements (please see Criteria and Guidelines for additional information regarding the alternative water transfer methods/strategies that qualify for funding). Note: If these

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requirements are addressed in other parts of the application you may simply reference the applicable section(s).

a) A description of how, if implemented, the proposed program/project will protect property and water rights.

Given that the water being put into the ATM is C-BT units, a water court case will not be needed to utilize the ATM. However, we have been and will continue to work with the Handy Ditch Board of Directors to minimize the impacts we have to the other users on the ditch system, and our farm lessee will continue to cooperate with the coordinated deliveries to ensure maximum deliveries.

This project has been widely publicized in the press, and has generated a level of engagement from the local farming community that Larimer County Open Lands has not seen in this geographic area before. We are currently in contact with at least half a dozen other farmers who are interested in pursuing a similar conservation and water sharing scenario to our current farm, with the potential for a larger water banking ATM. Given the potential of this exciting momentum, we see the execution of a successful ATM that can be used as a good model for future deals as an imperative first step.

LCOLP's primary goal in pursuing this water sharing agreement was to conserve productive irrigated farmland in perpetuity. As a result, ensuring a healthy water portfolio for a viable farm into the future was a primary concern in negotiating the ATM. The ATM agreement, as written, provides 80 C-BT units to productive agriculture 7 out of every 10 years and includes protections for the lessee farmer as well, including an early notification requirement from our ATM partner and a first-right-of-refusal to use the 115 units to be sold outright when our ATM partner isn't using it. In years when our ATM partner intends to exercise its option to use the ATM units, our ATM partner must notify LCOLP of its intention prior to January 31st of that year. However, our ATM partner may also exercise its option after January 31st up until June 1st, which allows Handy Ditch plenty of time to request the appropriate number of C-BT units to be delivered through their system. In that case, the M&I provider would notify Larimer County of its intent to exercise its option as soon as it makes the determination to use the water in order to allow for farm planning. Also, the M&I provider would reimburse the lessee farmer for all expenses incurred as a result of the late notice, including but not limited to the purchase or planting/application of seed, fertilizer, labor expense, equipment use/rental, and such other reasonable expenses. To activate the seasonal transfer to the M&I provider, the Handy Ditch Company will need to submit a CD4 card to Northern Water which can be done at any time during the year, and Larimer County will assist with as needed. The farm viability is also being planned for by the technical team with the development of the Farm and Water Plan.

b) Identified group(s) of agricultural users that are or may be willing to transfer a portion of their water and identified entity(s), group(s) or area(s) where the transferred water could or would be put to the new use and a description of the new use.

Larimer County Open Lands Program, as the owner of the conserved farm and its water, will enter into an IGA with our M&I partner that places 80 C-BT units into a sharing arrangement to be used for M&I purposes 3 of 10 years. The M&I provider, located in Northern Colorado, will put the water to use in its own system

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for municipal use during the years the ATM is utilized. The ATM agreement, as written, does not allow the renting of the ATM water to other entities, to ensure that this water is being utilized when it is needed for the intended purposes only, namely as a drought, drought-recovery and emergency supply of water.

- c) The program/project must at a minimum conceptually describe the technical, institutional, and legal elements of the water transfer. Grant monies may be used to address one or more of these elements. If grant monies are not requested for all three elements, the grant applicant must describe how the applicant has or intends to address the elements, which are not included in the grant request, through other efforts.**

We have overcome various legal, technical, and institutional obstacles in negotiating this agriculture-to-municipal perpetual interruptible supply water sharing agreement, and feel we are now on the cusp of closing on this important project. Northern Water, anticipating these agreements coming down the road under the Colorado Water Plan, and particularly with C-BT water being very flexible in moving from one use to another year-by-year, published rules to provide guidance on the parameters an interruptible supply agreement would need to fit within to be approved by Northern's Board of Directors. Working within these rules and policies, we have been able to overcome all major legal uncertainties in executing this water sharing agreement and provide confidence to our M&I partner.

The technical aspects of this interruptible supply agreement have been negotiated by Larimer County with data and technical support from the water expert team (including the water engineers, economist, agronomist, and water attorney, who are paid for by the 2015 CWCB Alternative Agricultural Water Transfer Methods grant. They have helped us determine the value of the ATM – up front versus year-by-year, the fair terms that would provide for a perpetually viable farm while meeting the M&I provider's needs. The team is also finalizing the Farm and Water Plan that will provide technical guidance on operating the farm under the ATM for the County and future lessee farmers.

Larimer County and the M&I provider being public entities have institutional approval processes that must take place. As a result, County staff has been educating our County Commissioners, Citizen Advisory Board, County Manager, Public Works Director, and our County Attorneys to ensure we are proceeding with the support of the institution in negotiating this first-of-its-kind deal with public dollars at stake. The M&I provider, being a water provider, has more institutional understanding and knowledge of these proposed innovative water sharing ideas, but, as another public entity, must also involve some high-level communications regarding ongoing negotiations and final decision-making.

- d) If grant monies are proposed for use for legal assistance then the use of those funds shall be oriented toward advancing the knowledge of alternative agricultural water transfer methods and techniques; not for preparation of a specific water court case. The total requested funds for legal assistance shall not exceed 40 percent of the total grant request. In addition, grant monies proposed for use for legal assistance must be used to collaboratively address issues and concerns related to agricultural water transfer. Funds shall not be used to solely advance the cause of the project proponents.**

The grant funds requested will be used to close a small negotiation gap between the County Open Lands Program and M&I provider to execute a first-of-its-kind agriculture-to-municipal interruptible supply

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agreement. All legal services are being provided outside of this grant. Larimer County's contracted water attorney who drafted the ATM contract, is being paid for by the 2015 CWCB Alternative Agricultural Water Transfer Methods Grant we received to hire a consultant team for this purpose.

- e) A minimum of a 10 percent cash match of total project cost (past expenditures and "in kind" can not be counted toward the 10 percent match).**

Larimer County commits a cash match of \$100,000 in Private Foundation grant funding that has been dedicated to this project, subject to a successful ATM closing, which is approximately 190% of this grant request. In addition, LCOLP and our M&I provider are contributing, to close the interruptible supply ATM deal, a total of \$5,018,250, 3,770,000 from the M&I provider, and \$1,147,750 from Larimer County, without accounting for the acquisition costs related to the farmland and the native ditch rights to be part of the farmland conservation project but are not included in the ATM agreement.

5. Program/Project Evaluation Criteria

The following grant evaluation criteria will be used by the CWCB to evaluate and make recommendations to fund, partially fund or not fund a grant application. The criteria are aimed at advancing alternative transfer methods from the literature and studies to actual on the ground projects/programs that provide reliable water supply and sustain key elements of the agricultural area from which the water is transferred. The applicant should fully address and explain in detail in the application how, and the extent to which, the proposed project/program meets each of the criteria. However, it should be noted that the project does not have to meet all of the criteria to be eligible to receive funding and the criteria below are not listed in any order of important or priority.

- a. The proposed project/program builds upon the work of former alternative water transfer methods efforts and addresses key areas that have been identified. For more detailed information on this work, please refer to the draft report: *Alternative Agricultural Water Transfer Methods Grant Program Summary and Status Update*, November 2012.**

This report summarizes the past ATM-funded projects and provides a list of findings and recommendations based on this work. Many of the studies that have been funded by the CWCB through the ATM program have identified several barriers to successful implementation. This project seeks to directly address three of the four major barriers to successful implementation of ATMs: permanency issues, high transaction costs and water rights administration uncertainties, and water rights accounting questions associated with ATMs. Our interruptible supply agreement will be perpetual in nature, by following the rules published by Northern Water on subcontracting water through an interruptible supply agreement, the transaction costs and water transfer will be simplified, and the C-BT system is accustomed to year-by-year transfers within it and has an accounting system established, finally the agreement does not allow for partial exercises of the ATM which simplifies the accounting. The CWCB-funded technical team including a water engineer, water attorney, agronomist, economist,

and project manager has been invaluable in answering all of our questions and helping us overcome these barriers, which has directly enabled us to get to this point in negotiating the first-of-its-kind ATM.

b. The proposed project addresses one or more key recommendation(s) in the report:
Alternative Agricultural Water Transfer Methods Grant Program Summary and Status Update, November 2012.

Learning from past CWCB ATM grant recipients' work, we think this ATM overcomes many of the barriers to implementation that were identified by the grantees in Rounds 1 and 2 by incorporating the knowledge and recommendations they identified as well and incorporating some new ideas as well. We have implemented several of the solutions identified by the Colorado Corn Growers Association, one of which is that we are incorporating a combined approach of selling less than half of the water outright to the M&I provider while reserving a first-right-of-refusal to lease it back whenever it is available for lease, retaining ownership of the rest of the water, with 1/3 unencumbered, and 2/3 subject to the water sharing agreement, and we are planning to use some of the up-front capital to replace some of the C-BT with ditch water.

Another of the obstacles this project has been able to overcome is the uncertainty and risk of entering into a water sharing agreement for an M&I provider, when there is water court involved, and its possible the water rights will be in jeopardy of reduction and the water sharing arrangement may not be accepted by the court. Our ATM uses Colorado Big Thompson (C-BT) water, which is administered by Northern Water ("Northern") and its users follow their rules. In August 2016, Northern finalized a set of rules around sharing the beneficial use of C-BT water, which provides helpful guidance and minimizes risk and cost for both parties. We are working our way through Northern's published process now to get the ATM approved by its Board of Directors by September.

Another obstacle identified by prior ATM recipients was the reliability issue, since M&I providers want reliability and certainty into the future – temporary deals won't work because water taps are not temporary, and farmers have been resistant to committing their water rights to certain uses forever. Luckily, LCOLP deals in conservation, and therefore is comfortable with perpetual arrangements like conservation easements. To ensure farm viability now and into the future, we structured the deal to have an up-front payment for the dry-year option, plus a lease-year payment to be paid whenever the option is exercised by the M&I provider. This gives the farm some up-front capital, and also a dry-year payment, which can serve to replace some of the lost income or water on the farm in the years the option is exercised. The dry-year payment is also following an escalator to ensure the price of the dry-year payment keeps up with long-term trends in the water market.

With the C-BT system, infrastructure and water quality have not been concerns, although we are working with the native ditches that deliver to the farm to support needed improvements to reduce delivery losses.

The remaining barrier to implementation that we have been unable to entirely overcome is the risk of implementing a first-of-its-kind water sharing agreement, between partners who have not historically worked together, on a timely basis with an active market for buying C-BT units outright. Part of overcoming this barrier is both entities having a shared conservation ethic – prioritizing an alternative to buy-and-dry

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over strict lowest-price, least-hassle water acquisitions by M&I providers.

- c. Preference will be given to projects that provide additional matching resources in the form of cash, past expenditures and in-kind contributions that are in addition to the required 10% cash match.**

Larimer County commits a cash match of Private Foundation grant funding in the amount of \$100,000 that have been dedicated to this project, subject to a successful ATM closing, which is approximately 190% of this grant request. In addition, LCOLP and our M&I provider are contributing to close the ATM deal a total of \$5,018,250; 3,770,000 from the M&I provider, and \$1,147,750 from Larimer County. These figures do not account for the acquisition costs related to the farmland and the native ditch rights that contribute to the farmland conservation project but are not part of the ATM deal.

- d. The proposed project/program has the ability/potential to produce a reliable water supply that can be administered by the State of Colorado, Division of Water Resources.**

This project, if funded, will implement an on-the-ground ATM project, adding 80 acre feet of ATM water toward the 2015 Colorado Water Plan's goal of 50,000 acre feet by 2050. We hope that by executing this ATM, private landowners, conservation entities, municipalities, and water districts in the Northern Front Range and all around Colorado will use this model as a tool to negotiate additional water sharing arrangements as an alternative to buy-and-dry.

- e. The proposed project/program produces information that is transferable and transparent to other users and other areas of the state (i.e., would provide an example "template" or roadmap to others wishing to explore alternate transfer methods).**

The intent of this ATM is to provide an M&I water provider with an interruptible water supply while preserving a viable irrigated farm perpetually. Executing this first-of-its-kind agricultural to municipal interruptible supply agreement will provide a template for others to utilize, as well as the final farm and water plan, and our final report that includes considerations that went into the formulation of the terms of the agreement.

- f. The proposed project/program addresses key water needs identified in SWSI 2010 or as identified in a basin's needs assessment.**

SWSI 2010 Key Findings and Recommendations identified significant pressures on irrigated agriculture in the State and forecast that as much as 700,000 acres of irrigated land could be dried up if the status quo continues. The South Platte Basin Implementation Plan clearly states a desire to minimize traditional agricultural "buy-and-dry" and maximize the use of alternative water transfer methods (ATMs) to the extent practical and reliable. Further, Chapter 6.4 of the Colorado Water Plan states a goal of achieving water sharing of 50,000 acre feet annually to meet future water needs. This project will result in up to

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80 acre feet of wet water in shared water contributed to these goals. Should this ATM be a successful example, we expect additional similar water sharing arrangements to follow.

- g. The proposed project/program advances the preservation of high value agricultural lands. Value can be viewed as: the value of crops produced, the value the agriculture provides to the local community, and the value the agricultural area provides for open space and wildlife habitat.**

The LCOLP has purchased an irrigated farm, the Little Thompson Farm, which was ranked good-excellent in the Land Evaluation Site Assessment tool primarily for high quality soils and water supplies. The conservation values for which LCOLP protected the property include agricultural, open space, scenic vistas, community buffers, and historic preservation. In addition to these values, productive agriculture contributes greatly to the local economy in Larimer County.

- h. The proposed project/program addresses water quality, or provides other environmental benefits to rivers, streams and wetlands.**

By owning this land in fee, LCOLP is able to ensure that best management practices are used to protect the land and water resources on this farm. With a vested interest in the ditch companies as well, we are contributing to conversations about potential ditch improvements, and other land stewardship improvements we might be able to help with in the area. Additionally, this project and the media coverage of the farm purchase by LCOLP last year has generated a significant number of phone calls and contacts from farmers in the County to pursue similar conservation projects with LCOLP. We are just beginning to pursue a landscape-scale conservation project that could contribute significantly to conserving working lands in Larimer County. We hope that the closing of this water sharing agreement will energize this effort by providing additional funds and a new tool for further conservation of working irrigated farms.

- i. The proposed project/program increases our understanding of and quantifies program/project costs. This could include: institutional, legal, technical costs, and third party impacts.**

The closing of this important first ATM will provide a model for others to follow and its operation over time will provide valuable insights into successful aspects and areas for improvement in future ATMs. This project has been under the watchful eye of many entities to see what the final deal looks like. We hope that this catalyzes more conversations between municipal and agricultural interests that are not exclusively buy-and-dry.

- j. The proposed project/program does not adversely affect access to other sources of water (not subject to/participating in the program) where owners of these water rights may wish to pursue traditional transfer of their rights to other users.**

This project will utilize Northern's policies and procedures for transfers, which incorporate protections to other water right holders and prevent injury. We have also discussed the details of the proposed ATM with the Handy Ditch Board and they have expressed support for the concept and appreciate the county's pursuing alternatives to the traditional buy-and-dry that was a potential outcome for the Little Thompson Farm.

k. The proposed project/program provides a perpetual water supply for the new and/or alternate use and preserves agricultural production and/or helps sustain the area's economy from which the transfer is occurring.

LCOLP is finalizing a perpetual, interruptible water supply agreement with an M&I provider that will provide a reliable supply of drought, drought-firming and emergency water for 3 out of every 10 years to the M&I provider while ensuring a viable farm in perpetuity. In addition to the ATM water, LCOLP has purchased and will retain unencumbered 45 units along with the native ditch water purchased with the farm, and anticipated purchasing a handful of additional ditch shares after the ATM deal closes to sure up irrigation water supplies.

l. The quantity of water produced by the proposed project/program. Preference will be given to programs that can address larger water supply needs.

While the 80 acre feet in this ATM will certainly contribute to the South Platte Basin and Statewide goals for water in water sharing agreements, the impact of a successful model ATM could generate the sharing of several thousand acre feet in a period of years, given that a good chunk of C-BT water still remains in farm ownership and this project has already generated interest in further farmland conservation.

m. Applicants are encouraged to develop projects demonstrating participation and/or support from a diverse set of stakeholders and interests.

LCOLP has received an outcry of support from numerous stakeholders and interests to figure out the concept of pairing land conservation tools with water sharing agreements to conserve working farmlands in Larimer County and across the Front Range. Our financial partners have included the Town of Berthoud's \$100,000 contribution to the land purchase and the award of \$100,000 in private foundation grant funding that will be disbursed upon the successful execution of the ATM. In addition, we have received letters of support from the local Future Farmers of America program, the Young Farmer's Coalition, several Handy Ditch shareholders and Dry Creek Lateral members. The level of interest in farmland conservation in this geographic area is so high that Larimer County will be meeting with a group of the premier land trusts in the State, including Colorado Open Lands, Colorado Cattleman's Agricultural Land Trust, and The Trust for Public Land in June to explore a potential water banking project and landscape-scale conservation effort. To this end, a different M&I provider has expressed interest in the water bank concept in this area.

6. Statement of Work

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Statement of Work

WATER ACTIVITY NAME - Supplemental Funding Request to Help Implement Larimer County ATM Project

GRANT RECIPIENT – Larimer County Open Lands Program

FUNDING SOURCE - CWCB Alternative Agricultural Water Transfer Methods Grant Program

INTRODUCTION AND BACKGROUND

LCOLP is leading the effort to prove the concept of implementing a perpetual Alternative Agricultural Water Transfer Methods (ATM) partnership with an M&I provider located in the South Platte River Basin. Over a year and a half, Larimer County staff and the consultant team have been working diligently to negotiate an ATM arrangement that we are confident will serve the farmer's needs long-term and that will meet the emergency, drought, and drought-firming water supply needs of an M&I water provider as well.

LCOLP has been diligently negotiating with an M&I provider and are now on the cusp of closing on the first-of-its-kind agriculture-to-municipal interruptible supply contract that perpetually protects irrigated farm land while providing our M&I partner a perpetual, reliable supply of drought, drought-recovery, and emergency water. These grant funds of \$52,750, if rewarded, will fill the small negotiation gap between LCOLP and our municipal partner. Should CWCB choose to fund this proposal, the County and our M&I partner will be poised to close on the ATM.

OBJECTIVES

The objective of this project is to implement Colorado's first ever perpetual Agricultural-Municipal water sharing agreement. The grant request of \$52,750 will fill the small negotiation gap between LCOLP and our municipal partner.

TASKS

TASK 1 –

Description of Task

Execute the ATM agreement between Larimer County Open Lands Program and the M&I Provider and attend a 'closing' of the ATM deal.

Method/Procedure

Larimer County Open Lands Program and the M&I Provider will obtain approvals from their respective Boards and Commissions on the ATM agreement. In addition, the Parties will request approval from Northern Colorado Water Conservancy District for the approval of a Subcontract of Use of the C-BT units

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for ATM purposes. The Parties will then have a final ‘closing’ to transfer funds and sign necessary documents, expected to be in August of 2017.

Deliverable

LCOLP will provide the CWCB a copy of the executed ATM agreement.

REPORTING AND FINAL DELIVERABLE

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 statement 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.

BUDGET

Provide a detailed budget by task including number of hours and rates for labor and unit costs for other direct costs (i.e. mileage, \$/unit of material for construction, etc.). A detailed and perfectly balanced budget that shows all costs is required for the State’s contracting and purchase order processes. Sample budget tables are provided below. Please note that these budget tables are examples and will need to be adapted to fit each individual application. Tasks should correspond to the tasks described above.

Total Costs				
Task	Labor	Other Direct Costs	Matching Funds (If Applicable)	Total Project Costs
Task 1 - Execute ATM Agreement and Closing	n/a	\$51,750	\$100,000 Private Foundation \$3,770,250 ATM partner \$1,147,750 Larimer County Total cash match: \$5,018,250	\$5,070,000

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SCHEDULE

Task	Start Date	Finish Date
1: Execute ATM Agreement and Closing	Upon Notice To Proceed	NTP + 365 days

PAYMENT

Payment will be made based on actual expenditures and invoicing by the applicant. Invoices from any other entity (i.e. subcontractors) cannot be processed by the State. The request for payment must include a description of the work accomplished by major task, and estimate of the percent completion for individual tasks and the entire water activity in relation to the percentage of budget spent, identification of any major issues and proposed or implemented corrective actions. The last 5 percent of the entire water activity budget will be withheld until final project/water activity documentation is completed. 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 the public and help promote the development of alternative agricultural transfer methods.

Additional Information – If you would like to add any additional pertinent information please feel free to do so here.

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The above statements are true to the best of my knowledge:

Signature of Applicant:



Print Applicant's Name:

Kerri Rollins

Project Title:

Open Lands Program Manager

Return this application to:

Mr. Craig Godbout
Colorado Water Conservation Board
Water Supply Planning Section
1313 Sherman St., Room 721
Denver, CO 80203
craig.godbout@state.co.us