



**COLORADO**

**Colorado Water  
Conservation Board**

Department of Natural Resources

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**TO:** Colorado Water Conservation Board Members

**FROM:** Alexander Funk, Program Manager  
Alternative Agricultural Water Transfer Methods Grant Program (ATM)  
Interstate, Federal, and Water Information Section

**DATE:** May 4th, 2018

**AGENDA ITEM:** 12

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**Staff Recommendation/Action Items: ATM Grant Request**

Applicant: Rio Grande Headwaters Trust

Project Name: Cactus Hill/Alamosa ATM Conservation Easement

Amount: \$150,000

If this request is approved, it will constitute the 31st ATM Grant approved by the CWCB. Of the previous 30 projects, 8 are in-progress, and 21 have been completed or closed-out, and one is being contracted.

The current ATM balance is \$277,308. If this grant request is approved and comes under contract, the remaining balance will be \$77,308.

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 these ATM Grant applications are complete and the proposed activity meets the eligibility requirements in the C&G. The Water Activity Summary Sheet, ATM Grant Application, Statement of Work, Budget and Schedule are attached.

**Staff recommendation:**

Staff recommends approval of up to \$150,000 from the Alternative Agricultural Water Transfer Methods Grant Program to help fund the "Cactus Hill/Alamosa ATM Conservation Easement" project.

**Alternative Agricultural Water Transfer Methods – Competitive Grant Program**  
**Water Activity Summary Sheet**  
**May 23-24, 2018**  
**Agenda Item 12**

**Applicant & Grantee:** Rio Grande Headwaters Land Trust

**Water Activity Name:** Cactus Hill/Alamosa ATM Conservation Easement

**Water Activity Purpose:** Development and purchase of a conservation easement and an ATM agreement with a local municipal/industrial water provider while providing perpetual protection of irrigated lands.

**Drainage Basin:** Rio Grande

**Water Source:** Alamosa River

**Amount Requested:** \$150,000

**Matching Funds:** **\$206,000** total cash match (\$170,000 cash match from applicant, and a \$36,000 in-kind contribution from the landowner)

<b>Staff Recommendation</b>
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Staff recommends approval of up to \$150,000 from the Alternative Agricultural Water Transfer Methods Program to help fund the “Cactus Hill/Alamosa ATM & Conservation Easement.”
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**Water Activity Summary:** Rio Grande Headwaters Land Trust (RiGHT) will use the requested ATM Grant funds to develop and purchase a conservation easement on a 360-acre, working agricultural property (“Cactus Hill”) in Conejos County along the Alamosa River. The conservation easement will tie ownership of 2 cfs of senior and approximately 10 cfs of more junior surface water rights to the property. The conservation easement will also include an ATM component that will give the City of Alamosa enough certainty of future availability of water that they will be willing to lease that water rather than buy-and-dry. The conservation easement will achieve this goal by incorporating a renegotiable lease agreement between the landowner and the City of Alamosa for approximately 40 acre-feet of water annually into perpetuity; providing the permanence and enforceability to give all parties comfort that the lease agreement can remain in place, but the water rights can never be separated from the property.

The City of Alamosa will use the water to offset the impact of its wells on the Alamosa River, which is a requirement of the new Rio Grande Basin Groundwater Rules and Regulations. Should the grant be awarded, this project can provide the foundation to significantly expand the use of ATMs in the Rio Grande Basin to help other groundwater users comply with the new rules and regulations. The need for augmentation water in the Basin is real and significant, and all groundwater users will soon need to account for their depletions. RiGHT believes that this project can become a model for replacing depletions with real, wet water while providing long-term certainty for both sides, have an environmental benefit of increased flows, allow downstream agricultural producers to continue to use their full water rights productively, and help protect the region’s agricultural economy.

From RiGHT’s perspective, this project will also demonstrate that small, rural local governments that do not have the capacity or resources to implement their own land protection programs can work with

a local land trust or other entity to structure innovative ATM projects that permanently protect working farms and ranches, while meeting municipal and industrial water needs. Developing the ATM language for the conservation easement will help RiGHT and other Land trusts, especially those with limited resources, who are asked by landowners, local governments, or institutions to participate in similar projects. It will help provide a template so that this type of conservation easement projects feels more accessible, rather than costly.

Upon approval of funds, RiGHT will collaborate with the City of Alamosa and the landowner to determine how both the lease and the conservation easement will function. In particular, RiGHT will be primarily interested in the technical operation aspects, ensuring that there is minimal impact to the agricultural and environmental qualities of the property. Upon completion of all due diligence, CWCB funds will pay for approximately half of the purchase price of the conservation easement.

**Discussion:** Staff supports RiGHT's effort based on: the project team's successful track record of protecting working lands and associated water rights in the Rio Grande Basin; the need to execute additional alternative water transfer agreements; to meet the Rio Grande Basin Implementation Plan's goal of managing water to sustain optimal agricultural economy throughout the Basin's communities; and when successful this effort will further Colorado's Water Plan's Measurable Objectives and Critical Goals and Actions with regard to ATMs.

**Issues/Additional Needs:** Staff will work cooperatively with the applicant's team to further refine the Budget to more directly align with the tasks identified in the Statement of Work, otherwise no issues or additional needs have been identified.

**CWCB Project Manager:** Alexander Funk



# COLORADO WATER CONSERVATION BOARD



## ALTERNATIVE AGRICULTURAL WATER TRANSFER METHODS COMPETITIVE GRANT PROGRAM

### GRANT APPLICATION FORM

Cactus Hill/Alamosa ATM Conservation Easement  
Rio Grande Basin

**Program/Project Name**

**River Basin Name**

\$150,000

\$206,000

Amount of Funds Requested

Amount of Matching Funds

**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](mailto: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**  
October 2010

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

1. Applicant Name(s):

Mailing address:

Taxpayer ID#:  Email address:

Phone Numbers: Business:

Home:

Fax:

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

Name:

Position/Title

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

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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.
  - 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.
  - 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.
  - d) A brief history of the Applicant(s).
  - e) Please include any relevant Tabor issues relating to the funding request that may affect the Contracting Entity.

The Rio Grande Headwaters Land Trust (RiGHT) is a 501c3 non-profit organization formed in 1999 with a mission to “Conserve Our Land, Water and Way of Life in the San Luis Valley.” RiGHT is a local land trust working throughout the San Luis Valley (SLV) to protect and support working ranches and farms, water resources, wildlife habitat, and scenic landscapes. To date, RiGHT has protected nearly 25,000 acres of land and associated water rights in the SLV through voluntary, incentive-based conservation easements on over 35 different properties.

RiGHT currently has three staff members and an annual operating budget of over \$300,000 per year. Allen Law, Conservation Director, 719-657-0800, allenl@riograndelandtrust.org will be the primary contact for this project and will be supported by Executive Director Nancy Butler and experienced conservation attorney Allan Beezley. While this conservation easement will be RiGHT's first with an explicit ATM goal, RiGHT staff have attended numerous trainings on the specific topic and about Western water law and conservation easements generally.

In addition to the experience listed above, RiGHT has worked successfully with CWCB on six grants in the past and plans to close on another CWCB-funded conservation easement later this year.

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

#### 1. Purpose of the Program/Project

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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 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.

RiGHT will use the requested ATM Grant funds to develop and purchase a conservation easement on the Cactus Hill property (“Cactus Hill” or “property”) in Conejos County along the Alamosa River. This conservation easement will include an ATM component that will give the City of Alamosa (the City) enough certainty of future availability of water that they will be willing to lease that water rather than buy-and-dry. The conservation easement will achieve this goal by requiring the landowner to participate in a lease agreement for approximately 40 acre feet of water annually with the City into perpetuity. The City will use the water to offset the impact of its wells on the Alamosa River watershed, which is a requirement of the new Rio Grande Basin Groundwater Rules and Regulations (RRs).

The conservation easement will tie ownership of 2 cfs of El Viejo (Priority #1) and approximately 10 cfs of more junior surface water rights off the Alamosa River to the property, an approximately 360 acre farm and ranch. These water rights irrigate about 250 acres of alfalfa and grass owned by the Millers - a young, minority, female sheep rancher and her father. Additionally, the easement will prohibit development and subdivision to protect the agricultural and environmental values of the property. Unlike most conservation easements, this conservation easement will require a portion of the #1 El Viejo water right to be leased to the City and likely outline the process for renegotiating that lease on a multi-year term basis.

In its research, the City determined that Cactus Hill held the best water right for its needs. The Millers are interested in leasing some of their water rights but didn’t want to sell or engage in a perpetual, fixed-price lease. The City is uncomfortable with a term lease unless its future availability can be guaranteed by a legally-binding mechanism like a conservation easement. Without the conservation easement and RiGHT’s involvement providing a middle-ground, it is much less likely that a workable ATM could be reached.

The City will pay for all engineering and court costs related to the water right change of use as part of its new, overall Augmentation Plan that will be required by the RR. These costs are likely a substantial contribution but are not included as match in this grant application, which focuses on the conservation easement component.

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Engineering is expected to determine that the leased water will usually be diverted from the Alamosa River at its current headgate, run down the existing El Viejo ditch, which flows through Cactus Hill, and then be returned to the stream to replace the depletions that the City owes. It is possible that the leased water may need to be returned to the river near the headgate a few days of the year, and the City would pay for any new infrastructure that's necessary to accomplish this use. Task #1 will help pay for engineering required by RiGHT and the Millers to ensure that conservation values – especially agriculture and environmental health – are protected, which is a step above-and-beyond what the City would do in its due diligence. The Millers and RiGHT anticipate that this engineering will show that a relatively small and less productive acreage will need to be fallowed, potentially rotationally, which will minimally impact the productivity of Cactus Hill.

The lease is expected to be on a 10-30 year term basis, with opportunities to renegotiate the price, extent, and operation of the lease at the end of each term. The perpetual conservation easement would require the landowner of the property to continue to participate in the lease, likely only reserving the possibility of terminating the lease requirement if all parties agree to terminate and no similar, publically-beneficial program is available. The exact terms of the lease and conservation easement are not yet final. Task #1 will also pay some of RiGHT's staff and legal costs in developing the exact language of the lease and conservation easement.

Task #2 will pay for approximately half of the purchase price of the conservation easement. This purchase price is based on RiGHT's best estimates for the value of the easement and will be verified by an appraisal within 60 days of closing.

While this project is limited in scope, leasing 40 acre feet per year on a small river, RiGHT's hope is that it can provide the foundation to significantly expand the use of ATMs in the Rio Grande Basin to help other groundwater users comply with the new RRs. The need for augmentation water in the Basin is real and significant, as all groundwater users (likely through their Groundwater Management SubDistrict) will soon need to account for their depletions. Previously SubDistrict #1 has primarily used forbearance agreements, paying cash for its damages to water rights holders; however, RiGHT believes that this project can become a model for replacing depletions with real, wet water. ATMs like the one enabled by this project increase long-term certainty for both sides, have an environmental and recreation benefit of increased flows, and allow downstream agricultural producers to continue to use their full water rights productively.

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

The project area is an approximately 360 acre farm and ranch on the middle Alamosa River, which is located in Conejos County and runs near the small agricultural community of Capulin (see Overview Map). The Alamosa River flows down from the South San Juan Mountains and Rio Grande National Forest, which are about 15 miles upstream of the property. The property is mostly flat with some slight depressions and hills, likely from river channel movements. The #1 Priority El Viejo diversion is about 4 miles upstream of the property. It enters a holding reservoir and then is primarily used to irrigate mixed grass-alfalfa pastures and alfalfa hay fields. The water return area is a spectacular stretch of the Alamosa River that has undergone significant restoration work and now supports a high water table and healthy riparian vegetation.

Roughly 250 acres of Cactus Hill are irrigated, although not all by the El Viejo water right. Of this 250 acres, about 120 is alfalfa hay, primarily under center-pivot sprinkler. The remaining approximately 130 irrigated acres is alfalfa-grass or relatively natural grass-shrub mix and is primarily used as pasture. This land is less regularly irrigated than the alfalfa due to its lower economic value. As noted above, a small part of what has historically been irrigated will be fallowed under the terms of the lease.

The new water use will be returning the water to the stream to augment the City's depletions to the Alamosa River, which are caused by its confined-aquifer groundwater use many miles away. The City of Alamosa's groundwater use supports has a population of approximately 10,000 people and the economic hub of the rural San Luis Valley. It is near Great Sand Dunes National Park and also houses Adams State University.

Both the City and Conejos County are in low-income, rural areas compared to the rest of the state, with median incomes below 50% of the state median income. Capulin in particular is extremely rural and economically depressed. Its major industry is agriculture, and its population is mostly Hispanic. Many families can trace their roots back to when the area was still a part of Mexico.

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**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 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.

The water transfer will almost certainly involve some long-term agricultural land fallowing, although enough water will remain in agricultural use to keep the ranch economically viable, and the leased water will still benefit the property by serving as carriage water, providing some ditch leakage, and minor sub-irrigation benefit.

The City’s engineering will calculate and quantify the historic consumptive use of the ranch, likely taken as a whole, by analyzing past irrigation and cropping practices. Even though the City will only lease a small portion of the water right, this information will be useful to RiGHT and the Millers in planning for how the ATM will actually affect the land and their operations. Return flows are not likely to be a major issue, as the purpose of the lease is to continually return water to the stream near its old point of use.

**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 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.

See Question #1 for the function, purpose, and restrictions of the conservation easement.

In addition, the project impacts numerous other agricultural producers’ water rights on the Alamosa River by making them whole rather than simply paying them cash for damages. Though forbearance agreements are a useful and important tool, most farmers and ranchers that RiGHT has spoken with resoundingly answer that they would rather have more water than a payment.

- 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.

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This project has both an identified lessor, the Millers, and leasee, the City of Alamosa. The parties are near an agreement but need RiGHT's involvement to make the lease agreeable to both of them.

- 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.

The technical elements of the water transfer are expected to primarily be addressed by the City, and are largely excluded from this grant other than a small amount to help RiGHT and the Millers determine the best management strategies for the conservation and agricultural future of the property.

The grant money will primarily address the legal and institutional challenge of creating an acceptable middle ground between buy-and-dry and a term lease. The legal challenge is that the City needs to ensure the future availability of this water right beyond the terms of the initial lease period, and likely beyond the lifetimes of all of the current parties. Based on CWCB publications and RiGHT staff conversations with Colorado Open Lands and others, this is a common barrier to ATM's that other attorneys, like Peter Nichols, and land trusts, like Colorado Open Lands, are studying. The institutional challenge is that the City of Alamosa is not willing or able to purchase or steward the perpetual conservation easement that it needs on Cactus Hill to solve the legal challenge. Grant funds will help RiGHT to create and purchase such a conservation easement, meeting both of these challenges.

This project will demonstrate that small, rural local governments or other institutions that do not have the capacity or desire to run their own land protection programs can work with their local land trust to achieve similar outcomes to the more creative ATM projects that are being pioneered in the Front Range. (See Using Conservation Easements to Secure Future Municipal Supplies, 2012).

- 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.

Legal assistance funding will be to help RiGHT develop a conservation easement that binds current and future landowners to participate in the lease without eliminating their ability to negotiate the price, extent, and operation of the lease in the future. RiGHT will use attorney Allan Beezley and potentially also Peter Nichols, who both have significant experience with similar transactions.

Developing this language will help RiGHT and other Colorado land trusts, especially smaller land trusts, who are asked by landowners, local governments, or other institutions to participate in similar projects. It

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will provide a template so that this type of conservation easement project feels easy and accessible, rather than costly.

- 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).

RiGHT will raise at least \$170,000 in cash match towards the funding of the easement and its associated costs, likely from the Gates Family Foundation and LOR Foundation, which clearly meets the cash match requirements. Additional match will be through an estimated \$36,000 landowner donation from the value of the conservation easement. The landowner donation is based on an estimate and will be finalized after the conservation easement is appraised.

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

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- 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.
- h. The proposed project/program addresses water quality, or provides other environmental benefits to rivers, streams and wetlands.
- 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.
- 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.
- 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.
- l. The quantity of water produced by the proposed project/program. Preference will be given to programs that can address larger water supply needs.
- m. Applicants are encouraged to develop projects demonstrating participation and/or support from a diverse set of stakeholders and interests.

### 6. Statement of Work

Provide the proposed statement of work. On the following page there is an example format for the statement of work. You can use the example format or your own format, provided that comparable information is included. The statement of work should outline by task how the proposed program/project will be accomplished. It is important that the statement of work detail the specific steps, activities/procedures that will be followed to accomplish each individual task and the overall program/project and the specific products/deliverables that will be accomplished. The statement of work must include but not be limited to: task description, key personnel, budget, schedule and deliverables and the final report/project documentation upon completion of the water activity.

The statement of work will form the basis for the contract between the Applicant and the State of Colorado. In short, the Applicant is agreeing to undertake the work for the compensation outlined in the statement of work and budget, and in return, the State of Colorado is receiving the deliverables/products specified. Please note that costs incurred prior to execution of a contract or purchase order are not subject to reimbursement.

Please provide a detailed statement of work using the following template. Additional sections or modifications may be included as necessary. Please define all acronyms. If a grant is awarded an independent statement of work document will be required with correct page numbers.

## **Statement of Work**

**WATER ACTIVITY NAME** - Cactus Hill/Alamosa ATM Conservation Easement

**GRANT RECIPIENT** - Rio Grande Headwaters Land Trust

**FUNDING SOURCE** - Alternative Agricultural Water Transfer Methods Grant

### **INTRODUCTION AND BACKGROUND**

Provide a brief description of the project. (Please limit to no more than 200 words; this will be used to inform reviewers and the public about your proposal)

RiGHT will use the requested ATM Grant funds to develop and purchase a conservation easement on the Cactus Hill property in Conejos County along the Alamosa River. This conservation easement will include an ATM component that will give the City of Alamosa (the City) enough certainty of future availability of water that they will be willing to lease that water rather than buy-and-dry. The conservation easement will achieve this goal by requiring the landowner to participate in a lease agreement for approximately 40 acre feet of water annually with the City into perpetuity.

This project will demonstrate that small, rural local governments or other institutions that do not have the capacity or desire to run their own land protection programs can work with their local land trust to achieve similar outcomes to the more creative ATM projects that are being pioneered in the Front Range. ATMs like the one enabled by this project increase long-term certainty for both sides, have an environmental and recreation benefit of increased flows, and allow downstream agricultural producers to continue to use their full water rights productively.

### **OBJECTIVES**

List the objectives of the project

- Provide the City of Alamosa with a reliable water source to augment its depletions to the Alamosa River
- Allow the Miller family to continue to farm and ranch their Cactus Hill property and improve their economic sustainability
- Benefit the environment by permanently conserving the Cactus Hill Property and adding flows back to the Alamosa River
- Ensure other agricultural users on the Alamosa River receive a greater share of their allotted water rights
- Demonstrate a model for collaboration between an agricultural producer, government organization, and local land trust where all parties goals are met

## **TASKS**

Provide a detailed description of each task using the following format

### **TASK 1 – Project Research and Development**

#### Description of Task

During Task 1 RiGHT will collaborate with City attorneys and water engineers, the Miller family, and its own contracted attorneys and engineers to determine how both the lease and conservation easement will function. As to the lease, RiGHT will primarily be interested in the technical operation aspects, ensuring that there is minimal impact to the agricultural and environmental qualities of the property. RiGHT will also have limited input into the legal aspects of the lease to ensure that it is compatible with its organizational goals, this specific conservation easement, and the legal possibilities of conservation easements generally.

Task 1 funds will be used solely for costs unique to the ATM component of the conservation easement. All other related costs for personnel, due diligence, etc. during the development of the conservation easement will be borne by RiGHT, the landowner, and/or other funders and are included as match.

#### Method/Procedure

Methods will involve significant staff and attorney time to attend meetings, review documents, and research legal possibilities and limitations. Staff and engineer time will also be required to determine what operations of the lease are possible and minimize agricultural and environmental impacts.

#### Deliverable

RiGHT and partners will deliver:

- A lease document
- Engineering reports relating to the operation of the lease
- Conservation Easement deed language incorporating the lease, as well as template language for future, similar projects

### **TASK 2 – Purchase of Conservation Easement**

#### Description of Task

Task 2 consists of the “bargain purchase” of a conservation easement on the property and its associated water rights. Task 2 funds will be used solely toward the acquisition of the conservation easement. The Task 2 funds would be expended at closing on the conservation easement through a Title Company, only when all the due diligence is finalized, in a similar process to RiGHT’s prior WSRA awards.

## Alternative Agricultural Water Transfer Methods – Grant Application Form

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Matching funds include additional funding raised for the purchase of the conservation easement (cash) and an estimated donation of value from the landowner (in-kind).

### Method/Procedure

The conservation easement funded through this application will be held by the RiGHT and the implementation will be conducted according to:

- All legal requirements
- Best practices determined by national land trust standards, and
- All due diligence requirements of RiGHT and the project's funders will be fulfilled prior to and as a condition of closing.

### Deliverable

The deliverable from this activity will be the completion of a perpetual conservation easement on the Paulson Ranch.

## **Alternative Agricultural Water Transfer Methods – Grant Application Form**

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### **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.

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## 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									
	Labor			Other Direct Costs			Matching Funds (If Applicable)		Total Project Costs
Task 1 - Project Research and Development	\$20,000						\$ 30,000		\$50,000
Task 2 - Purchase of Conservation Easement				\$130,000			\$140,000		\$270,000
In-Kind Contributions							\$ 36,000		
Total Costs:									
	\$20,000			\$130,000			\$206,000		\$356,000

**Labor**

Project Personnel: Flat Fees	Grant			Match					Total
	Engineer	Attorney	RiGHT Staff	Appraiser	Geologist	Biologist	Land Survey	Title & Closing	
Task 1	\$5,000	\$10,000	\$5,000	\$20,000	\$1,000	\$2,000	\$5,000	\$2,000	\$50,000
Total Costs:									
	\$5,000	\$10,000	\$5,000	\$20,000	\$1,000	\$2,000	\$5,000	\$2,000	\$50,000

Other Direct Costs				
Item: Purchase of Conservation Easement	Grant		Match	Total
Task 2	\$130,000		\$140,000	\$270,000
Total Costs:				
	\$130,000		\$140,000	\$270,000

In-Kind Contributions (If Applicable)				
Item: Donation of Conservation Easement	Grant		Match	Total
Task 2			\$36,000	\$36,000
Total InKind:				
			\$36,000	\$36,000

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## SCHEDULE

Provide a project schedule including key milestones for each task and the completion dates or time period from the Notice to Proceed (NTP). This dating method allows flexibility in the event of potential delays from the procurement process. Sample schedules are provided below. Please note that these schedules are examples and will need to be adapted to fit each individual application.

### Schedule

Task	First 6 Months						Second 12 Months					
	6/18 – 9/18			10/18 – 12/18			1/19 – 6/19			7/19 - 12/19		
1 – R&D												
2 – Purchase												
Final Reports												

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### **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.

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

**Signature of Applicant:** Allen Law

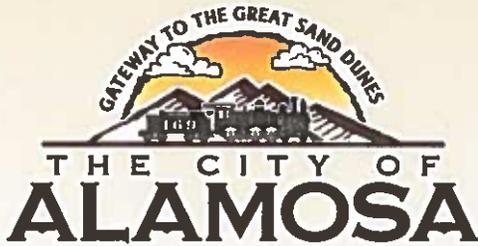
**Print Applicant's Name:** Allen Law

**Project Title:** Cactus Hill/Alamosa ATM Conservation Easement

### **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](mailto:craig.godbout@state.co.us)

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Requests\2018\_05CactusHillsATM\Current Docs\Cactus Hill ATM CE Grant Application FINAL.doc



April 2, 2018

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

Dear Members of the Board:

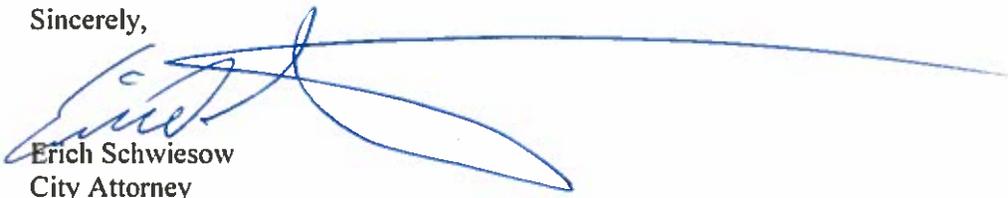
The City of Alamosa strongly supports the Rio Grande Headwaters Land Trust's (RiGHT) application for Alternative Ag Water Transfer Methods Grant funding develop and purchase a conservation easement on the Cactus Hill Farm that will ensure the future availability of a key water right for the City to lease.

The City has been looking for two years for replacement water on the Alamosa River. We had a water right under contract, only to have it fall through when the ditch company shareholders refused to amend their bylaws which prohibit the use of water for any but agricultural purposes – a common bylaw limitation in the San Luis Valley. There are limited water rights on the Alamosa River, and no ability to exchange water up the Alamosa from the Rio Grande to cover depletions to the Alamosa.

Because the Miller family understandably has hesitations about outright sale of the water right, we have offered to lease the water in mid-term agreements if continued participation can be guaranteed. The City believes that a conservation easement is the appropriate tool to secure this type of agreement and is excited to work with RiGHT on developing this project in a way that is a win for agriculture, the environment, and the people of Alamosa.

The City of Alamosa gives its enthusiastic support for this grant application. Thank you for your consideration.

Sincerely,



Erich Schwiesow  
City Attorney

cc: RiGHT, via email  
Alan and Elena Miller via email

March 29, 2018

Colorado Water Conservation Board  
Water Supply Planning Section  
Alternative Ag Water Transfer Methods Grant Application  
Attn: Water Supply Planning Section/ATM  
1313 Sherman Street, Room 718  
Denver, CO 80203

Dear Members of the Board,

This letter is to confirm that our family is in the process of working with the Rio Grande Headwaters Land Trust (RiGHT) to place a conservation easement on our ranch in Conejos County and with the City of Alamosa on a creative water lease agreement.

Like many farmers and ranchers, we are facing economic pressure right now and believe that this project is a great way to diversify and sustain our family farm into the future. It is an idea we have talked about for years and we are excited to follow through with preserving this farm for future generations. This farm has been in our family for generations and would love to see that legacy continue. We deeply connect with this farm and hope to maintain its beauty forever.

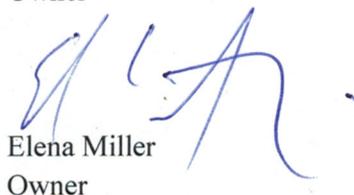
The CWCB has been a partner before on this property. In the early 2000's, the CWCB partnered with a CDPHE 319 NPS grant to address a riverbank stabilization project on the Alamosa River, which runs through the farm. The CWCB contributed a substantial amount of funding to the project. This restoration effort was considered unique because of its length and the number of stakeholders involved in a river community which is one of the poorest in the state of Colorado. Maya, my wife, and I played a significant role in this effort and the Alamosa River Restoration Foundation was awarded the "Excellence in Project Implementation" from the CDPHE in 2013. We have witnessed firsthand the great conservation and restoration work done by the CWCB and we look forward to future endeavors.

We appreciate the consideration of CWCB for the grant application from RiGHT and are genuinely excited about the prospects of protecting our beautiful ranch.

Sincerely,



Alan Miller  
Owner



Elena Miller  
Owner



Mr. Craig Godbout  
Colorado Water Conservation Board  
Water Supply Planning Section  
1313 Sherman St., Room 721  
Denver, CO 80203

April 17, 2018

Dear Reviewers,

The Gates Family Foundation is pleased to submit this letter of support for the Rio Grande Headwaters Land Trust's application for Colorado Water Conservation Board Alternative Transfer Mechanism program funding to support the Cactus Hill/Alamosa Alternative Transfer Mechanism (ATM) easement. We believe this project will provide enduring benefits to the City of Alamosa, its residents, area agricultural producers, and natural values. The Foundation invested in this project in April 2018 based on its potential to serve as a working example of water use and management innovation.

In its current strategic plan, the Gates Family Foundation has prioritized support of "projects that advance new tools, processes, and ideas to realize a long-term sustainable balance between future urban, agricultural, recreational, and environmental water needs, and encourage implementation of tangible policies toward a more balanced system of water resource management statewide." To this end, the Cactus Hill/Alamosa ATM easement project represents a substantive step forward in the Rio Grande Basin, and is consistent with the Foundation's Natural Resources objectives.

We believe this ATM easement project will help increase understanding of the utility of this water management tool and contribute to the future development of collaborative water conservation and management strategies. Connecting communities, agriculture, and conservation helps support sustainability, and encourages resilience for rural economies. The Cactus Hill/Alamosa ATM project creates a direct connection between a local conservation opportunity, municipal water security, and state-level water conservation and management priorities.

The Gates Family Foundation's support of this project underscores the significance of possible public investment and its resulting value to the community and region. It provides a model with the potential for statewide impact. We believe this project is strategically positioned to support the State Water Plan's ATM objectives, and a manifestation of the long-term vision for resiliency and sustainable growth shared by the Rio Grande Headwaters Land Trust and its many partners.

Thank you for considering this letter of support. Please feel free to contact me if you have additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Russell Schnitzer', written over a light blue horizontal line.

Russell Schnitzer  
Program Officer, Natural Resources