

STATE OF COLORADO
Colorado Water Conservation Board
Grant Agreement
with
Lower South Platte Water Conservancy District
Contract Number C150482

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1. PARTIES

This Grant Agreement (hereinafter called “Grant”) is entered into by and between the Lower South Platte Water Conservancy District (hereinafter called “Grantee”), and the STATE OF COLORADO acting by and through the Department of Natural Resources, Colorado Water Conservation Board (hereinafter called the “State or CWCB”).

2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY.

This Grant shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the “Effective Date”). The State shall not be liable to pay or reimburse Grantee for any performance hereunder, including, but not limited to costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

3. RECITALS

A. Authority, Appropriation, And Approval

Authority for the agency entering into this Contract arises from Colorado Revised Statutes (CRS) 39-29-109(2)(c), 37-75-102 and 37-75-104(2)(c) and Senate Bill 06-179 adopted by the 2006 General Assembly, and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

B. Consideration

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Grant.

C. Purpose

The Alternative Agricultural Water Transfer Methods Competitive Grant Program provides money to complete water activities that further the understanding and development of alternative agricultural water transfers in Colorado. This Grant is for the Lower South Platte Water Cooperative, Operational Development of Alternative Agriculture Water Transfer Methods in the South Platte Basin.

D. References

All references in this Grant to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

4. DEFINITIONS

The following terms as used herein shall be construed and interpreted as follows:

A. Budget

“Budget” means the budget for the Work described in **Exhibit A**.

B. Evaluation

“Evaluation” means the process of examining Grantee’s Work and rating it based on criteria established in §6 and **Exhibit A**.

C. Exhibits and other Attachments

The following are attached hereto and incorporated by reference herein: **Exhibit A and B**.

D. Goods

“Goods” means tangible material acquired, produced, or delivered by Grantee either separately or in conjunction with the Services Grantee renders hereunder.

E. Grant

“Grant” means this Grant, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this Grant, and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to Colorado State law, Fiscal Rules, and State Controller Policies.

F. Grant Funds

“Grant Funds” means available funds payable by the State to Grantee pursuant to this Grant.

G. Party or Parties

“Party” means the State or Grantee and “Parties” means both the State and Grantee.

H. Program

“Program” means the The Alternative Agricultural Water Transfer Methods Competitive Grant Program that provides the funding for this Grant.

I. Review

“Review” means examining Grantee’s Work to ensure that it is adequate, accurate, correct and in accordance with the criteria established in §6 and **Exhibit A**.

J. Services

“Services” means the required services to be performed by Grantee pursuant to this Grant.

K. Sub-grantee

“Sub-grantee” means third-parties, if any, engaged by Grantee to aid in performance of its obligations.

L. Work

“Work” means the tasks and activities Grantee is required to perform to fulfill its obligations under this Grant and **Exhibit A**., including the performance of the Services and delivery of the Goods.

M. Work Product

“Work Product” means the tangible or intangible results of Grantee’s Work, including, but not limited to, software, research, reports, studies, data, photographs, negatives or other finished or unfinished documents, drawings, models, surveys, maps, materials, or work product of any type, including drafts.

5. TERM and EARLY TERMINATION.

Initial Term-Work Commencement

The Parties respective performances under this Grant shall commence on the later of either the Effective Date or August 1, 2011. This Grant shall terminate on December 31, 2013 unless sooner terminated or further extended as specified elsewhere herein.

6. STATEMENT OF WORK

A. Completion

Grantee shall complete the Work and its other obligations as described herein and in **Exhibit A** on or before December 31, 2013. The State shall not be liable to compensate Grantee for any Work performed prior to the Effective Date or after the termination of this Grant.

B. Goods and Services

Grantee shall procure Goods and Services necessary to complete the Work. Such procurement shall be accomplished using the Grant Funds and shall not increase the maximum amount payable hereunder by the State.

C. Employees

All persons employed by Grantee or Sub-grantees shall be considered Grantee's or Sub-grantees' employee(s) for all purposes hereunder and shall not be employees of the State for any purpose as a result of this Grant.

7. PAYMENTS TO GRANTEE

The State shall, in accordance with the provisions of this §7, pay Grantee in the following amounts and using the methods set forth below:

A. Maximum Amount

The maximum amount payable under this Grant to Grantee by the State is \$300,477, as determined by the State from available funds. Grantee agrees to provide any additional funds required for the successful completion of the Work. Payments to Grantee are limited to the unpaid obligated balance of the Grant as set forth in **Exhibit A**. The maximum amount payable by the State to Grantee during each State fiscal year of this Grant shall be:

\$300,477 in FY2012
\$300,477 in FY2013, minus any funds expended in FY2012
\$300,477 in FY2014, minus any funds expended in FY2012 and 2013

i. Advance, Interim and Final Payments

Any payment allowed under this Grant or in **Exhibit A** shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant or such Exhibit. Grantee shall initiate any payment requests by submitting invoices to the State in the form and manner set forth and approved by the State.

ii. Interest

The State shall fully pay each invoice within 45 days of receipt thereof if the amount invoiced represents performance by Grantee previously accepted by the State. Uncontested amounts not paid by the State within 45 days may, if Grantee so requests, bear interest on the unpaid balance beginning on the 46th day at a rate not to exceed one percent per month until paid in full; provided, however, that interest shall not accrue on unpaid amounts that are subject to a good faith dispute. Grantee shall invoice the State separately for accrued interest on delinquent amounts. The billing shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. Available Funds-Contingency-Termination

The State is prohibited by law from making fiscal commitments beyond the term of the State's current fiscal year. Therefore, Grantee's compensation is contingent upon the continuing availability of State appropriations as provided in the Colorado Special Provisions, set forth below. If federal funds are used with this Grant in whole or in part, the State's performance hereunder is contingent upon the continuing availability of such funds. Payments pursuant to this Grant shall be made only from

available funds encumbered for this Grant and the State's liability for such payments shall be limited to the amount remaining of such encumbered funds. If State or federal funds are not appropriated, or otherwise become unavailable to fund this Grant, the State may immediately terminate this Grant in whole or in part without further liability in accordance with the provisions herein.

iv. Erroneous Payments

At the State's sole discretion, payments made to Grantee in error for any reason, including, but not limited to overpayments or improper payments, and unexpended or excess funds received by Grantee, may be recovered from Grantee by deduction from subsequent payments under this Grant or other Grants, grants or agreements between the State and Grantee or by other appropriate methods and collected as a debt due to the State. Such funds shall not be paid to any party other than the State.

B. Use of Funds

Grant Funds shall be used only for eligible costs identified herein and/or in the Budget. The State's total consideration shall not exceed the maximum amount shown herein.

C. Matching Funds

Grantee shall provide matching funds as provided in **Exhibit A**.

8. REPORTING - NOTIFICATION

Reports, Evaluations, and Reviews required under this **§8** shall be in accordance with the procedures of and in such form as prescribed by the State and in accordance with **§19**, if applicable.

A. Performance, Progress, Personnel, and Funds

Grantee shall submit a report to the State upon expiration or sooner termination of this Grant, containing an Evaluation and Review of Grantee's performance and the final status of Grantee's obligations hereunder. In addition, Grantee shall comply with all reporting requirements, if any, set forth in **Exhibit A and B**.

B. Litigation Reporting

Within 10 days after being served with any pleading in a legal action filed with a court or administrative agency, related to this Grant or which may affect Grantee's ability to perform its obligations hereunder, Grantee shall notify the State of such action and deliver copies of such pleadings to the State's principal representative as identified herein. If the State's principal representative is not then serving, such notice and copies shall be delivered to the Executive Director of the Colorado Department of Natural Resources.

C. Noncompliance

Grantee's failure to provide reports and notify the State in a timely manner in accordance with this **§8** may result in the delay of payment of funds and/or termination as provided under this Grant.

D. SubGrants

Copies of any and all subGrants entered into by Grantee to perform its obligations hereunder shall be submitted to the State or its principal representative upon request by the State. Any and all subGrants entered into by Grantee related to its performance hereunder shall comply with all applicable federal and state laws and shall provide that such subGrants be governed by the laws of the State of Colorado.

9. GRANTEE RECORDS

Grantee shall make, keep, maintain and allow inspection and monitoring of the following records:

A. Maintenance

Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Grantee shall maintain such records (the Record Retention Period) until the last to occur of the following: **(i)** a period of three years after the date this Grant is completed or terminated, or **(ii)** final payment is made hereunder, whichever is later, or **(iii)** for such further period as may be necessary to resolve any pending matters, or **(iv)** if an audit is occurring, or Grantee has received notice that an audit is pending, then until such audit has been completed and its findings have been resolved (the "Record Retention Period").

B. Inspection

Grantee shall permit the State, the federal government and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe Grantee's records related to

this Grant during the Record Retention Period for a period of three years following termination of this Grant or final payment hereunder, whichever is later, to assure compliance with the terms hereof or to evaluate Grantee's performance hereunder. The State reserves the right to inspect the Work at all reasonable times and places during the term of this Grant, including any extension. If the Work fails to conform to the requirements of this Grant, the State may require Grantee promptly to bring the Work into conformity with Grant requirements, at Grantee's sole expense. If the Work cannot be brought into conformance by re-performance or other corrective measures, the State may require Grantee to take necessary action to ensure that future performance conforms to Grant requirements and exercise the remedies available under this Grant, at law or inequity in lieu of or in conjunction with such corrective measures.

C. Monitoring

Grantee shall permit the State, the federal government, and other governmental agencies having jurisdiction, in their sole discretion, to monitor all activities conducted by Grantee pursuant to the terms of this Grant using any reasonable procedure, including, but not limited to: internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other procedures. All monitoring controlled by the State shall be performed in a manner that shall not unduly interfere with Grantee's performance hereunder.

D. Final Audit Report

If an audit is performed on Grantee's records for any fiscal year covering a portion of the term of this Grant, Grantee shall submit a copy of the final audit report to the State or its principal representative at the address specified herein.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

Grantee shall comply with the provisions on this §10 if it becomes privy to confidential information in connection with its performance hereunder. Confidential information, includes, but is not necessarily limited to, state records, personnel records, and information concerning individuals. The State shall notify the Grantee in writing and notate any State records and information that are classified by the State as being "Confidential" and given to the Grantee in connection with its performance hereunder. The provisions of this Section 10 shall only apply to such notated records and information.

A. Confidentiality

Grantee shall keep all State records and information confidential at all times and to comply with all laws and regulations concerning confidentiality of information. Any request or demand by a third party for State records and information in the possession of Grantee shall be immediately forwarded to the State's principal representative.

B. Notification

Grantee shall notify its agent, employees, Sub-grantees, and assigns who may come into contact with State records and confidential information that each is subject to the confidentiality requirements set forth herein, and shall provide each with a written explanation of such requirements before they are permitted to access such records and information.

C. Use, Security, and Retention

Confidential information of any kind shall not be distributed or sold to any third party or used by Grantee or its agents in any way, except as authorized by this Grant or approved in writing by the State. Grantee shall provide and maintain a secure environment that ensures confidentiality of all State records and other confidential information wherever located. Confidential information shall not be retained in any files or otherwise by Grantee or its agents, except as permitted in this Grant or approved in writing by the State.

D. Disclosure-Liability

Disclosure of State records or other confidential information by Grantee for any reason may be cause for legal action by third parties against Grantee, the State or their respective agents. Grantee shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Sub-grantees, or assignees pursuant to this §10.

11. CONFLICTS OF INTEREST

Grantee shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the full performance of Grantee's obligations hereunder. Grantee acknowledges that with respect to this Grant, even the appearance of a conflict of interest is harmful to the State's interests. Absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations to the State hereunder. If a conflict or appearance exists, or if Grantee is uncertain whether a conflict or the appearance of a conflict of interest exists, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the apparent conflict constitutes a breach of this Grant.

12. REPRESENTATIONS AND WARRANTIES

Grantee makes the following specific representations and warranties, each of which was relied on by the State in entering into this Grant.

A. Standard and Manner of Performance

Grantee shall perform its obligations hereunder in accordance with the highest standards of care, skill and diligence in the industry, trades or profession and in the sequence and manner set forth in this Grant.

B. Legal Authority – Grantee and Grantees Signatory

Grantee warrants that it possesses the legal authority to enter into this Grant and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Grant, or any part thereof, and to bind Grantee to its terms. If requested by the State, Grantee shall provide the State with proof of Grantee's authority to enter into this Grant within 15 days of receiving such request.

C. Licenses, Permits, Etc.

Grantee represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorization required by law to perform its obligations hereunder. Grantee warrants that it shall maintain all necessary licenses, certifications, approvals, insurance, permits, and other authorizations required to properly perform this Grant, without reimbursement by the State or other adjustment in Grant Funds. Additionally, all employees and agents of Grantee performing Services under this Grant shall hold all required licenses or certifications, if any, to perform their responsibilities. Grantee, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain any applicable certificate of authority to transact business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any such similar requirements necessary for Grantee to properly perform the terms of this Grant shall be deemed to be a material breach by Grantee and constitute grounds for termination of this Grant.

13. INSURANCE

Grantee and its Sub-grantees shall obtain and maintain insurance as specified in this section at all times during the term of this Grant: All policies evidencing the insurance coverage required hereunder shall be issued by insurance companies satisfactory to Grantee and the State.

A. Grantee

i. Public Entities

If Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended (the "GIA"), then Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. Grantee shall show proof of such insurance satisfactory to the State, if requested by the State. Grantee shall require each Grant with Sub-grantees that are public entities, providing Goods or Services hereunder, to include the insurance requirements necessary to meet Sub-grantee's liabilities under the GIA.

ii. Non-Public Entities

If Grantee is not a "public entity" within the meaning of the GIA, Grantee shall obtain and maintain during the term of this Grant insurance coverage and policies meeting the same requirements set forth in §13(B) with respect to sub-Grantees that are not "public entities".

B. Sub-Grantees

Grantee shall require each Grant with Sub-grantees, other than those that are public entities, providing Goods or Services in connection with this Grant, to include insurance requirements substantially similar to the following:

i. Worker's Compensation

Worker's Compensation Insurance as required by State statute, and Employer's Liability Insurance covering all of Grantee and Sub-grantee employees acting within the course and scope of their employment.

ii. General Liability

Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket Grantual liability, personal injury, and advertising liability with minimum limits as follows: (a) \$1,000,000 each occurrence; (b) \$1,000,000 general aggregate; (c) \$1,000,000 products and completed operations aggregate; and (d) \$50,000 any one fire. If any aggregate limit is reduced below \$1,000,000 because of claims made or paid, Sub-grantee shall immediately obtain additional insurance to restore the full aggregate limit and furnish to Grantee a certificate or other document satisfactory to Grantee showing compliance with this provision.

iii. Automobile Liability

Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

iv. Additional Insured

Grantee and the State shall be named as additional insured on the Commercial General Liability and Automobile Liability Insurance policies (leases and construction Grants require additional insured coverage for completed operations on endorsements CG 2010 11/85, CG 2037, or equivalent).

v. Primacy of Coverage

Coverage required of Grantee and Sub-grantees shall be primary over any insurance or self-insurance program carried by Grantee or the State.

vi. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal without at least 45 days prior notice to the Grantee and Grantee shall forward such notice to the State in accordance with §16 (Notices and Representatives) within seven days of Grantee's receipt of such notice.

vii. Subrogation Waiver

All insurance policies in any way related to this Grant and secured and maintained by Grantee or its Sub-grantees as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against Grantee or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

C. Certificates

Grantee and all Sub-grantees shall provide certificates showing insurance coverage required hereunder to the State within seven business days of the Effective Date of this Grant. No later than 15 days prior to the expiration date of any such coverage, Grantee and each Sub-grantee shall deliver to the State or Grantee certificates of insurance evidencing renewals thereof. In addition, upon request by the State at any other time during the term of this Grant or any sub-grant, Grantee and each Sub-grantee shall, within 10 days of such request, supply to the State evidence satisfactory to the State of compliance with the provisions of this §13.

14. BREACH

A. Defined

In addition to any breaches specified in other sections of this Grant, the failure of either Party to perform any of its material obligations hereunder in whole or in part or in a timely or satisfactory manner,

constitutes a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of its property, which is not vacated or fully stayed within 20 days after the institution or occurrence thereof, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in §16. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the breach has not begun within 30 days and pursued with due diligence, the State may exercise any of the remedies set forth in §15. Notwithstanding anything to the contrary herein, the State, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Grant in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

15. REMEDIES

If Grantee is in breach under any provision of this Grant, the State shall have all of the remedies listed in this §15 in addition to all other remedies set forth in other sections of this Grant following the notice and cure period set forth in §14(B). The State may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

A. Termination for Cause and/or Breach

If Grantee fails to perform any of its obligations hereunder with such diligence as is required to ensure its completion in accordance with the provisions of this Grant and in a timely manner, the State may notify Grantee of such non-performance in accordance with the provisions herein. If Grantee thereafter fails to promptly cure such non-performance within the cure period, the State, at its option, may terminate this entire Grant or such part of this Grant as to which there has been delay or a failure to properly perform. Exercise by the State of this right shall not be deemed a breach of its obligations hereunder. Grantee shall continue performance of this Grant to the extent not terminated, if any.

i. Obligations and Rights

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding orders and sub-Grants with third parties. However, Grantee shall complete and deliver to the State all Work, Services and Goods not cancelled by the termination notice and may incur obligations as are necessary to do so within this Grant's terms. At the sole discretion of the State, Grantee shall assign to the State all of Grantee's right, title, and interest under such terminated orders or sub-Grants. Upon termination, Grantee shall take timely, reasonable and necessary action to protect and preserve property in the possession of Grantee in which the State has an interest. All materials owned by the State in the possession of Grantee shall be immediately returned to the State. All Work Product, at the option of the State, shall be delivered by Grantee to the State and shall become the State's property.

ii. Payments

The State shall reimburse Grantee only for accepted performance up to the date of termination. If, after termination by the State, it is determined that Grantee was not in breach or that Grantee's action or inaction was excusable, such termination shall be treated as a termination in the public interest and the rights and obligations of the Parties shall be the same as if this Grant had been terminated in the public interest, as described herein.

iii. Damages and Withholding

Notwithstanding any other remedial action by the State, Grantee also shall remain liable to the State for any damages sustained by the State by virtue of any breach under this Grant by Grantee and the State may withhold any payment to Grantee for the purpose of mitigating the State's damages, until such time as the exact amount of damages due to the State from Grantee is determined. The State may withhold any amount that may be due to Grantee as the State deems necessary to protect the State, including loss as a result of outstanding liens or claims of former lien holders, or to reimburse the State for the excess costs incurred in procuring similar goods or services. Grantee shall be liable for excess costs incurred by the State in procuring from third parties replacement Work, Services or substitute Goods as cover.

B. Early Termination in the Public Interest

The State is entering into this Grant for the purpose of carrying out the public policy of the State of Colorado, as determined by its Governor, General Assembly, and/or Courts. If this Grant ceases to further the public policy of the State, the State, in its sole discretion, may terminate this Grant in whole or in part. Exercise by the State of this right shall not constitute a breach of the State's obligations hereunder. This subsection shall not apply to a termination of this Grant by the State for cause or breach by Grantee, which shall be governed by §15(A) or as otherwise specifically provided for herein.

i. Method and Content

The State shall notify Grantee of such termination in accordance with §16. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Grant.

ii. Obligations and Rights

Upon receipt of a termination notice, Grantee shall be subject to and comply with the same obligations and rights set forth in §15(A)(i).

iii. Payments

If this Grant is terminated by the State pursuant to this §15(B), Grantee shall be paid an amount which bears the same ratio to the total reimbursement under this Grant as the Services satisfactorily performed bear to the total Services covered by this Grant, less payments previously made.

Additionally, if this Grant is less than 60% completed, the State may reimburse Grantee for a portion of actual out-of-pocket expenses (not otherwise reimbursed under this Grant) incurred by Grantee which are directly attributable to the uncompleted portion of Grantee's obligations hereunder; provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Grantee hereunder.

C. Remedies Not Involving Termination

The State, in its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

i. Suspend Performance

Suspend Grantee's performance with respect to all or any portion of this Grant pending necessary corrective action as specified by the State without entitling Grantee to an adjustment in price/cost or performance schedule. Grantee shall promptly cease performance and incurring costs in accordance with the State's directive and the State shall not be liable for costs incurred by Grantee after the suspension of performance under this provision.

ii. Withhold Payment

Withhold payment to Grantee until corrections in Grantee's performance are satisfactorily made and completed.

iii. Deny Payment

Deny payment for those obligations not performed, that due to Grantee's actions or inactions, cannot be performed or, if performed, would be of no value to the State; provided, that any denial of payment shall be reasonably related to the value to the State of the obligations not performed.

iv. Removal

Demand removal of any of Grantee's employees, agents, or Sub-grantees whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Grant is deemed to be contrary to the public interest or not in the State's best interest.

v. Intellectual Property

If Grantee infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Grant, Grantee shall, at the State's option (a) obtain for the State or Grantee the right to use such products and services; (b) replace any Goods, Services, or other product involved with non-infringing products or modify them so that they become non-infringing; or, (c) if neither of the foregoing alternatives are reasonably available, remove any infringing Goods, Services, or products and refund the price paid therefore to the State.

16. NOTICES and REPRESENTATIVES

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such

Party's principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

A. State:

Todd Doherty, Program Manager, Water Supply Planning Section
Colorado Water Conservation Board
1580 Logan Street, Suite 200
Denver, CO 80203
Todd.doherty@state.co.us

B. Grantee:

Joe Frank, General Manager
Lower South Platte Water Conservancy District
100 Broadway Plaza, Suite 12
Sterling, Colorado 80751
jmfrank@lspwcd.org

17. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE

Any software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials, or Work Product of any type, including drafts, prepared by Grantee in the performance of its obligations under this Grant shall be the nonexclusive property of the State and, all Work Product shall be delivered to the State by Grantee upon completion or termination hereof. The State's nonexclusive rights in such Work Product shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works.

18. GOVERNMENTAL IMMUNITY

Notwithstanding any other provision to the contrary, nothing herein shall constitute a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended. Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the Governmental Immunity Act and the risk management statutes, CRS §24-30-1501, et seq., as amended.

19. STATEWIDE GRANT MANAGEMENT SYSTEM

If the maximum amount payable to Grantee under this Grant is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this **§19** applies.

Grantee agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state Grants and inclusion of Grant performance information in a statewide Grant management system.

Grantee's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Grant, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Grantee's performance shall be part of the normal Grant administration process and Grantee's performance will be systematically recorded in the statewide Grant Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Grantee's obligations under this Grant shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Grantee's obligations. Such performance information shall be entered into the statewide Grant Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Grant term. Grantee shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that Grantee demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by the CWCB, and showing of good cause, may debar Grantee and prohibit Grantee from bidding on future Grants. Grantee may contest the final Evaluation, Review and Rating by: **(a)** filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or **(b)** under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Grantee, by the Executive Director, upon showing of good cause.

20. GENERAL PROVISIONS

A. Assignment and SubGrants

Unless otherwise specified in Exhibit A, Statement of Work, Grantee's rights and obligations hereunder are personal and may not be transferred, assigned or subGranted without the prior, written consent of the State. Any attempt at assignment, transfer, subGranting without such consent shall be void. All assignments, subGrants, or Sub-grantees approved by Grantee or the State are subject to all of the provisions hereof. Grantee shall be solely responsible for all aspects of subGranting arrangements and performance.

B. Binding Effect

Except as otherwise provided in §20(A), all provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

C. Captions

The captions and headings in this Grant are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

D. Counterparts

This Grant may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

E. Entire Understanding

This Grant represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or affect whatsoever, unless embodied herein.

F. Indemnification-General

Grantee shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Sub-grantees, or assignees pursuant to the terms of this Grant; however, the provisions hereof shall not be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq., as applicable, as now or hereafter amended.

G. Jurisdiction and Venue

All suits, actions, or proceedings related to this Grant shall be held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

H. Modification

i. By the Parties

Except as specifically provided in this Grant, modifications of this Grant shall not be effective unless agreed to in writing by both parties in an amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law, State Fiscal Rules, and Office of the State Controller Policies, including, but not limited to, the policy entitled MODIFICATIONS OF GRANTS - TOOLS AND FORMS.

ii. By Operation of Law

This Grant is subject to such modifications as may be required by changes in Federal or Colorado State law, or their implementing regulations. Any such required modification automatically shall be

incorporated into and be part of this Grant on the effective date of such change, as if fully set forth herein.

I. Order of Precedence

The provisions of this Grant shall govern the relationship of the State and Grantee. In the event of conflicts or inconsistencies between this Grant and its exhibits and attachments including, but not limited to, those provided by Grantee, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. Colorado Special Provisions,
- ii. The provisions of the main body of this Grant,
- iii. **Exhibit A and B.**

J. Severability

Provided this Grant can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof.

K. Survival of Certain Grant Terms

Notwithstanding anything herein to the contrary, provisions of this Grant requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State if Grantee fails to perform or comply as required.

L. Taxes

The State is exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under CRS §§39-26-101 and 201 et seq. Such exemptions apply when materials are purchased or services rendered to benefit the State; provided however, that certain political subdivisions (e.g., City of Denver) may require payment of sales or use taxes even though the product or service is provided to the State. Grantee shall be solely liable for paying such taxes as the State is prohibited from paying for or reimbursing Grantee for them.

M. Third Party Beneficiaries

Enforcement of this Grant and all rights and obligations hereunder are reserved solely to the Parties, and not to any third party. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

N. Waiver

Waiver of any breach of a term, provision, or requirement of this Grant, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

O. CORA Disclosure

To the extent not prohibited by federal law, this Grant and the performance measures and standards under CRS §24-103.5-101, if any, are subject to public release through the Colorado Open Records Act, CRS §24-72-101, et seq.

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21. COLORADO SPECIAL PROVISIONS

The Special Provisions apply to all Grants except where noted in italics.

A. 1. CONTROLLER'S APPROVAL. CRS §24-30-202 (1).

This Grant shall not be deemed valid until it has been approved by the Colorado State Controller or designee.

B. 2. FUND AVAILABILITY. CRS §24-30-202(5.5).

Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. 3. GOVERNMENTAL IMMUNITY.

No term or condition of this Grant shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

D. 4. INDEPENDENT CONTRACTOR

Grantee shall perform its duties hereunder as an independent contractor and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Unemployment insurance benefits shall be available to Grantee and its employees and agents only if such coverage is made available by Grantee or a third party. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Grant. Grantee shall not have authorization, express or implied, to bind the State to any Grant, liability or understanding, except as expressly set forth herein. Grantee shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

E. 5. COMPLIANCE WITH LAW.

Grantee shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. 6. CHOICE OF LAW.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this grant. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Grant, to the extent capable of execution.

G. 7. BINDING ARBITRATION PROHIBITED.

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.

H. 8. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.

State or other public funds payable under this Grant shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Grant and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Grant, including, without limitation, immediate termination of this Grant and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. 9. EMPLOYEE FINANCIAL INTEREST. CRS §§24-18-201 and 24-50-507.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Grant. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

J. 10. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4.

[*Not Applicable to intergovernmental agreements*] Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

K. 11. PUBLIC GRANTS FOR SERVICES. CRS §8-17.5-101.

[Not Applicable to Agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental Agreements, or information technology services or products and services] Grantee certifies, warrants, and agrees that it does not knowingly employ or Grant with an illegal alien who shall perform work under this Grant and shall confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Grant, through participation in the E-Verify Program or the State program established pursuant to CRS §8-17.5-102(5)(c), Grantee shall not knowingly employ or Grant with an illegal alien to perform work under this Grant or enter into a Grant with a Sub-grantee that fails to certify to Grantee that the Sub-grantee shall not knowingly employ or Grant with an illegal alien to perform work under this Grant. Grantee (a) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Grant is being performed, (b) shall notify the Sub-grantee and the Granting State agency within three days if Grantee has actual knowledge that a Sub-grantee is employing or Granting with an illegal alien for work under this Grant, (c) shall terminate the subGrant if a Sub-grantee does not stop employing or Granting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Grantee participates in the State program, Grantee shall deliver to the Granting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Grantee has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Grantee fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the Granting State agency, institution of higher education or political subdivision may terminate this Grant for breach and, if so terminated, Grantee shall be liable for damages.

L. 12. PUBLIC GRANTS WITH NATURAL PERSONS. CRS §24-76.5-101.

Grantee, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this Grant.

SPs Effective 1/1/09

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22. SIGNATURE PAGE

Grant Routing Number _____

THE PARTIES HERETO HAVE EXECUTED THIS GRANT

* Persons signing for Grantee hereby swear and affirm that they are authorized to act on Grantee's behalf and acknowledge that the State is relying on their representations to that effect.

<p align="center">GRANTEE</p> <p>Lower South Platte Water Conservancy District</p> <p>By: Joe Frank Title: General Manager</p> <p><u>Joe Frank</u> *Signature</p> <p>Date: <u>08/04/2011</u></p>	<p align="center">STATE OF COLORADO</p> <p>John W. Hickenlooper GOVERNOR</p> <p>Department of Natural Resources Mike King, Executive Director</p> <p><u>Eric B. Hecox</u> By: Eric Hecox, Section Chief, Water Supply Planning Section, CWCB Signatory avers to the State Controller or delegate that Grantee has not begun performance or that a Statutory Violation waiver has been requested under Fiscal Rules</p> <p>Date: <u>8/16/11</u></p>
<p align="center">2nd Grantee Signature if Needed</p> <p>By: Title:</p> <p>_____ *Signature</p> <p>Date: _____</p>	<p align="center">LEGAL REVIEW</p> <p>John W. Suthers, Attorney General</p> <p>By: <u>NA</u> Signature - Assistant Attorney General</p> <p>Date: _____</p>

ALL GRANTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Grants. This Grant is not valid until signed and dated below by the State Controller or delegate. Grantee is not authorized to begin performance until such time. If Grantee begins performing prior thereto, the State of Colorado is not obligated to pay Grantee for such performance or for any goods and/or services provided hereunder.

<p>STATE CONTROLLER</p> <p>David J. McDermott, CPA</p> <p>By: <u>Susan Borup</u> <u>Susan Borup, DNR Controller</u></p> <p>Date: <u>9/16/2011</u></p>
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Statement of Work

WATER ACTIVITY NAME - Lower South Platte Water Cooperative, Operational Development of Alternative Agriculture Water Transfer Methods

GRANT RECIPIENT – Lower South Platte Water Conservancy District

FUNDING SOURCE - The Alternative Agricultural Water Transfer Methods Competitive Grant Program

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)

The Colorado Corn Growers Association, in partnership with Ducks Unlimited the City of Aurora, and the Lower South Platte Water Cooperative steering committee (the CCGA Team), identified several impediments to conducting alternative agricultural water transfers during previous work conducted under this grant program. One of the impediments was the lack of a marketing framework for water that could be made available for transfer using alternative means. A new organization such as the Water Cooperative has great potential in providing this marketing mechanism. Previous work conducted by the CCGA team also explored the potential to exchange water in key areas where the Cooperative may initially operate. Results of the exchange analysis showed sufficient exchange capacity in certain reaches of the South Platte River to warrant additional research into potential organizational structures and operational plans for the Water Cooperative.

The Water Cooperative recently initiated a project to research potential organizational structures and to lay some concepts for an operational plan via the *Lower South Platte Water Cooperative Organizational Analysis* funded thru the Water Supply Reserve Account. The work to be funded under this Alternative Agricultural Water Transfer Methods Grant will continue this work and will focus on the development and refinement of the operational plan.

OBJECTIVES

List the objectives of the project

The objectives of this project are as follows:

- Develop an operational plan that identifies water supplies (including direct flow and/or storage water transferred through alternative means, excess recharge credits, new junior water rights, etc.), demands, and the means and infrastructure needed to provide water when and where it is needed.
 - Identify existing and potential infrastructure that could help increase the ability of the Cooperative to match supplies with demands.
- Obtain feedback from stakeholders on the operational plan.

- Identify specific data, water measurement, and accounting needs and work with potential Cooperative members on developing data transfer methods.
- Gain a general understanding of options for funding the operation of the Cooperative.

TASKS

Provide a detailed description of each task using the following format

TASK 1 – Develop Operational Plan

Description of Task

Under this task, a long term operational plan will be developed. The long term operational plan will serve as a strategy and planning document for the Cooperative. The operational plan will combine estimates of supply quantity, location, and reliability with estimates of demand quantity, location, and reliability requirements. Based on the potential portfolio of water rights to be included in the Cooperative, strategies will be developed for reliably providing water to potential users (or customers).

This task builds upon work that will be conducted under the Water Supply Reserve Account (WSRA) grant project that is currently being initiated. In the WSRA grant project, supplies and demands are going to be quantified. In this project the reliability of water supplies and the reliability requirements on the demand side will be assessed. In addition, the ability to meet demands by exchanging water and usage of existing infrastructure (storage facilities, pumps/pipelines, recharge facilities, etc.) will be assessed. Finally, strategies for enhancing the reliability of the Cooperative's overall water supply portfolio will be developed. Strategies may include prioritizing different types of water supplies for potential inclusion in the Cooperative, proposed new infrastructure to help enhance reliability (i.e. new storage or recharge facilities), etc.

Method/Procedure

Specific work item to be conducted and proposed methods to be used under this task are described below.

1. Analyze the reliability of sources of water that might be included in the Cooperative.

This will involve a statistical analysis of the various types of water that could be marketed through Cooperative. Water sources will include direct flow rights made available via alternative transfer, lease, or sale; excess recharge accretions; storage rights; etc. Potential sources in Districts 1 and 64 will be assessed. An estimate of the amount and frequency of water availability will be made for the different types of water that might be included in the Cooperative. The resulting reliability assessments will include considerations of both wet/dry/normal year and seasonal availability.

Spatial considerations of supply quantity and reliability will be assessed by incorporating the results of the statistical analysis into a GIS layer(s). The GIS layer(s) will be used to assess and graphically display locations along the South Platte River where supply is plentiful or not plentiful and reliable or not reliable.

In addition, water law issues associated with various water sources will be assessed.

Additional work needed to address potential problems will be identified.

2. Assess the need for supply reliability, timing, and quantity from the demand side.

Meetings with potential cooperative members or customers will be a key component of this assessment. Note that several meetings will be also carried out under the WSRA grant. The purpose of the meetings will be to gain an understanding of specific amounts, locations, and reliability requirements of water demands. Water demand amounts and reliability requirements will be framed in a similar way as supplies (i.e. wet/dry/normal year and seasonal demands).

The locations, amounts, and reliability requirements of demands will be mapped in GIS. The resulting GIS layer(s) will be used to assess the locations and amounts of demands and to compare this information with the location of supplies. The supply and demand GIS layers will important tools for developing strategies to move/deliver water.

3. Assess ability to move water from sources of supply to demands.

The CCGA Team, in association with members of the Cooperative Steering Committee, developed a spreadsheet-based daily exchange/point flow analysis tool in a previous Alternative Agricultural Water Transfer Methods Grant. This tool will be used to assess the ability to exchange water between locations of supply and demand.

The GIS layers describing location and reliability of supplies and locations and reliability requirements of demands will be used to develop inputs or scenarios for potential exchanges that will be assessed using the exchange/point flow tool.

Existing infrastructure for enhancing exchange/delivery identified in Task 5 of this project and additional new infrastructure identified in the WSRA grant project will be considered in this assessment as well. New infrastructure identified in the WSRA grant project will serve to enhance exchange and delivery in locations where there is inadequate existing infrastructure available.

Potential costs for new infrastructure will be estimated. It is assumed that cost for recently constructed existing infrastructure will be the primary source of information regarding potential construction costs.

Assessing and enhancing the ability to exchange or move water sources within Districts 1 and 64 to demands in Districts 1 and 64 will be further analyzed. The CCGA Team conducted an exchange feasibility analysis that focused on exchanging water from the lower parts of District 1/upper parts of District 64 to the upper parts of District 1. The analysis to be conducted in this project will include previous work and will not only enhance the previous analysis but will also extend the detailed assessment of exchange to the whole of District 64.

4. Based on results of the above analyses, assess overall reliability in meeting demands

Using the analyses described above, the overall reliability in meeting demands will be assessed. Reliability in meeting demands will be described using statistical terms and will be

relative to different geographic areas of the South Platte River. The results of this analysis will be summarized in a technical memorandum and descriptive maps. These materials will be used for presentation of results to the Steering Committee and to potential Cooperative members/customers and other stakeholders.

5. Assess times/locations when reliability or needed supply isn't adequate.

It is likely that the analyses described above will identify times and locations when/where the reliability of supplies or exchange capacity is not adequate to meet the demand requirements of potential customers. These times and locations of inadequate supply will be assessed and mapped in GIS. Strategies to increase supply reliability will be developed.

These strategies may include the following:

- Identification of additional, more reliable sources of supply to be acquired or marketed through the cooperative.
- Development of recharge sites to retine water when supply exceeds demand
- Development of storage sites to retine water when supply exceeds demand

6. Present draft results to Steering Committee.

The results of the above analyses will be presented to the Steering Committee for their review and comment. Note that this task is a formal presentation of draft results. Informal meetings with the Steering Committee will be conducted during the analyses described above.

7. Incorporate Steering Committee comments into analysis.

Comments from the Steering Committee will be incorporated into the analysis. It is anticipated that comments may include input on proposed strategies for enhancing reliability, format of information to be presented to customers or other stakeholders, etc.

8. Develop long term operational plan document.

A draft document (including descriptive maps) will be written to describe the operational plan. The operational plan will describe wet/dry/normal year strategies for moving water between supplies and demands based on the reliability and location of supplies and the reliability requirements and locations of demands. The plan will also include strategies for long term enhancement to exchange and water delivery via the installation of new infrastructure. An internal review will be conducted on the draft operational plan prior to submittal to the Steering Committee. The review will include QA/QC of calculations, language, and strategies.

In addition, information and strategies regarding protection of senior water rights and for addressing third party, downstream impacts will be included. Meetings with stakeholders (Task 2) will be valuable for understanding and addressing concerns from senior water right holders and third party, downstream impacts.

Legal counsel will be consulted to identify potential legal issues surrounding the operational plan. Ways to mitigate potential legal issues will be identified and incorporated or described in the operational plan. Note that work conducted under Task 1 will be coordinated with

legal counsel throughout.

9. Send draft operational plan document to Steering Committee.

The draft operational plan document will be reviewed with the Steering Committee. Comments made by the Steering Committee will be incorporated into the final operational plan document.

10. Alterations to operational plan and document may need to be made based on feedback from stakeholders (see Task 2).

Depending on feedback from potential Cooperative members, customers, and other stakeholders, changes may need to be made to the operational plan. Potential changes to the operational plan based on feedback will be coordinated and approved by the Steering Committee.

11. Finalize the operational plan.

The operational plan will be finalized. Hard and electronic copies of the plan will be provided to Steering Committee members and the CWCB. Electronic copies of the plan will be available to potential Cooperative members, customers, and other stakeholders upon request.

Deliverable

Deliverables associated with this task are as follows:

- Spreadsheets with statistical analyses and analyses of exchange.
- GIS layers and maps associated with analyses described above.
- Draft operational plan.
- Final operational plan in hardcopy and electronic format.

TASK 2 – Meetings with Stakeholders

Description of Task

Meetings with potential Cooperative participants, customers, and other stakeholders will be conducted to describe the draft operational plan. Stakeholders include potential Cooperative participants and outside parties such as municipalities, ditches, or water districts that may be concerned about potential impacts to their water rights. It is anticipated that these meetings will address both technical and legal issues/concerns about the draft operational plan.

Method/Procedure

Specific work item to be conducted and proposed methods to be used under this task are described below.

1. Presentation materials (i.e. handouts, display boards, etc.) will be developed.
2. Meeting times and places will be identified. Potential participants will be contacted and invited.

3. Meetings with stakeholders (assume 8 meetings).
4. Meeting notes will be developed.

Deliverable

Deliverables associated with this task are as follows:

- Handouts and other meeting materials
- Meeting notes

TASK 3 – Data and Measurement Needs

Description of Task

Under this grant, the project team will expand upon the data and measurement needs identified in the work to be conducted in the WSRA grant. The WSRA grant work includes a general identification of data and measurement needs for the operation of the Cooperative. Under this grant, additional detail will be developed regarding these needs. For example, if the need for a gaging station was identified under the WSRA grant, the project team will identify costs, specific location, etc. for that gaging station under this grant. In addition, the team will work with potential cooperative participants to set up a means to exchange data that will serve as inputs into accounting.

Feedback on data/measurement needs will be sought from potential Cooperative members, customers, and other stakeholders during Task 2. Potential changes to data and measurement needs based on feedback will be coordinated and approved by the Steering Committee.

Method/Procedure

Specific work item to be conducted and proposed methods to be used under this task are described below.

1. The project team will work with Water Commissioners to identify specific measurement locations and technologies.
2. Construction costs for measurement structures will be estimated. This task may include field visits to various sites.
3. The project team will work with ditch companies who are interested in participating in the cooperative regarding their water measurement needs.
4. The project team will also work with augmentation groups to set up data exchange needs.
5. A draft technical memorandum describing data and measurement needs will be written. An internal review of the draft technical will be performed
6. The draft technical memorandum will be delivered to the Steering Committee. A meeting will be conducted with the Steering Committee to review the data and measurement requirements in

the draft technical memorandum. Additional data and measurement needs identified during interactions with potential Cooperative members, customers, or other stakeholders will be discussed with the Steering Committee. Steering Committee approval will be sought for the inclusion of these additional needs.

7. Steering Committee comments will be incorporated into the final technical memorandum. The technical memorandum will be incorporated into the final project report.

Deliverable

Deliverables associated with this task are as follows:

- Draft and final technical memorandums.

TASK 4 – Accounting

Description of Task

This task will include the development of water accounting for transactions facilitated by the Cooperative. It is anticipated that accounting needs may vary based on the results of the operational plan and based on some of the organizational considerations developed under the WSRA grant.

Feedback on accounting needs will be sought from potential Cooperative members, customers, and other stakeholders during Task 2. Potential changes to accounting needs based on feedback will be coordinated and approved by the Steering Committee.

Method/Procedure

Specific work item to be conducted and proposed methods to be used under this task are described below.

1. Draft accounting spreadsheets will be developed. The results of the data and measurements needs task will be considered in developing the draft accounting spreadsheets.
2. The draft accounting spreadsheets will be discussed with the Steering Committee. Comments from the Steering Committee will be incorporated into the accounting. In addition, legal counsel will review and comment on the accounting.
3. The project team will meet with DWR staff to review the accounting spreadsheets. Comments from DWR staff will be incorporated into the accounting.
4. Additional accounting needs identified during interactions with potential Cooperative members, customers, or other stakeholders will be discussed with the Steering Committee. Steering Committee approval will be sought for the inclusion of these additional needs.
5. A draft technical memorandum will be written to describe the accounting needs and draft spreadsheets. An internal review will be conducted on the draft technical memorandum.

6. The draft technical memorandum will be finalized. The final technical memorandum will be incorporated into the final report.

Deliverable

Deliverables associated with this task are as follows:

- Draft accounting spreadsheets.
- Draft and final technical memorandums.

TASK 5 – Inventory of Existing Infrastructure

Description of Task

Existing infrastructure could be very useful in enhancing the reliability of exchange or delivery of water to potential customers. For example, if the Cooperative could lease space in an existing reservoir, water could be stored and delivered when needed to a potential customer. Existing recharge facilities could be used to retine excess recharge accretions so that they can be exchanged when exchange capacity is greater or when water is needed by customers. An inventory of potentially useful, existing infrastructure will be developed under this task. The results of this task will be considered in the development of the operational plan (Task 1).

Method/Procedure

Specific work item to be conducted and proposed methods to be used under this task are described below.

1. Identify and map infrastructure

The Steering Committee and project team consists of water users, water managers, and technical staff with extensive knowledge of existing infrastructure in Districts 1 and 64. The Steering Committee and project team members will meet to discuss and develop a draft map of infrastructure that could potentially be used to enhance the reliability of exchange and water delivery. A GIS layer will be created that includes locations and categories of existing infrastructure.

2. Research existing infrastructure

The project team will research the identified infrastructure to develop a general understanding of infrastructure capacities, diversion points into infrastructure, locations where infrastructure returns water to the river, approximate availability of space in infrastructure, etc. In addition, legal counsel will be consulted to research legal issues associated with the use of existing infrastructure. Potential benefits and costs of using existing infrastructure will be identified.

Also, information describing construction costs for recently constructed existing infrastructure will be collected. This information will be used as a basis for estimating

potential costs for constructing new infrastructure.

3. Incorporate results into the operational plan

Results of the analysis will be incorporated into the operational plan.

Deliverable

Deliverables associated with this task are as follows:

- GIS layer with the location and other descriptive information on existing infrastructure.

TASK 6 – Assessment of Costs and Methods of Paying for Operation of the Cooperative

Description of Task

In this task, other organizations similar to the Cooperative will be researched to obtain a general understanding of the costs to operate an organization like the Cooperative. It is anticipated the organizations such as the Super Ditch or water banks will be contacted and researched to develop this understanding. In addition, methods of raising capital to cover operational costs will be researched. From this research, cost and fee structure scenarios will be developed. It is anticipated that these scenarios will be useful in discussions with potential Cooperative members in assessing potential options for organizational structures for the Cooperative. It is also anticipated that this task will compliment the work that is being conducted under the WSRA grant, in which potential organizational structures for the Cooperative will be developed and discussed with potential Cooperative members.

Feedback on costs and methods of raising operational capital will be sought from potential Cooperative members and customers during Task 2. This feedback will help in formulating scenarios for paying for the operation of the Cooperative that will be acceptable to members and customers.

Method/Procedure

Specific work item to be conducted and proposed methods to be used under this task are described below.

1. Interviews will be conducted with Super Ditch staff and others to obtain information on operational costs and methods of raising capital. Other organizations, such as water banks, will be contacted or interviewed as well. In addition, available literature on this subject will be obtained and reviewed.
2. Results of the interviews and research will be used to develop draft scenarios describing operational costs and options for raising capital to cover operational costs.
3. The draft scenarios will be discussed with the Steering Committee. Comments made by the Steering Committee will be incorporated into the scenarios.
4. A technical memorandum with an executive summary will be written to describe the research. It is anticipated that the executive summary will be a useful tool for describing the scenarios to potential Cooperative members and for soliciting feedback from potential members. An internal review of

the draft technical memorandum will be conducted, and the memorandum will be finalized. The technical memorandum will be incorporated into the final report.

Deliverable

Deliverables associated with this task are as follows:

- Technical memorandum describing research results.

TASK 7 – Economic Considerations

Description of Task

The economic component of this project will focus on the on-farm costs associated with alternative transfers, collaborate management programs for alternative transfers, and economic attractiveness of agricultural transfers among ditch companies along the lower South Platte River. The subtasks envisioned will help agricultural producers understand how agricultural water transfers can, under certain circumstances, be to their financial benefit and given that financial benefit, how the Cooperative can facilitate and otherwise participate in those transfers to its mutual interests.

Method/Procedure

The economic evaluation team, consisting of Colorado State University (contact is James Pritchett) and Harvey Economics, will support the refinement of AgLET and will provide specific farm management economic information to individuals/groups supplying water to the cooperative. As with other tasks, the work will be coordinated with the Steering Committee. Specific work items to be conducted and proposed methods to be used under this task are described below.

1. Dr. Pritchett will coordinate with the Cooperative to designate farmers or groups of farmers as candidates for their innovative transfer program (e.g., rotational fallowing, deficit irrigation, interruptible supply). The purpose for designating these “pilot farms” is to use these farm managers as expert advisers in developing a collaborative management plan for conducting alternative transfers and in refining AgLET to better understand the compensation necessary to conduct alternative transfers under a variety of institutional arrangements.
2. Create a focus group among potential cooperators to baseline current management practices, production costs and yields for the pilot farms so that this might be inputted into AgLET. The practices including a benchmark of existing farm management activities and those that are likely under a rotational fallowing, deficit irrigation or interruptible supply scenarios. Information includes, but is not limited to, changing crop mix, changing tillage systems, investment in irrigation equipment, altering the intensity of cropping (seeding, fertilizer, chemical), new monitoring/reporting of applied water /consumptive use, new commodity marketing approaches, changes in crop insurance coverage, an altered tax structure and funds needed for debt service.

3. Focus groups, consisting of pilot farmers and local crop consultants will be used to develop a collaborative farm management plan for rotational fallowing on the pilot farms. Specifically, these collaborators will need to determine how much land must be fallowed, which farms will fallow and the approximate costs to maintain existing cropping and fallowed lands. The collaborative plan will need to be repeated for deficit irrigation and interruptible supply scenarios.
4. The focus group may need to be repeated based on the geographic diversity of participating operations, the diversity of existing cropping systems and the overall size/scope of the pilot area. Focus group information will need to be representative of collaborating farm types at a minimum.
5. Focus group information will be used to refine assumptions currently found in AgLET. The CSU staff will work closely with Harvey Economics in suggesting and implementing refinements.
6. The economic evaluation team will work with the CSU-Parker team to quantify the farm level costs of maintaining return flows and monitoring consumptive use. These costs may be integrated into the farm level budgets used in AgLET.
7. Working with the Cooperative Steering Committee and CSU, Harvey Economics (HE) will serve as a co-lead of a workshop with representatives from at least two ditch companies to discuss the utility of the AgLET tool and how the individual agricultural producers can use AgLET to evaluate the attractiveness of various agricultural transfers. Working with the leadership of the Steering Committee, HE will explain the AgLET tool, demonstrate how it works, and encourage the attendees to calculate the financial implications of agricultural transfers upon their individual operations. In addition, AgLET will be used by the workshop participants to do sensitivity analyses to their participation in a leasing program. Subsequent to this workshop, leadership representatives of the Steering Committee will respond to individual producers' questions to help them work through the AgLET tool to generate transfer prices which would make an alternative transfer possible for each producer.
8. Once the agricultural producers have completed the AgLET exercise, they will be encouraged to send their results confidentially to HE for compilation and aggregation of the results. In other words, the results of the whole ditch system will be aggregated to avoid any possible identification with a single producer. In its aggregate form, this information will provide a picture of the economic circumstances which must exist for agricultural producers to provide so much water under a given agricultural transfer program.

The Steering Committee and other project team members will identify the water demands from municipal, industrial or other sectors, and price ranges in which they might be interested in seeking an agricultural transfer. Putting this information together in a generalized sense (not contractual detail) will indicate the types of deals that are possible and need for the Cooperative to facilitate a transfer.

9. Once the economic information from the producers is compared with the economic information from those seeking additional supply, HE will determine whether an attractive economic circumstance exists for future transfers. Assuming the economic environment for transfers will be attractive, HE will take this information and will identify various financing mechanisms, or avenues

of participation, where the Cooperative could facilitate such transfers, and help support its own operation. The identification of a role and revenue stream for the Cooperative will factor into its own organization planning.

Deliverable

Deliverables associated with this task are as follows:

- Data, tables, and graphs summarizing the results of the analyses. This information, along with a descriptive narrative, will be incorporated into the final report.

TASK 8 – Assess Operational Considerations

Description of Task

In this task, the necessary internal operations of the cooperative will be researched. Scenarios describing potential operational protocols will be developed for use in meetings with potential Cooperative members. One of the goals of this task will be to combine the primarily legal work done by the Steering Committee under its WSRA grant concerning the organizational structure and legal framework for the Cooperative, with the primarily technical work done under this grant to develop the operational plan, so that there will be a coordinated legal and technical plan to recommend to potential Cooperative members.

Feedback on internal operational considerations will be sought from potential Cooperative members and customers during Task 2. This feedback will help in formulating operational scenarios that will be acceptable to members and customers.

Method/Procedure

Specific work item to be conducted and proposed methods to be used under this task are described below.

1. Potential operational scenarios for the Cooperative will be researched. Internal operations, marketing mechanisms, etc. for Super Ditch, water banks, and other organizations will be investigated.
2. Based on the research, potential scenarios will be developed describing how internal operations might work.
3. A meeting with the Steering Committee will be held to discuss these scenarios.
4. Legal counsel will be consulted to identify and describe how the operational plan can be combined with the preferred organizational framework, and how both can work within the framework of existing water law.
5. Two to three operational scenarios will be developed. These scenarios will be discussed and reviewed with potential water users or cooperative members.
6. A draft technical memorandum with executive summary will be developed to describe the results of this research. It is anticipated that the executive summary will serve as a useful tool in

communicating the operational scenarios to potential Cooperative members. The draft technical memorandum will be reviewed and finalized. The technical memorandum will be incorporated into the final project report.

Deliverable

Deliverables associated with this task are as follows:

- Technical memorandum describing research results.

TASK 9 – Project Reports

Description of Task

Technical memoranda developed during the course of the project will be assembled to create the final project report. In addition, progress reports to the CWCB will be conducted under this task.

Method/Procedure

Specific tasks to be conducted are as follows:

1. Progress reports will be written and delivered to the CWCB every 6 months.
2. Technical memoranda written during other tasks will be incorporated into a draft project report. Legal counsel will be consulted for incorporation of legal aspects. A readability and technical review will be conducted on the draft report. The report will be finalized.
3. Hard and electronic copies of the final report will be assembled and delivered to the Steering Committee and to the CWCB.

Deliverable

Deliverables associated with this task are as follows:

- Hard and electronic copies of the final report.

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.

[See Attached Budget](#)

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.

Task	Start Date	Finish Date
1	Upon NTP	NTP + 540 days
2	NTP + 180 days	NTP + 540 days
3	Upon NTP	NTP + 540 days
4	Upon NTP	NTP + 540 days
5	Upon NTP	NTP + 540 days
6	NTP + 90 days	NTP + 540 days
7	NTP + 90 days	NTP + 540 days
8	NTP + 300 days	NTP + 720 days
9	NTP + 480 days	NTP + 720 days

NTP = Notice to Proceed

EXHIBIT A

Lower South Platte Water Cooperative Operational Development
Budget (Part 1)

Total Grant Costs				
	Labor	Other Direct Costs	Matching Funds (If Applicable)	Total Project Costs
Task 1 - Develop Operational Plan	\$121,315	\$810		\$122,125
Task 2 - Meetings with Stakeholders	\$29,468	\$2,320		\$31,788
Task 3 - Data and Measurement Needs	\$19,882	\$230		\$20,112
Task 4 - Accounting	\$13,432	\$230		\$13,662
Task 5 - Inventory of Existing Infrastructure	\$16,976	\$10		\$16,986
Task 6 - Assessment of Costs and Financing	\$13,658	\$10		\$13,668
Task 7 - Economic Considerations	\$49,284	\$8,530		\$57,814
Task 8 - Assessment of Operational Considerations	\$38,808	\$10		\$38,818
Task 9 - Project Reports	\$14,674	\$330		\$15,004
In-Kind Contributions	See Budget (Part 4)			
Total Costs:	\$317,497	\$12,480		\$329,977

EXHIBIT A

Lower South Platte Water Cooperative Operational Development
Budget (Part 2)

Consulting Labor Costs												
Project Personnel:	Senior Engineer	Staff Engineers	Engineering Administrative	Senior Attorney	Staff Attorney	Senior Economist	Staff Economist	Economic Associate 1	Economic Associate 2	CSU Economist	CSU Economics Graduate Student	Total Costs
Hourly Rate:	\$166	\$106	\$90	\$255	\$190	\$209	\$170	\$149	\$60	\$150	\$27.69	
Task 1 - Develop Operational Plan	198	582	32	75	25							\$121,315
Task 2 - Meetings with Stakeholders	47	36		70								\$29,468
Task 3 - Data and Measurement Needs	54	103										\$19,882
Task 4 - Accounting	26	86										\$13,432
Task 5 - Inventory of Existing Infrastructure	25	121										\$16,976
Task 6 - Assessment of Costs and Financing	28	85										\$13,658
Task 7 - Economic Considerations	5	0	2			44	27	12	15	4	1126.75	\$49,284
Task 8 - Assessment of Operational Considerations	28	85		80	25							\$38,808
Task 9 - Project Reports	36	58		10								\$14,674
Total Hours:	447	1156	34	235	50	44	27	12	15	4	1126.75	
Cost:	\$74,202	\$122,536	\$3,060	\$59,925	\$9,500	\$9,196	\$4,590	\$1,788	\$900	\$600	\$31,200	\$317,497

EXHIBIT A

Lower South Platte Water Cooperative Operational Development
Budget (Part 3)

Consulting Direct Costs							
Item:	Copies	Materials	Equipment/ Supplies	Mileage	CSU Overhead Cost (20% of overall CSU project costs)		Total
Units:	No.			Miles			
Unit Cost:	\$0.10	L.S.	L.S.	\$0.50	L.S.		
Task 1 - Develop Operational Plan	500			1520			\$810
Task 2 - Meetings with Stakeholders	2200			4200			\$2,320
Task 3 - Data and Measurement Needs	100			440			\$230
Task 4 - Accounting	100			440			\$230
Task 5 - Inventory of Existing Infrastructure	100						\$10
Task 6 - Assessment of Costs and Financing	100						\$10
Task 7 - Economic Considerations	550			950	\$8,000		\$8,530
Task 8 - Assessment of Operational Considerations	100						\$10
Task 9 - Project Reports	3300						\$330
Total Units:	7050	--	--	7550			
Total Cost:	\$705	\$0	\$0	\$3,775	\$8,000		\$12,480

Lower South Platte Water Cooperative Operational Development

EXHIBIT A

Budget (Part 4)

In-Kind and Cash Contributions

In-Kind and Cash Contributions (Current Grant Request)					Financial Pmts. (See Table 1 in Grant Application)
Project Personnel:	LSPWCD Engineer	LSPWCD Clerical	Other Engineer	Total	
Hourly Rate:	\$ 60.00	\$ 25.00	\$ 60.00	Total	
Task 1	20	2	15		
Task 2	20	2	20		
Task 3	15	2	5		
Task 4	15	2	5		
Task 5	10	2	5		
Task 6	10	2	5		
Task 7	15	2	5		
Task 8	10	2	5		
Task 9	10	2	5		\$ -
Cash Payments (Pledges)					\$ 29,500.00
Total Hours:	125	18	70		
Total Cost:	\$ 7,500.00	\$ 450.00	\$ 4,200.00	\$ 12,150.00	\$ 29,500.00

In-Kind Direct Costs (Current Grant Request)					
Item:	Copies	Materials	Equipment/ Supplies	Mileage	Total
Units:	No.	LS	LS	Miles	
Unit Cost:	\$ 0.10	1	1	\$ 0.50	
Task 1	100			100	
Task 2	20			150	
Task 3	20			0	
Task 4	20			0	
Task 5	20			0	
Task 6	20			0	
Task 7	20			100	
Task 8	20			0	
Task 9	100			100	
Total Units:	340.00	-	-	450.00	
Total Cost:	\$ 34.00	\$ -	\$ -	\$ 225.00	\$ 259.00

Lower South Platte Water Cooperative Operational Development

EXHIBIT A

Budget (Part 4) - Continued

In-Kind and Cash Contributions

* In-Kind and Cash Contributions (Previous Related Work - Within 3 months)					
Project Personnel:	LSPWCD Engineer	LSPWCD Clerical	Other Engineer	Total (In-Kind)	Financial Payments from Groves Farms (Legal Services)
Hourly Rate:	\$ 60.00	\$ 25.00	\$ 60.00		
Steering Committee Development, Grant Application, Water User Meetings, related work	40	10	10	\$ -	\$ -
Cash Payments (Legal)	\$ -	\$ -	\$ -		\$ 7,200.00
Total Hours:	40	10	10		
Total Cost:	\$ 2,400.00	\$ 250.00	\$ 600.00	\$ 3,250.00	\$ 7,200.00

There have been significant in-kind contributions and financial payments associated with this project prior to September 15th, 2010.

However, contributions prior to September 15th, 2010 will not be used as in-kind contributions towards this grant proposal.

In-Kind and Cash Contribution Summary					
Category	Current Cash	Current In-Kind		Previous Cash and In-Kind	
Contribution	Cash Match for Current Grant Application (See Table 1 and Appendix A)	In-Kind labor for Current Grant Application	In-Kind direct costs for Current Grant Application	Previous Cash Contributions within 3 months of Application	Previous In-Kind Contributions within 3 months of Application
Total Cost:	\$ 29,500.00	\$ 12,150.00	\$ 259.00	\$ 7,200.00	\$ 3,250.00
Total:	\$ 29,500.00	\$ 12,409.00		\$ 10,450.00	

**Lower South Platte Water Conservancy District
Alternative Agricultural Water Transfer Methods Competitive Grant Program
Performance Monitoring Provisions**

Statutory Requirements

- 2) Each personal services contract entered into pursuant to this code with a value of one hundred thousand dollars or more shall contain
- (a) Performance measures and standards developed specifically for the contract by the governmental body administering the contract. The performance measures and standards shall be negotiated by the governmental body and the vendor prior to execution of the contract and shall be incorporated into the contract. The measures and standards shall be used by the governmental body to evaluate the performance of the governmental body and the vendor under the contract.
 - (b) An accountability section that requires the vendor to report regularly on achievement of the performance measures and standards specified in the contract and that allows the governmental body to withhold payment until successful completion of all or part of the contract and the achievement of established performance standards. The accountability section shall include a requirement that payment by the governmental body to the vendor shall be made without delay upon successful completion of all or any part of the contract in accordance with the payment schedule specified in the contract or as otherwise agreed upon by the parties.
 - (c) Monitoring requirements that specify how the governmental body and the vendor will evaluate each others' performance, including progress reports, site visits, inspections, and reviews of performance data. The governmental body shall use one or more monitoring processes to ensure that the results, objectives, and obligations of the contract are met.
 - (d) Methods and mechanisms to resolve any situation in which the governmental body's monitoring assessment determines noncompliance, including termination of the contract.

Performance Monitoring Standards

Performance monitoring for this contract shall include the following:

- (a) Performance measures and standards: The grantee shall develop an operational plan with stakeholder input that identifies water supplies (including direct flow and/or storage water transferred through alternative means, excess recharge credits, new junior water rights, etc.), demands, and the means and infrastructure needed to provide water when and where it is needed. Grantee will produce detailed deliverables for Tasks 1 to 9 as specified in Exhibit A. Grantee shall maintain receipts for all project expenses and documentation of the minimum in-kind contributions per the budget in Exhibit A. Per ATM Criteria and Guidelines, retainage of 5% of the grant funds shall be withheld until receipt of the final report and all other deliverables.
- (b) Accountability: Per ATM Criteria and Guidelines full documentation of project progress must be submitted with each invoice for reimbursement. Grantee must certify that all grant conditions have been complied with on each invoice. In addition, per ATM Criteria and Guidelines progress reports must be submitted at least once every 6 months. A final project report must be submitted and approved before final project payment and release of retainage.
- (c) Monitoring Requirements: Grantee is responsible for ongoing monitoring of project progress per Exhibit A and Paragraphs 9 & 19 of the contract. Progress shall be detailed in the required invoice documentation and progress reports as detailed above. Additional inspections or field consultations will be arranged as may be necessary.
- (d) Noncompliance Resolution: Per paragraphs 9, 14, 15, and 19 of the contract: payment will be withheld until grantee is current on all grant conditions. Flagrant disregard for grant conditions will result in a stop work order and cancellation of the purchase order.