



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Ben Wade, Water Supply Planning

DATE: January 4, 2022

AGENDA ITEM: 12 - WSRF - Change of Scope to the “Schaeffer Farms Conservation Easement” Grant

Staff Recommendation: Staff recommends the CWCB Board approve the change in the project scope to assist the purchase of the LGM Farms Conservation Easement.

Background: In March 2020, the CWCB Board approved a WSRF grant to the Colorado Open Lands (grantee) for \$232,550 to fund the purchase of a conservation easement in the project titled, “Conserving Working Lands and Senior Water Rights - Schaefer Farms Conservation Easement.” Of the overall award, \$190,050 was to be used for the easement acquisition. In addition to CWCB funding, the grantee received funding from Colorado Parks and Wildlife (CPW) and the Natural Resources Conservation Service (NRCS). The project has yet to be contracted due to staffing changes with the grantee and within CWCB staff.

After the March 2020 Board approval, the project was reconfigured in early 2021. The initial project was to conserve the 910-acre Schaefer Farms property, which consisted of three separate tracts of land and included the LGM Farm property. The terms of the original proposed conservation easement allowed each tract to be sold separately from each other. The grantee was nearing completion of the project in early 2021 when NRCS informed them that since each tract could be sold separately, each tract had to meet NRCS qualifications individually and that some of the tracts did not qualify due to the percentage of prime soils.

With permission from CPW, NRCS, and a verbal commitment from former CWCB staff, the grantee split the project into two projects: Schaefer Farms, which conserves 638 acres and closed in 2021 without using money from the project funders, and LGM Farms, which would conserve 272 acres. LGM Farms meets NRCS easement qualifications and if the change in the scope of the project is approved by the Board, CWCB funds along with funds from NRCS and CPW would help purchase the easement on this remaining 272 acres of the property.



The estimated purchase price of the original 910-acre Schaefer Farm conservation easement was \$1,340,000, however the appraised value was about \$2,817,600. Once the parcels were separated, the landowner donated the value of the conservation easement on the 638 acres. The appraised value of the conservation easement on the LGM Farm as of August 2021 is \$1,102,400. Despite conserving a smaller tract of the overall property, the percentage of the overall project costs the CWCB would be contributing to the entire Schaefer Farm conservation easement is reduced from 16% to about 6%. Considering just the purchase of the LGM Farm conservation easement, the CWCB is contributing to a conservation easement with the same conservation easement values as the original larger project, just on a smaller scale, and changing the scope of the CWCB's approved project to purchase the LGM Farms easement would still serve the purpose of maintaining agricultural viability and supporting agricultural conservation and efficiency in the Rio Grande Basin.





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<u>Colorado Water Conservation Board</u>	
Water Supply Reserve Fund	
<u>Exhibit A - Statement of Work</u>	
Date:	January 14, 2022
Water Activity Name:	Conserving Working Lands and Senior Water Rights – LGM Farms Conservation Easement
Grant Recipient:	Colorado Open Lands
Funding Source:	WSRF – Rio Grande Basin Roundtable Basin Account
Water Activity Overview: (Please provide brief description of the proposed water activity (no more than 200 words). Include a description of the overall water activity and specifically what the WSRF funding will be used for. (PLEASE DEFINE ALL ACRONYMS).)	
<p>Colorado Open Lands is requesting \$232,500 in WSRF funds to purchase a conservation easement on the 272.21-acre LGM Farms property located north of Monte Vista in Rio Grande County. The property consists of irrigated meadows and pasture and ½-mile of frontage along the Rio Grande River. Hay, barley and canola production and livestock grazing occur on the property. Ninety shares of water rights from the Consolidated Ditch & Headgate Company will be permanently tied to the property. A 10-year public access easement for hunting will be conveyed to Colorado Parks and Wildlife.</p> <p>WSRF funding will be used for the following: \$190,000 payment to landowner for a portion of their conservation easement value; \$30,000 payment to cover a portion of the conservation easement transaction expenses; and \$12,500 payment to COL for staff time associated with administering the conservation easement transaction.</p> <p>Additional funds have already been obtained for this project: \$425,250 from the Natural Resources Conservation Service for payment to the landowner for their conservation easement value, \$220,000 from Colorado Parks and Wildlife for payment to the landowner for their conservation easement value, and \$15,000 from Great Outdoors Colorado for conservation easement transaction expenses. The total value of the conservation easement is \$1,102,400.</p>	
Objectives: (List the objectives of the project. (PLEASE DEFINE ACRONYMS).)	
<p>The objective of this project is to conserve the 272.21-acre LGM Farms property by placing a perpetual conservation easement on the land. The conservation easement will protect the property’s irrigated meadows and pasture and riparian habitat along ½-mile of the Rio Grande River. The property provides habitat for: bald eagle, ferruginous hawk, and greater sandhill crane (all Colorado Species of Concern), burrowing owl and river otter (both Colorado State Threatened species), and southwestern willow flycatcher (threatened species under the U.S. Threatened and Endangered Species Act). Additionally, the property provides habitat for the following big game species: black bear, elk, mountain lion, mule deer, and pronghorn. The property is within a migration corridor for elk and mule and includes a resident population herd for elk and mule deer. The property fronts on US Highway 285 and Swede Lane, and conservation of the property will ensure that it remains a scenic view for travelers along these roads. Seventy percent of the soils on the property are identified by the Natural Resources Conservation Service as “prime farmland,” which are soils that have the “best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses.” The conservation easement will limit disturbance and development on the property, ensuring that these soils remain productive for agricultural use. The easement will tie 90 shares of water rights from The Consolidated Ditch & Headgate Company, ensuring that the water is available for continued</p>	



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agriculture use on the property and will ensure that the existing hydrology remains intact allowing return flows to reach downstream users and the river.

Tasks

Provide a detailed description of each task using the following format: (PLEASE DEFINE ACRONYMS)

Task 1 – Acquisition of Conservation Easement

Description of Task:

Colorado Open Lands will work with the landowner and Natural Resources Conservation Service (NRCS), Colorado Parks and Wildlife (CPW), and Colorado Water Conservation Board (CWCB) to draft a conservation easement encumbering the property in perpetuity. The conservation easement will prohibit future non-agricultural development of the property, while permitting flexible use of water resources associated with the property. The landowner will have the option to work with water managers in the San Luis Valley, while still ensuring that the conservation values remain intact. However, the conservation easement will prohibit the permanent separation of the associated water rights from the property. COL will work with the landowner to ensure that all guidelines of the deed and funders are met and that the conservation values are protected.

To complete the conservation easement, COL will perform all due diligence in advance of closing on the LGM Farms conservation easement. This includes acquiring the following documents: appraisal, baseline report, title commitment, geologist's report, environmental assessment report, boundary survey, and water rights due diligence report. COL and COL's attorney will review the various due diligence documents and the Deed of Conservation Easement. All of these documents will be shared with the funders for their review.

Once all the funders and the landowner have signed off on all of the documentation, COL will schedule a closing with the title company. Upon closing, COL will obtain title insurance for the conservation easement transaction.

Once the conservation easement is recorded, COL will be responsible for stewarding the easement in perpetuity. This includes monitoring the property annually, conducting landowner outreach, reviewing reserved rights requests, and enforcement of easement terms.

Method/Procedure:

1. Negotiate terms of the deed of the conservation easement with the property owner.
2. Meet with stakeholders to discuss farm operations plan and water-sharing; secure conservation easement language approval.
3. Contract for various due diligence items: survey, baseline report, appraisal, Phase I environmental report, title commitment/title insurance, geologist's report, water rights due diligence report.
4. Review all due diligence items and submit to the various funders for their review, including the draft Deed of Conservation Easement.
5. Complete conveyance of the conservation easement from landowner to COL.

Grantee Deliverable: (Describe the deliverable the grantee expects from this task)

Final due diligence documents, title policy and title company closing documents, and recorded Deed of Conservation Easement on the LGM Farms property.



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Tasks
CWCB Deliverable: (Describe the deliverable the grantee will provide CWCB documenting the completion of this task)
Upon completion of the conservation easement, Colorado Open Lands will provide CWCB a final report summarizing the transaction. This will include all final due diligence documents, a copy of the recorded deed of conservation easement, and photos.

Tasks
Provide a detailed description of each task using the following format: (PLEASE DEFINE ACRONYMS)
<u>Task 2 – Administration of a Conservation Easement</u>
Description of Task:
Colorado Open Lands will manage the project on behalf of the landowner. COL will work with the landowner, due diligence service providers and Natural Resources Conservation Service (NRCS), Colorado Parks and Wildlife (CPW), and Colorado Water Conservation Board (CWCB) to ensure that all due diligence is completed and meets all Federal, State, and local guidelines, as well as those guidelines established by the Land Trust Alliance. COL will also negotiate the terms of the conservation easement with the landowner to ensure that the conservation values of the property are protected and to meet the funders' requirements. COL will ensure that all requirements for each funder and the title company are met before coordinating the closing with the landowner and title company.
Method/Procedure:
<ol style="list-style-type: none"> 1. Negotiate terms of the deed of the conservation easement with the property owner and funders. 2. Meet with stakeholders to discuss farm operations plan and water-sharing; secure conservation easement language approval. 3. Contract for various due diligence items: survey, baseline report, appraisal, Phase I environmental report, title commitment/title insurance, geologist's report, water rights due diligence report. 4. Review all due diligence items and submit to the various funders for their review, including the draft Deed of Conservation Easement. 5. Coordinate closing with the landowner, title company and the funders.
Grantee Deliverable: (Describe the deliverable the grantee expects from this task)
Final due diligence documents, title policy and title company closing documents, and recorded Deed of Conservation Easement on the LGM Farms property.
CWCB Deliverable: (Describe the deliverable the grantee will provide CWCB documenting the completion of this task)
Upon completion of the conservation easement, Colorado Open Lands will provide CWCB a final report summarizing the transaction. This will include all final due diligence documents, a copy of the recorded deed of conservation easement, and photos.



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Budget and Schedule

Exhibit B - Budget and Schedule: This Statement of Work shall be accompanied by a combined [Budget and Schedule](#) that reflects the Tasks identified in the Statement of Work and shall be submitted to CWCB in [excel format](#). A separate [excel formatted](#) Budget is required for engineering costs to include rate and unit costs.

Reporting Requirements

Progress Reports: The grantee shall provide the CWCB a progress report every 6 months, beginning from the date of issuance of a purchase order, or the execution of a contract. The progress report shall describe the status 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. The CWCB may withhold reimbursement until satisfactory progress reports have been submitted.

Final Report: At completion of the project, the grantee shall provide the CWCB a Final Report on the grantee's letterhead that:

- Summarizes the project and how the project was completed.
- Describes any obstacles encountered, and how these obstacles were overcome.
- Confirms that all matching commitments have been fulfilled.
- Includes photographs, summaries of meetings and engineering reports/designs.

Payments

Payment will be made based on actual expenditures, must include invoices for all work completed and must be on grantee's letterhead. The request for payment must include a description of the work accomplished by task, an estimate of the percent completion for individual tasks and the entire Project in relation to the percentage of budget spent, identification of any major issues, and proposed or implemented corrective actions.

The CWCB will pay the last 10% of the entire water activity budget when the Final Report is completed to the satisfaction of CWCB staff. Once the Final Report has been accepted, and final payment has been issued, the water activity and purchase order or contract will be closed without any further payment. Any entity that fails to complete a satisfactory Final Report and submit to CWCB within 90 days of the expiration of a purchase order or contract may be denied consideration for future funding of any type from CWCB.

Performance Requirements

Performance measures for this contract shall include the following:

(a) Performance standards and evaluation: Grantee will produce detailed deliverables for each task as specified. Grantee shall maintain receipts for all project expenses and documentation of the minimum in-kind contributions (if applicable) per the budget in Exhibit B. Per Grant Guidelines, the CWCB will pay out the last 10% of the budget when the final deliverable is completed to the satisfaction of CWCB staff. Once the final deliverable has been accepted, and final payment has been issued, the purchase order or grant will be closed without any further payment.

(b) Accountability: Per the Grant Guidelines full documentation of project progress must be submitted with each invoice for reimbursement. Grantee must confirm that all grant conditions have been complied with on each invoice. In addition, per the Grant Guidelines, Progress Reports must be submitted at least once every 6 months. A Final Report must be submitted and approved before final project payment.

(c) Monitoring Requirements: Grantee is responsible for ongoing monitoring of project progress per Exhibit A. Progress shall be detailed in each invoice and in each Progress Report, as detailed above. Additional inspections or field consultations will be arranged as may be necessary.

(d) Noncompliance Resolution: Payment will be withheld if grantee is not current on all grant conditions. Flagrant disregard for grant conditions will result in a stop work order and cancellation of the Grant Agreement.

Last Update: 7/20/2021



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Water Supply Reserve Fund

EXHIBIT B - BUDGET AND SCHEDULE - Direct & Indirect (Administrative) Costs

Date: January 14, 2022

Water Activity Name: Conserving Working Lands and Senior Water Rights – LGM Farms Conservation Easement

Grantee Name: Colorado Open Lands

<u>Task No.</u> ⁽¹⁾	<u>Description</u>	<u>Start Date</u> ⁽²⁾	<u>End Date</u>	<u>Matching Funds</u> (cash & in-kind) ⁽³⁾	<u>WSRF Funds</u> (Basin & Statewide combined) ⁽³⁾	<u>Total</u>
1	Conservation Easement Acquisition	2/1/2021	6/30/2022	\$912,400	\$190,050	\$1,102,450
1	Due Diligence/Project Costs	2/1/2021	6/30/2022	\$63,153	\$30,000	\$93,153
2	COL Administrative Costs	2/1/2021	6/30/2022	\$0	\$12,500	\$12,500
Total				\$975,553	\$232,550	\$1,208,103

(1) The single task that include costs for Grant Administration must provide a labor breakdown (see Indirect Costs tab below) where the total WSRF Grant contribution towards

(2) Start Date for funding under \$100K - 45 Days from Board Approval; Start Date for funding over \$100K - 90 Days from Board Approval.

(3) Round values up to the nearest hundred dollars.

- Reimbursement eligibility commences upon the grantee's receipt of a Notice to Proceed (NTP)

- NTP will not be accepted as a start date. Project activities may commence as soon as the grantee enters contract and receives formal signed State Agreement.

The CWCB will pay the last 10% of the entire water activity budget when the Final Report is completed to the satisfaction of the CWCB staff project manager. Once the Final

- Additionally, the applicant shall provide a progress report every 6 months, beginning from the date of contract execution

- Standard contracting procedures dictate that the Expiration Date of the contract shall be 5 years from the Effective Date.

**LGM Farms Conservation Easement - Rio Grande County
Budget**

		Natural Resources Conservation Service (NRCS)	Colorado Parks and Wildlife (CPW)	Colorado Water Conservation Board (CWCB)	Landowner	Total
Task	Description					
1	Conservation Easement Acquisition	\$425,250.00	\$165,000.00	\$190,000.00	\$322,150.00	\$1,102,400.00
1	Due Diligence/Project Costs: Appraisal			\$10,000.00	\$7,800.00	\$17,800.00
1	Due Diligence/Project Costs: Baseline Documentation			\$3,300.00	\$1,100.00	\$4,400.00
1	Due Diligence/Project Costs: Closing Costs/Title Insurance			\$4,000.00	\$2,000.00	\$6,000.00
1	Due Diligence/Project Costs: Geologist's Report			\$700.00	\$700.00	\$1,400.00
1	Due Diligence/Project Costs: Legal Services			\$9,300.00	\$9,300.00	\$18,600.00
1	Due Diligence/Project Costs: Survey			\$2,700.00	\$2,700.00	\$5,400.00
1	Due Diligence/Project Costs: Stewardship Reserve Contribution			\$0.00	\$29,553.00	\$29,553.00
1	Due Diligence/Project Costs: COL Project Fee			\$0.00	\$10,000.00	\$10,000.00
2	COL Administrative Costs			\$12,500.00	\$0.00	\$12,500.00
Totals	Totals	\$425,250.00	\$165,000.00	\$232,500.00	\$385,303.00	\$1,208,053.00