

## **CAP FARM WATER SUPPLY PROGRAM**

### **Terms and Conditions**

#### **1.0 PURPOSE**

The objective of the Farm Water Supply Program is to provide technical assistance and incentive for the creation of a Long Term Water Management Plan at the farm level and financial assistance for Active Producers for specific Projects identified in the Long Term Water Management Plan to improve their water supply security and more effectively manage on-farm water resources.

There is limited funding available under the Program each Fiscal Year. Grant Application Forms will be considered for approval on a first-come, first-served basis due to Program funding constraints. Submission of a completed Grant Application Form does not guarantee that the Applicant will receive payment under this Program.

#### **2.0 DEFINITIONS**

- 2.1 Active Producer:** means an individual, proprietorship, corporation, registered or non-registered partnership or other organization, including but not limited to a Hutterite colony, member of an Indian reserve, or a Metis settlement that is responsible for the day-to-day management and work on the farm, including responsibility for input costs for agricultural crops or livestock producing at least \$10,000 worth of farm commodities annually, but does not include a landlord whose only interest in the crop or livestock is that of ownership of the land.
- 2.2 AF:** means Alberta Agriculture and Forestry.
- 2.3 Applicant:** means the entity that submits a Grant Application Form and meets the eligibility criteria in s. 3.1.1.
- 2.4 CAP:** means the Federal-Provincial-Territorial Canadian Agricultural Partnership.
- 2.5 Complete:** means that all the minimum requirements for a particular Project that are stated in the Program Funding List are satisfied.
- 2.6 Crown Land:** means land under disposition (contract) from the Provincial Crown or the Federal Crown.
- 2.7 Eligible Cost:** means a cost that is eligible for payment under the Program pursuant to s. 3.6.1.
- 2.8 Environmental Checklist:** means a checklist provided to a potential Applicant to document if the potential negative impacts of a Project are not likely to require mitigation.
- 2.9 Federal Crown:** means Her Majesty the Queen in Right of Canada.
- 2.10 Fiscal Year:** means the period from April 1 until March 31 of the following year.
- 2.11 Grant Application Form:** means the Program grant application form for a particular Fiscal Year and all documents required to be submitted with that grant application form for an Applicant to be considered for funding under the Program.
- 2.12 In-Kind Contributions:** means non-monetary contributions that defray the total cost of the Project, including the fair market value attributed for goods and the fair market value attributed for the provision of equipment required in the planning, conducting or managing of the Project that requires no outlay of cash.

- 2.13 Irrigation District:** means the geographical area consisting of the parcels of land included in an existing irrigation district as defined in the *Irrigation Districts Act*, or a district formed under the *Irrigation Districts Act*
- 2.14 Long Term Water Management Plan:** means the planning document developed by an Active Producer and approved by an AF Water Specialist.
- 2.15 Minister:** means the Minister of Alberta Agriculture and Forestry and his authorized representative(s).
- 2.16 Multi-User Water Supply Pipeline:** means a pipeline that carries water from a common source and conveys it over a distance to supply a number of individual private water supply systems.
- 2.17 Operable:** means that the Project is able to permanently deliver water for its intended use.
- 2.18 Program Funding List:** means the document that identifies projects that may be completed and costs that may be incurred under the Program, as well as minimum construction specifications and pertinent regulatory requirements, as may be amended.
- 2.19 Program:** means the Canadian Agricultural Partnership Farm Water Supply Program.
- 2.20 Program Term:** means the period from April 1, 2018 to March 15, 2023.
- 2.21 Program Terms and Conditions:** the terms and conditions for the Program set out in this document, as may be amended.
- 2.22 Project:** means a project that meets the criteria listed in s. 3.4.1 and which is identified in the Applicant's Long Term Water Management Plan and Grant Application Form.
- 2.23 Provincial Crown: means** Her Majesty the Queen in Right of Alberta.
- 2.24 Tie-In:** means physical works connecting a farmstead water supply to a Multi-User Water Supply Pipeline.
- 2.25 Water Body:** means a river, stream, lake, creek, marsh, slough, reservoir, irrigation or drainage canal, or wetland.
- 2.26 Water Co-op:** means an association as defined in the Rural Utilities Act that has as its principal object the obtaining and supplying of water.
- 2.27 Water Specialist:** means a water specialist or engineer with the Farm Water Supply Branch of AF.

### 3.0 Eligibility

#### 3.1 Eligible Applicants

**3.1.1** To be eligible to apply to the Program, an entity must be an Active Producer (as defined in s. 2.1) that:

- a) is liable to pay Alberta income tax or corporate tax (or claim losses) on income from the production of farm commodities under the Income Tax Act (Canada) or the Alberta Corporate Tax Act;
- b) has an approved Long Term Water Management Plan;
- c) is actively and directly farming agricultural crops and livestock;
- d) is responsible for management decisions and operating costs on the farm; and
- e) has control of the farming assets, either by holding title to the assets or having a rental agreement with the person holding title.

#### 3.2 Ineligible Applicants

**3.2.1** The following entities are ineligible to apply for the Program:

- a) research stations, universities and other organizations funded in whole or in part by the government; and
- b) any other person deemed ineligible by the Minister.

### 3.3 Eligible Lands

**3.3.1** Subject to s. 3.3.2, Projects must be completed on:

- a) private land;
- b) Crown Land under grazing lease disposition or cultivation lease disposition to an individual or a corporation under the authority of the Special Areas Act and its regulations;
- c) Crown Land under grazing lease disposition, farm development lease disposition or a forest grazing license to an individual or a corporation under the authority of the Public Lands Act and its regulations; or
- d) if the Project is a Tie-In, on a right of way for the Multi-User Water Supply Pipeline to which the Tie-In is to be connected.

**3.3.2** The land on which a Project is completed must be located in the Province of Alberta and must be actively farmed by the Applicant at the time the Project is completed, in the sole discretion of the Minister.

**3.3.3** A Project completed on Crown land that is not specified in s. 3.3.1 is ineligible.

### 3.4 Eligible Projects

**3.4.1** For a project to be eligible for funding under the Program, it must satisfy the following requirements. The project must:

- a) be identified in the Applicant's approved Long Term Water Management Plan prior to the Applicant commencing the project (the project type and legal land description on the Long Term Water Management Plan and the Grant Application Form must match). If a project contains necessary components that are not explicitly identified in the Long Term Water Management Plan, but are commonly part of the project, those components may be considered to be part of the project, in the Minister's sole discretion;
- b) be identified as a Standard Incentive Project or a Special Incentive Project in the Program Funding List, and meet the applicable requirements stated on the Program Funding List;
- c) be commenced after all required approval(s) or authorizations(s) have been obtained by the Applicant from agencies, private landowners or right-of-way holders<sup>1</sup>;
- d) be commenced after all governmental approvals for the construction of the project have been obtained by the Applicant, including those related to public health and safety, labour codes and standards, care and use of animals in research, wildlife habitat, and environmental protection, or alternatively after written confirmation has been obtained by the Applicant from the relevant government department that an approval for the project is not required;
- e) be completed:
  - i. on land that meets the requirements of s. 3.3.1 and 3.3.2; and
  - ii. in accordance with all applicable laws and regulations;
- f) be Complete, as defined in s. 2.5, prior to the date the Grant Application Form is submitted to AF.

<sup>1</sup> Examples of authorizations include environmental approvals from required regulators and approvals from Crown agencies for Projects involving improvements on eligible Crown Land under disposition.

### **3.5 Ineligible Projects**

**3.5.1** The following projects are not eligible under the Program and must not be included in a Grant Application Form:

- a) water hauling or temporary piping costs;
- b) repair, maintenance or replacement of existing equipment;
- c) water source development for field scale irrigation in Alberta Irrigation Districts;
- d) equipment used for crop production (irrigation water application equipment);
- e) distribution of water within the farm site, except as part of an eligible Project;
- f) energy sources where an existing program addresses installation costs;
- g) remote watering systems including tanks, portable or renewable energy sources or unburied pipelines to support livestock grazing from existing well water sources or natural waterbodies;
- h) roads and buildings except as detailed on the Program Funding List;
- i) water treatment equipment or supplies for domestic use;
- j) projects constructed prior to April 1, 2018 or after March 15, 2023;
- k) any project listed as ineligible in the Program Funding List; and
- l) any other project deemed ineligible by the Minister.

### **3.6 Eligible Costs (must be approved by the Minister)**

**3.6.1** For a cost to be eligible for funding under the Program, it must satisfy the following requirements. The cost must be:

- a) identified in the Program Funding List for a Project the Applicant Completed, or be directly attributable to such a Project, in the Minister's sole discretion;
- b) incurred for a Project that is identified in the Applicant's approved Long Term Water Management Plan, where the Long Term Water Management Plan identifying that Project was approved prior to the cost being incurred; and
- c) incurred by the Applicant after the beginning of the Program Term.

**3.6.2** In incurring Eligible Costs, the Applicant must follow a process that is transparent, fair, and promotes the best value for the money expended. Eligible Costs incurred by the Applicant must be at competitive prices that are no greater than fair market value.

**3.6.3** If the Minister, in his sole discretion, considers the amount of any Eligible Cost claimed by the Applicant to be unreasonable, the Minister may adjust the amount of that Eligible Cost to an amount the Minister considers reasonable.

### **3.7 Ineligible Costs:**

**3.7.1** Costs that are not eligible for reimbursement under the Program include:

- a) costs identified as ineligible costs in the Program Funding List for the type of Project the Applicant is completing;
- b) costs incurred prior to the Applicant's Long Term Water Management Plan being approved;
- c) costs for projects not identified in the Applicant's approved Long Term Water Management Plan;
- d) costs incurred before the beginning of the Program Term;
- e) costs incurred for a Project that is not Complete by the date the Grant Application Form is submitted;
- f) GST; and
- g) any other cost considered by the Minister to be ineligible.

#### **4.0 Amendment to the Long Term Water Management Plan**

**4.1** A Long Term Water Management Plan may be amended as follows during the Program Term:

- a) The Applicant may request that projects be added to their Long Term Water Management Plan by contacting a Water Specialist.
- b) If the Water Specialist approves the proposed amendment(s) to the Long Term Water Management Plan, the Water Specialist shall send an updated Long Term Water Management Plan to the Applicant.
- c) To be eligible under the Program, projects must be identified in the Applicant's approved Long Term Water Management Plan prior to the Applicant commencing the project.

#### **5.0 Applications**

**5.1** To be considered for funding under the Program in a particular Fiscal Year, an Applicant must submit the following, to the satisfaction of the Minister:

- a) a completed Grant Application Form for that Fiscal Year which is signed by the Applicant;
- b) a completed Applicant Eligibility Form signed by the Applicant;
- c) a completed Environmental Checklist signed by the Applicant;
- d) invoices/receipts and documentation for In-Kind Contributions for all Eligible Costs claimed;
- e) photos of the Project, if the Program Funding List state that photos must be provided with the Application for the particular Project being applied for;
- f) if the Project was completed on privately owned land, landowner approval for the completion of the Project on that land;
- g) if the Project was completed on Crown land, the applicable Crown approval(s) required for the completion of the Project on that land;
- h) if the Project is a Tie-In, proof of right to access water through the Multi-User Water Supply Pipeline to which the Tie-In is to be connected (eg. proof of full purchase of Water Co-op membership/share, etc.);
- i) if applicable, copies of any written confirmation the Applicant received from government departments pursuant to s. 3.4.1(d) that approvals were not required for the Project;
- j) any other information requested by the Minister.

**5.2** The deadline to submit a Grant Applications Form to be considered for funding in the current Fiscal Year is stated on the Program website. The final deadline under the Program for Grant Application Forms to be received by AF is March 15, 2023.

**5.3** If an Applicant's Long Term Water Management Plan was approved in a prior Fiscal Year and the Applicant has:

- a) not yet submitted a Grant Application Form to AF and would like to be considered for funding under the Program in the current Fiscal Year; or
- b) previously submitted a Grant Application Form to AF in a prior Fiscal Year, and would like to be considered for additional funding for new Projects constructed during the current Fiscal Year, the Applicant should request a Grant Application Form for the current Fiscal Year from AF and submit it pursuant to s. 5.1 and 5.2.

**5.4** Acceptance of a Grant Application Form under this Program creates no obligation on the part of the Provincial Crown or Federal Crown to provide licenses or approvals under any applicable legislation, including the *Canadian Environmental Assessment Act*.

**5.5** The Minister may reject any Grant Application Form that is inaccurate, ineligible or incomplete in the sole discretion of the Minister.

- 5.6 A Grant Application Form will not be considered complete unless the Statement of Certification on the Grant Application Form is signed, and all required supporting documentation is provided to the satisfaction of the Minister.
- 5.7 Grant Application Forms must be signed by the Applicant or on behalf of the Applicant by a properly authorized representative. The Minister may require evidence of authorization. Personal designates are not permitted to sign Grant Application Forms unless they have Power of Attorney (submitted with the Grant Application Form). Either executors or administrators can sign on behalf of estates.
- 5.8 Submission of a Grant Application Form does not entitle an Applicant to a grant under the Program.
- 5.9 The Applicant acknowledges that the grant will not be sufficient to cover the entire cost of the Project, and that the Applicant shall be solely responsible for raising funds from other sources to complete the Project. The Applicant acknowledges that the grant is the only financial assistance the Minister will provide under the Program to the Applicant for the Project.

## **6.0 Project Operation**

- 6.1 Within one year of the date on which an Applicant received an initial payment for a Project under the Program, the Project must be Operable as defined in s. 2.17.

## **7.0 Funding Levels and Payments**

- 7.1 There is limited funding available under the Program. Grant Application Forms will be considered for approval on a first-come, first-served basis due to Program funding constraints. Submission of a completed Grant Application Form does not guarantee that an Applicant will receive funding under this Program.
- 7.2 The Program provides grants on a cost-shared basis to cover Eligible Costs for approved Projects up to a maximum of \$64,000 per Applicant over the Program Term.
- 7.3 Eligible Costs for approved Projects will be cost-shared pursuant to the funding levels stated in the Funding List.
- 7.4 To make a claim for payment under the Program, the Applicant must submit the completed Grant Application Form, invoices, receipts, and all other documentation necessary to establish, to the satisfaction of the Minister, the nature and amount of the Eligible Costs claimed.
- 7.5 Subject to s. 7.5.1, the minimum payment request that will be considered in a Grant Application Form is \$250.
  - 7.5.1 A payment request in a Grant Application Form that is less than \$250 will only be considered when that Grant Application Form is the second Grant Application Form submitted with respect to an approved Project, and this second Grant Application Form is only being submitted with respect to the components of that approved Project that are required to make the approved Project Operable, as defined in s. 2.17.
- 7.6 The determination of whether an expense incurred by the Applicant constitutes an Eligible Cost that is eligible for reimbursement is at the sole discretion of the Minister
- 7.7 Eligible Costs shall be calculated based on the actual out of pocket cost to the Applicant (i.e. cost of the Eligible Cost less any rebates, discounts, incentives and/or credits, whether provided at the time of purchase or at a later date).
- 7.8 Funding received through any other CAP programs may not be used toward the cost-share requirements of the Program.

- 7.9 Funding received through other federal, provincial and municipal governments cannot exceed 100% of the Eligible Costs claimed by the Applicant and paid under the Program. The amount of the grant shall be adjusted so that the total government funding for Eligible Costs does not exceed 100% of these costs.
- 7.10 Applicants cannot assign or defer any payment under this Program.
- 7.11 Payments may be considered farm support payments and AGR-1 tax slips will be issued in the name of the Applicant if applicable.
- 7.12 Eligible Costs qualify only once for payment under the Program.
- 7.13 The Applicant shall not return for refund any items for which the Applicant has received a payment under the Program.
- 7.14 With the exception of items that are permanently affixed to the Applicant's land and the Applicant sells their land, the Applicant shall not sell or trade any items for which the Applicant has received a payment under the Program for at least three years after the date the payment is received.

## 8.0 Inspection

- 8.1 In determining whether to fund Grant Application Forms, the Minister may:
  - a) require Applicants to submit pictures of Projects; and
  - b) conduct site inspections.
- 8.2 For three years following the date a Grant Application Form is submitted, the Minister is entitled, at reasonable times and upon reasonable notice to the Applicant, to attend the farming or business operation of the Applicant for the purpose of examining items pertinent to the Project in order to assess whether the Applicant is in compliance with the Program Terms and Conditions.

## 9.0 Verification

- 9.1 The Applicant must submit documentation to establish, to the satisfaction of the Minister, that the Applicant incurred and paid all of the Eligible Costs claimed. Documents the Applicant may provide to do this include:
  - a) invoices for the claimed Eligible Costs that are in the Applicant's name; or
  - b) proof of payment for the claimed Eligible Costs.The Applicant must also provide any other documentation requested by the Minister that the Minister requires to be satisfied that the Applicant incurred and paid all the Eligible Costs claimed.
- 9.2 All items on an invoice submitted by the Applicant should be listed separately, and the cost for each Eligible Costs must be clearly identified.
- 9.3 The Applicant consents to the Minister releasing any information contained in the Application, or related to it, and obtained by the Minister in the course of verifying the Application, to any other government department, agency or other body for the purposes of verifying the Application, determining the Applicant's eligibility for the Program, or both. The Applicant expressly authorizes the Minister to obtain information from any government department, agency or other body to verify the contents of the Application and to determine the Applicant's eligibility for this Program.
- 9.4 The Applicant agrees to give the Minister and representatives of the Minister access to examine their farming or business operation for six years following the date the Applicant submitted their Grant Application Form, The Applicant agrees to make available to the Minister all records, books of account, income tax returns, invoices, databases, and audit and evaluation reports in relation to the Project that are necessary for the audit and evaluation of the Project. If the Applicant fails to provide such information within a reasonable time on reasonable notice, as determined by the Minister, the Applicant may be required to refund any payments received for the Project under the Program.

## **10.0 Non-Compliance**

**10.1** If, after making a payment under the Program, the Minister determines that:

- a) an Applicant is not eligible under the Program;
- b) a cost is not an Eligible Cost;
- c) an Applicant has contravened any of these Program Terms and Conditions; or
- d) an Applicant receive a payment under the Program not in accordance with the Program Terms and Conditions, then the Minister shall notify the Applicant in writing, and the Applicant must refund to the Minister any payments demanded by the Minister. Payment is due within 30 days of the notice. Failure to make the payment demanded creates a debt owing to the Provincial Crown which may be set ff against any money the Provincial Crown owes to the Applicant.

## **11.0 Refunds**

**11.1** The Applicant shall immediately refund to the Provincial Crown any payment received under the Program that is not in accordance with the Program Terms and Conditions, upon notice by the Minister. Failure to make repayment as required creates a debt owing to the Provincial Crown that can be set off against any money the Provincial Crown owes to the Applicant.

## **12.0 Right of Set-Off**

**12.1** The applicant agrees that the Minister may set-off against any other grant or amount payable to the Applicant under any programs administered within AF any amounts that become repayable by the Applicant to the Minister under this program.

## **13.0 False or Misleading Information**

**13.1** An Applicant who provides false, misleading or incomplete information under this Program forgoes all rights to benefit from this Program.

## **14.0 Debts to Provincial Crown or Federal Crown**

**14.1** The Minister has the right to deduct from any grant approved for an Applicant any amount due and owing to the Provincial Crown or Federal Crown by the Applicant.

## **15.0 Representations and Warranties**

**15.1** By submitting a Grant Application Form, the Applicant represents and warrants that:

- a) the Applicant is an eligible applicant pursuant to s. 3.1.1 of the Program Terms and Conditions;
- b) the person signing the Grant Application Form is duly authorized to submit the Grant Application Form, bind the Applicant to the Program Terms and Conditions, and, in the case of a partnership, bind the partners to the Program Terms and Conditions on the basis of joint and several liability;
- c) no Grant Application Form has been submitted for the same Projects by any other person, including without limitation, a person who is not arms-length or a related person as defined by the Income Tax Act (Canada) or by a shareholder, member or partner who is actively carrying on farming or business on behalf of a corporation;
- d) it has made full, true and plain disclosure to the Minister of all facts relating to the Projects that are material to its Grant Application Form, including without limitation all sources of funding from federal, provincial and municipal governments;
- e) it has the necessary financial resources to complete the Projects listed in the Grant Application Form;
- f) no member of the House of Commons or the Senate shall derive any financial advantage from the grant that would not be permitted under the Parliament of Canada Act;
- g) no current or former federal public office holder or federal public servant to whom the *Conflict of Interest Act*, the Conflict of Interest Code for Members of the House of Commons, or the Values and Ethics Code for the Public Sector and the Policy on Conflict of Interest and Post-Employment applies shall derive any advantage or

benefit from the grant unless the provision or receipt of such advantage or benefit is in compliance with such legislation, codes and policies;

- h) any person lobbying, as that term is defined in the Lobbyists Registration Act (Canada), on the Applicant's behalf is registered pursuant to that Act;
- i) it is not aware of any discussions to effect a sale, transfer, assignment or pledge of interest which would result in a change of the control of the Applicant or of the disposition of all or substantially all the assets of the Applicant;
- j) it has adequate human resources, experience and skills to carry out the Projects described in the Grant Application Form;
- k) there is presently no action, suit, or proceeding being brought or pending or threatened against or affecting the Applicant which could result in the expropriation of any property of the Applicant, or which could affect its operations, properties, financial condition, or its ability to complete the Projects described in the Grant Application Form;
- l) if Projects described in the Grant Application Form require authorization by an agency, the Applicant has obtained such approval prior to the commencement of the Projects;
- m) it is in compliance with all laws, orders and authorizations which relate to or affect it and is not subject to any order of any court or other tribunal affecting its operations;
- n) it has the power and authority and all necessary licenses and permits to own and operate its properties and carry on its operations, to submit the Grant Application Form, and to perform its obligations pursuant to the Grant Application Form and these Program Terms and Conditions; and
- o) the execution of the Statement of Certification in the Grant Application Form has been duly and validly authorized by the Applicant in accordance with applicable law, and shall constitute a binding legal obligation of the Applicant.

## **16.0 Grant Regulation and Disclosure of Grant Recipient Information**

**16.1** Payments under this Program are grants subject to the *Agriculture and Rural Development Grant Regulation*. The Applicant acknowledges that, in addition to complying with these Program Terms and Conditions, the Applicant must comply with the *Agriculture and Rural Development Grant Regulation*.

**16.2** The Applicant acknowledges that AF publicly discloses the following information for all grant recipients: the grant recipient name, the amount of the grant, the program the grant is paid under, and the payment date. The Applicant also acknowledges and agrees that the Federal Crown is authorized to publicly release the grant recipient's name, the amount of the grant, and the program the grant is paid under.

## **17.0 Changes to the Program Terms and Conditions**

**17.1** The Minister may change or terminate the Program at any time without notice. If the Minister changes the Program, the revised Program Terms and Conditions will be posted on the Program website.

## **18.0 Ministerial Discretion**

**18.1** The Minister has the absolute discretion to determine the eligibility of any Applicant and any payments due under this Program. The decision of the Minister is final.

