

**CHAFFEE COUNTY COST REIMBURSEMENT FUND
FOR THE NESTLÉ WATERS PROJECT**

Fund Purpose: To reimburse costs directly attributable to the Project and incurred by local governments in Chaffee County.

Fund Duration and Termination. The Cost Reimbursement Fund will be activated 30 days after the Permit Application is approved. It will be terminated when the Project is terminated. Upon termination or expiration and after eligible costs have been reimbursed, all remaining funds and interest earned will be transferred to the Permittee.

Types of Costs. There are three broad types of costs: (a) Ordinary Local Government Services; (b) Anticipated Costs directly attributable to the Project or the Permittee, and (c) Extraordinary and Unanticipated Costs Directly Attributable to the Project or the Permittee.

(a) **Ordinary Local Government Services.** This category includes costs associated with ordinary services provided to all residents, businesses and property owners in the County. Examples include County administration, clerk and recorder services, social services, ordinary police protection services, the county jail detention services, road maintenance, etc.

(b) **Anticipated Costs Directly Attributable to the Project or the Permittee.** There are some costs directly attributable to the Project or the Permittee that are anticipated. Examples include:

- (i) Permit Condition Review Costs
- (ii) Permit Enforcement Costs
- (iii) Water Court and Associated Administrative Costs.

These types of impacts are described in Permit Conditions Sections 12 and 40.

(c) **Extraordinary and Unanticipated Impacts Directly Attributable to the Project or the Permittee.** There are some costs attributable to the Project or the Permittee that may occur but are not anticipated or foreseeable by the County or the Permittee. Potential examples include costs associated with:

- (i) Remediation and mitigation action if a permit violation occurs and is not corrected by the Permittee;
- (ii) Extraordinary local government services attributable to the Project or Permittee. Illustrative examples might include supplemental safety or storm water improvements or truck turnouts to US 285

required by CDOT or around-the-clock police surveillance for the Permittee's assets.

- (iii) Arbitration or mediation costs associated with potential disputes;
- (iv) Litigation if legal action is taken that is related to the approval, construction and/or on-going operations of the Project or the Permittee. This includes legal action initiated by the County to enforce Permit conditions, initiated by the Permittee, or initiated by a third party.
- (v) Other currently unforeseen direct impacts attributable to the Project or the Permittee.

Cost Reimbursement Eligibility.

- (a) Ordinary Local Governments Services. These types of costs are not eligible for reimbursement through this Fund. Revenues to provide these services will be generated by the Permittee and other taxpayers in the County.
- (b) Anticipated Costs Directly Attributable to the Project or Permittee. Costs associated with these impacts are eligible for reimbursement through this Fund.
- (c) Extraordinary and Unanticipated Costs Directly Attributable to the Project or Permittee. Costs associated with these issues are eligible for cost reimbursement through this Fund.

It is possible that a Project impact and related costs are anticipated but follow-up actions become extraordinary or unanticipated. In each case, directly related costs are eligible for cost reimbursement.

Eligible Costs. If a cost is determined to be eligible for reimbursement through this Fund, then only direct costs associated with the impact are eligible. The County staff must document costs and describe how they are directly related to the Project or the Permittee. A copy of such documentation shall be provided to Permittee 30 days prior to any disbursement from the Fund to cover these costs.

Fund Balance and Fund Management. Permittee shall make an initial contribution of \$200,000 to the Mitigation Fund within 30 days of the effective date of this Permit. This initial Fund Balance amount shall remain in effect for 12 months.

After 12 months and as part of the Annual Cost Reimbursement Fund Report, the Fund Balance will be evaluated and reset to a total amount

equal to the highest three months of drawdown in the prior 12 months, unless an extraordinary condition is anticipated in the next 12 months. If an extraordinary condition is anticipated, then the Fund Balance will be reinstated at \$200,000 or a higher amount if warranted.

Fund revenues and expenditures will be managed in a separate interest-bearing account established by the County Treasurer, managed by a Fund Manager who is designated by the Board of County Commissioners. Documentation associated with Fund revenues and expenditures are available for review by the Permittee during normal business hours.

If, at any time, the Fund balance with interest is less than the established minimum amount, then the Permittee will reinstate the Fund balance within 30 days of written notification from the Fund Manager. If the Fund Balance with interest has been drawn down less than 20% of the established minimum amount, then the Fund Manager may use his/her administrative discretion regarding submitting a written request for reinstatement.

The Fund may be used to pay eligible costs directly or may be used to reimburse eligible local governments for pre-approved eligible costs that they incurred, subject to proper documentation. No costs will be funded without prior written documentation, approval by the Fund Manager and review by the County Commissioners.

Application for Funds. Eligible local governments seeking reimbursement will submit an abbreviated application to the Fund Manager. The application will describe the impact and its direct relationship to the Project or Permittee and document the costs eligible for reimbursement through this Fund. The Fund Manager will make a staff recommendation regarding eligibility and submit documentation to the Board of County Commissioners for review and action. The local government applicant may seek pre-approval for costs, prior to incurring the costs.

If a potentially eligible cost is directly but not totally attributable to the Project or the Permittee, then the applicant will state the estimated percent directly attributable and request that percent in its application.

The Board of County Commissioners shall determine the eligibility of (a) the local government applicant; (b) the type of cost reimbursement requested, and (c) the specific costs requested for reimbursement. Local government applicants that bill directly for their services are not eligible to seek reimbursement from this Fund.

The Permittee may review applications to this Fund at any time during normal business hours. The Permittee may suggest qualification, bid-scoping and selection processes to insure costs are reasonable and technical specialists are qualified to complete the work.

Reports and Annual Review. On a quarterly basis, the Fund Manager will prepare a Quarterly Report that summarizes requests received and actions taken and submit the report to the Board of County Commissioners and the designated representative of the Permittee.

After the first six months, the first 12 months and annually thereafter, the Fund Manager will prepare an Annual Cost Reimbursement Fund Report itemizing Fund actions and recommending administrative or financing changes, specifically including consideration of increasing or decreasing the Fund balance. The Permittee will be invited to participate in a management meeting to review a draft of the Annual Report as well as submit remarks to the Board of County Commissioners, if changes or amendments are appropriate in its judgment.

The anniversary date of the Annual Cost Reimbursement Fund Report may be adjusted to be in sync or immediately after the Permittee's Annual Report at the Board of County Commissioner's discretion.

Dispute Resolution. If the Permittee or any local government disputes the administrative decisions of the Fund Manager, then the Dispute Resolution procedures in the Permit Conditions will be applied.

Cost Reimbursement Fund Violations. If the Permittee does not reinstate the designated Fund balance within the designated time period, then this action will be considered a violation of Permit Conditions.