

An Ordinance to be considered during the regular meeting of the Village Council on August 20, 2024. Michael Nealeigh, Mayor. Posted on July 15, 2024.

VILLAGE OF JEMEZ SPRINGS
DRAFT ORDINANCE NO. _____

AUTHORIZING THE VILLAGE OF JEMEZ SPRINGS (GRANTEE) TO ENTER INTO A GRANT AGREEMENT WITH THE NEW MEXICO ENVIRONMENT DEPARTMENT (NMED) FOR THE PURPOSE OF OBTAINING PROJECT GRANT FUNDS IN THE AMOUNT OF \$230,370 DESIGNATING THE USE OF THE FUNDS FOR THE PURPOSE DEFINED IN THE MOST CURRENT PROJECT DESCRIPTION FORM AS APPROVED BY NMED; DECLARING THE NECESSITY FOR THE GRANT; PRESCRIBING OTHER DETAILS CONCERNING THE GRANT.

Capitalized terms used in the following preambles are defined in Section 1 of this Ordinance unless the context requires otherwise.

WHEREAS the Grantee is a legally and regularly created public body organized under the general laws of the State of New Mexico (State); and

WHEREAS the Borrower now owns, operates, and maintains a public utility constituting a Wastewater Treatment (System), which includes a system for disposing of wastes by surface and or underground methods; and

WHEREAS the present System is insufficient and inadequate to meet the needs of the Grantee; and

WHEREAS the funds for this Project will include funds from a one-time federal grant to the NMED from the Environmental Protection Agency (EPA); and

WHEREAS the Project is subject to specific requirements of the federal grant; and

WHEREAS the Governing Body of the Grantee has determined that it is in the best interest of the Grantee to accept and enter into the Grant Agreement. .

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE VILLAGE OF JEMEZ SPRINGS:

Section 1. DEFINITIONS. As used in the Ordinance, the following terms shall have the meanings specified below, unless the context clearly requires otherwise (*such meanings to be equally applicable to both the singular and the plural forms of the terms defined unless the plural form is separately defined*):

ACT. The general laws of the State; enactments of the governing Body of the Grantee relating to the Grant Agreement made by resolution or ordinance, including this Ordinance; and the powers of the Grantee as a public body under authority given by the Constitution and Statutes of the State.

ANNUAL AUDIT or SINGLE AUDIT. Financial statements of the Grantee as of the end of each Fiscal Year, audited by an Independent Accountant, consistent with the federal Single Audit Act and the State Auditor's rules.

AUTHORIZED OFFICER. The Grantee's mayor, chief administrative officer, or other officer or employee of the Grantee as designated by the Grantee's Resolution Number 2025-001 adopted y the governing body of the Grantee, as amended.

FISCAL YEAR. The twelve-month period commencing on the first day of July of each year and ending on the last day of June of the succeeding year, or any other twelve-month period which the Grantee hereafter may establish as the fiscal year or the System.

FUNDS. Grant funds

GOVERNING BODY OF THE GRANTEE. The Mayor and Board of Trustees of the Village.

GRANT. A grant of funds from NMED pursuant to the Grant Agreement.

GRANTEE. The entity receiving funds.

GRANT AGREEMENT. The grant agreement between the Grantee and the NMED, pursuant to which funds will be reimbursed to the Grantee to design the Project and pay eligible costs relating to the project.

NMSA. New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented.

OPERATION AND MAINTENANCE. All reasonable and necessary current expenses of the System, paid or accrued, relating to operating, maintaining, and repairing the System.

ORDINANCE. This Ordinance as amended or supplemented from time to time.

PROJECT. The most current NMED approved Project Description listed on the Project Description Form on file with NMED.

PROJECT COMPLETION DATE. Means the date that operations of the completed works are initiated or capable of being initiated, whichever is earlier. This also applies to individual phases or segments.

Section 2. RATIFICATION. All action heretofore taken (not inconsistent with the provisions of the Ordinance) by the governing body of the grantee, the officers, and employees of the Grantee, directed toward the Grant Agreement, is hereby ratified, approved and confirmed.

Section 3. FINDINGS. The Governing Body of the Grantee hereby declares that it has considered all necessary and relevant information and data and hereby makes the following findings:

(A) The execution and delivery of the Grant Agreement pursuant to the Act to provide funds to finance the Project, is necessary and in the interest of the public health, safety, and welfare of the residents of the Grantee and will result in savings of finance costs to the Grantee.

(B) The money available for the Project from all sources other than the Grant Agreement is insufficient to pay for the Project.

(C) The Project is and will be part of the System.

Section 4. SYSTEM. The System shall continue to constitute a Wastewater Treatment System and shall be operated and maintained as such.

Section 5. AUTHORIZATION OF PROJECT. The acquisition and construction of the Project and payment of eligible from proceeds of the Grant Agreement is hereby authorized at a cost not to exceed the Grant amount of **\$230,370** excluding any cost of the Project to be paid from any source other than the proceeds of the Grant Agreement.

Section 6. AUTHORIZATION OF GRANT AGREEMENT.

(A) For the purpose of protecting the public health, conserving the property, and protecting the general welfare of the residents of the Grantee and acquiring the Project, it is hereby declared necessary that the Grantee execute and deliver the Grant Agreement to the NMED. The NMED has agreed to disburse the proceeds according to the terms of the Grant Agreement to the Grantee over the design period of the Project. The Grant amount shall not exceed **\$230,370** without the adoption of another Ordinance amending the Ordinance by the Governing Body of the Grantee.

(B) The form of the Grant Agreement is approved. An Authorized Officer is hereby authorized and directed to execute and deliver the Grant Agreement and any extensions of or amendments to any such document to be executed after completion of the Project, or any substitution therefore, with such changes therein consistent with the Ordinance and as shall be approved by an Authorized Officer whose execution thereof, or any extension thereof, or

substitution therefore, in their final forms shall constitute conclusive evidence of their approval and compliance with this section.

(C) From and after the date of the initial execution and delivery of the Grant Agreement, Authorized Officers, agents, and employees of the Grantee are authorized, empowered, and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of this Ordinance and the Grant Agreement.

Section 8. OPERATION OF PROJECT. The Grantee will operate and maintain the Project so that it will function properly over its structural and material design life.

Section 9. USE OF PROCEEDS. The NMED shall disburse Funds pursuant to the Grant Agreement for NMED approved costs incurred by the Grantee for the Project as set forth in the Grant Agreement.

Section 10. ENFORCEMENT VENUE. The NMED retains the right to seek enforcement of the terms of the Grant Agreement. If the NMED and the Grantee cannot reach agreement regarding disputes as to the terms and conditions of this Grant Agreement, such disputes are to be resolved promptly and expeditiously in the district court of Santa Fe County. The Grantee agrees that the district court for Santa Fe County shall have exclusive jurisdiction over the Grantee and the subject matter of this Grant Agreement and waives the right to challenge such jurisdiction.

Section 11. AMENDMENT OF ORDINANCE. This Ordinance may be amended with the prior written consent of the NMED.

Section 12. SEVERABILITY CLAUSE. If any section, paragraph, clause, or provision of the Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of the Ordinance.

Section 13. REPEALER CLAUSE. All bylaws, orders, Resolutions, and Ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, Ordinance or Resolution, or part thereof, heretofore repealed.

PASSED, APPROVED, AND ADOPTED THIS 20TH DAY OF AUGUST 2024.

Michael Nealeigh, Mayor

Robert Wilson, Mayor Pro Tem

Judy Boyd, Trustee

James McCue, Trustee

Manolito Sanchez, Trustee

Attest, Heather Gutierrez, Interim Clerk