ORDINANCE NO. 2015-10

AN ORDINANCE OF IVINS CITY, UTAH, ESTABLISHING REGULATIONS FOR ISSUING CONDUIT FINANCING OBLIGATIONS

WHEREAS, Ivins City may be called upon to issue conduit financing for not for profit and for profit entities located within Ivins City; and

WHEREAS, Ivins City currently has no regulations that would govern such transactions; and

WHEREAS, the Ivins City Council desires to amend Title 2 of the Ivins City Code entitled "Revenue and Finance" to add a new chapter that establishes regulations for issuing conduit financing obligations;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF IVINS CITY, STATE OF UTAH:

SECTION 1. The Ivins City Council hereby amends Title 2 of the Ivins City Code to add the following chapter for conduit financing:

CHAPTER 13

CONDUIT FINANCING

2.13.101 CITY PURPOSE FOR ISSUING CONDUIT FINANCING OBLIGATIONS:

1. Not For Profit Conduit Financing:
   a. The city will not issue conduit financing obligations for any not for profit entity other than a Utah not for profit corporation possessing a current determination from the Internal Revenue Service that the entity currently qualifies as exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code.
   b. The applicant must demonstrate that the proposed project fulfills or complements a legitimate city or county purpose as defined by state law or reduces a public burden that is currently imposed on Utah governmental entities. Specific attention and consideration will be given to projects which expand opportunities or services for populations that are currently under served.
2. For Profit Conduit Financing Obligations: The city may, at its discretions, act as an issuer for conduit financing obligations for other entities if the proposed project qualifies for financing under Utah's private activity bond authority, including multi-family housing projects, pollution and waste control projects, and qualifying small manufacturing projects.
3. The city shall not issue any type of conduit financing obligation unless the following conditions are met:
   a. The issuance of the conduit financing obligation does not obligate the city for payment of any portion of the debt obligation, other than that expressly pledged by written agreement; and

b. Any default by the recipient of the conduit financing funds (applicant), whether a not for profit entity or for profit entity, will not adversely affect the city's bond/credit rating. (Ord. No. 2015-10, 2015)

2.13.102 FEES IMPOSED: The city shall impose and collect the fees set forth in the Ivins City consolidated fee schedule. Whenever the city evaluates a proposal for the issuance of debt or issues debt the city shall be compensated/reimbursed by the applicant for the following:

1. all costs incurred in reviewing the proposed issue, including outside financial/legal review, counsel and document preparation;
2. any revenue lost to the city by virtue of the project;
3. any risk assumed by the city in issuing the debt; and
4. all costs of issuance including reimbursement of city time devotee by city officer and employees and resources provided by the city. Fees imposed pursuant to this chapter shall not be waived. (Ord. No. 2015-10, 2015)

2.13.103 INFORMATION REQUIRED: Each applicant shall submit an application to the city on forms and in a format specified by the city. Application forms shall be obtained from the Director of Finance. No application shall be considered unless and until all information specified in the application or requested by the city is provided and the application fee has been paid. The city may request such additional information as deemed necessary to evaluate the proposed issuance.

2.13.104 CREDIT WORTHINESS FOR CONDUIT ISSUES: The city will not act as an issuer on behalf of any third party unless the following credit worthiness is established:

1. Governmental entities must have a bond rating from a national rating agency of "A" or higher.
2. Private entities must have a bond rating from a national rating agency of investment grade or higher or must provide credit enhancement in the form of a direct pay letter of credit (LOC) or bond insurance in a form acceptable to the city. Any LOC guarantee must be issued by a bank authorized to do business in the state of Utah with a rating of no less than "A". Bond insurance shall be by a national insurer acceptable to the city.
3. Private entities proposing a direct private placement of the debt issue must provide a letter from the purchaser describing the direct purchaser as a sophisticated "accredited investor" within the meaning of section 2(15) of the Securities Act of 1933. (Ord. No. 2015-10, 2015)

SECTION 2. Severability. If any section/portion of this ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

Effective Date: This Ordinance shall become effective immediately upon adoption by the City Council.

PASSED AND ADOPTED BY THE IVINS CITY COUNCIL, STATE OF UTAH, ON THIS _____ DAY OF JULY, 2015 BY THE FOLLOWING VOTE:

	AYE	NAY	ABSTAIN	ABSENT
George E. Elwell, Jr.	_____	_____	_____	_____
Cheyne McDonald	_____	_____	_____	_____
Lesley Mendenhall	_____	_____	_____	_____
Steven Roberts	_____	_____	_____	_____
Ron Densley	_____	_____	_____	_____

_____
Chris Hart, Mayor

ATTEST:

_____
Kari Jimenez, City Recorder