KAYENTA CENTER FOR THE ARTS
IMPACT FEE DEFERRAL AGREEMENT

This Agreement is entered into effective this 20th day of April, 2017, by and between IVINS CITY, a political subdivision of the State of Utah, and R.T. MARTEN, ("Contractor") an individual and contractor for the construction of a building known as the Kayenta Arts Center.

RECITALS

WHEREAS, Impact Fees were calculated (total amount: $78,537.13) and assessed for the Kayenta Arts Center at the time the Building Permit was requested; and

WHERAS, normally before issuing that Building Permit all Impact Fees would be paid in full; however, no portion thereof was paid at the time of issuing the Building Permit because the Ivins City Council had voted on April 4, 2013 to allow a deferral in the payment of those Impact Fees for a period of thirteen (13) years and outlined a graduated fee schedule over that period of time;

WHEREAS, the minutes of the April 4, 2013 City Council meeting indicate that the graduated fee schedule agreed to by the City Council was as follows (with the beginning payment assumed to start at the time the issuing Building Permit was issued): $2,500.00 for the first two years (years 1-2); $5,000.00 for the next five years (years 3-7); $7,500.00 for the next five years (years 8-12) with a balloon payment for the remaining balance of $11,037.13 to be paid in the thirteenth year; and (NOTE: The audio of this meeting seemed to indicate a slightly different payment schedule than set forth in the formal minutes that would result in the last six payments more equal: $8,000.00 for years 8-12 with a balloon payment of $8,537.13 in the 13th year.)

WHEREAS, the Building Permit for the Kayenta Arts Center was issued in 2015, without the payment of any Impact Fees, and the Kayenta Arts Center is now requesting the issuance of a Temporary Certificate of Occupancy; and

WHEREAS, with payments not having yet commenced the entire balance of $78,737.13 remains due to be paid pursuant to the deferral schedule outlined above with the beginning payment now to be made prior to the issuance of a Temporary Certificate of Occupancy; and

WHEREAS, as constructed the Kayenta Arts Center extends beyond the lot and subdivision where it was originally proposed to have been constructed;

NOW, THEREFORE, the Parties hereby agree as follows:

1. The foregoing Recitals are hereby incorporated herein by this reference and Contractor, on behalf of himself, his heirs, and his assigns, hereby agrees to pay the assessed Impact Fees for the Kayenta Arts Center as set forth above.

2. Upon approval and execution of this Agreement, along with the completion of the punch list items listed following an inspection of the Kayenta Arts Center building on April 11, 2017, and the payment of the initial Impact Fee installment of $2,500.00, Ivins City shall issue a Temporary Certificate of Occupancy valid through July 31, 2017.

3. A Final Certificate of Occupancy shall be issued upon the final approval of an amended and extended subdivision plat whereby the Kayenta Arts Center building will legally

(meeting all setbacks and other requirements) fit within a proper legal lot and subdivision, as amended and extended.

4. Binding on Heirs and Assigns. The terms and conditions of this Agreement shall be binding upon the heirs, successors and assigns of the Parties hereto and shall run with the land.

5. This Agreement has been made under the laws of the State of Utah and such laws shall control its enforceability. Any action to interpret or enforce this Agreement shall be brought in the Fifth District Court in and for Washington County, State of Utah.

6. Entire Agreement. This Agreement contains the entire agreement between the Parties and supersedes any prior or concurrent agreements; no oral or written terms or conditions which are not expressly contained in this Agreement shall be binding. This Agreement may not be amended except by written agreement of the Parties.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

IVINS CITY:

_____

CHRIS HART, Ivins City Mayor

Attest:

_____

Kari Jimenez, Ivins City Recorder

CONTRACTOR:

_____

R.T. MARTEN

taken a position as the Treasurer for Toquerville. **Debbie Bannon** indicated she has an Accounting Degree and has been in the accounting field for more than 20 years.

MOTION: Council Member Elwell moved to approve Resolution No. 2013-06R, a Resolution of Ivins City, Utah, Appointing Debbie Bannon as City Treasurer
SECOND: Council Member McDonald
VOTE: The motion carried.

Council Member Elwell	AYE
Council Member McDonald	AYE
Council Member Roberts	AYE
Council Member Densley	AYE
Council Member Mendenhall	ABSENT

Roll call vote. All City Council Member that were present voted in favor.

B. Discuss and consider approval of Resolution No. 2013-07R, a Resolution of Ivins City, Utah, re-appointing a Planning Commission Member

Mayor Hart stated Commissioner Jeff Loris has done an excellent job on the Planning Commission. He was appointed to a partial term that expired on April 1, 2013. He attended the Planning Commission meeting on April 2, 2013 but abstained. **Mayor Hart** suggested Commissioner Jeff Loris be re-appointed to serve a full term on the Planning Commission.

MOTION: Council Member Roberts moved to approve Resolution No. 2013-07R, a Resolution of Ivins City, Utah, re-appointing Planning Commission Member Jeff Loris
SECOND: Council Member Densley
VOTE: The motion carried.

Council Member Elwell	AYE
Council Member McDonald	AYE
Council Member Roberts	AYE
Council Member Densley	AYE
Council Member Mendenhall	ABSENT

Roll call vote. All Council Members that were present voted in favor.

C. Presentation and discussion with the Kayenta Arts Foundation regarding Impact Fees for the Arts Center

Garry Morris, Kent Hayes and Judy Kapuscinski were present representing the Kayenta Arts Foundation and the Kayenta Center for the Arts. They are not requesting any funds from the City but are requesting the impact fees of $78,537.13 be deferred. They provided a deferral proposal to the City Council, a copy of which is available by request through Ivins City Hall. Their proposal would pay the impact fees over a fifteen (15) year period. **Mayor Hart** is supportive of this because the impacts are not felt immediately. **Dale Coulam** referred to a Color Country Community Housing request in the past to defer impact fees and indicated if the City Council agreed to defer the impact fees, there would need to be an agreement outlining the terms of the deferral. Color Country Community Housing ended up paying the deferral fees up front so there was never an agreement drawn up. **Council Member Densley** inquired how it was going for the foundation to raise money for the Arts Center. **Garry Morris** stated the

fundraising is going really well and that they have enough money to break ground as early as May, 2013 if there is an agreement on the deferral of the impact fees. **Dale Coulam** indicated he needs direction from the Council regarding what the basic parameters would be for the agreement. **Council Member Elwell** referred to setting a precedence and thinks the bulk of the fees should be paid up front and then a portion deferred. **Council Member Roberts** stated he's in favor of deferring impact fees but indicated fifteen (15) years is a long time to defer. He would like to see a larger portion up front and the deferral to be less than fifteen (15) years. **Council Member McDonald** agreed with Council Member Elwell and Council Member Roberts. **Council Member Roberts** referred to an email that Council Member Mendenhall sent to the Mayor and City Council opposing the deferral and requested that email be part of the record. A copy of that email is available by request through Ivins City Hall. **Council Member Densley** indicated it's difficult to start a business and suggested the representatives revise their figures and bring them back to the City Council. **Mayor Hart** stated that the Arts Center will be a brand enhancing component to the City that is tourist focused. **Judy Kapuscinski** indicated they are a 501(c)(3) charitable organization. The cost of building is increasing and suggested the fees be deferred and the details worked out later so they can move forward. **Council Member McDonald** thinks the Arts Center is a great opportunity for the City and views it as his responsibility to the citizens of how the City handles their funds. He suggested the deferral be over a ten (10) year period rather than fifteen (15) years. **Dale Coulam** suggested the possibility of a twelve (12) or thirteen (13) year deferral. **Council Member Elwell** stated he isn't opposed to a fifteen (15) year deferral but would like to see more of the impact fees up front in the first couple of years and suggested $5000 increments. **Mayor Hart** indicated it would likely take a year to build the center and there would be no impact during the time it's being built. **Judy Kapuscinski** stated they are flexible with the deferral and just need some parameters to work with. **The Mayor and City Council** agreed to defer the impact fees over a thirteen (13) year period with payments being made as follows: $2500 for the first two (2) years, $5,000 for the next five (5) years, $7500 for the next six (6) years with a final balloon payment in the last year. The representatives of the Kayenta Arts Foundation and Arts Center agreed to those terms and thanked the City Council.

MOTION: Council Member Densley moved to approve our discussion that we've talked about the amortization of funds over the period of thirteen (13) years, broken down to what the City Manager said
SECOND: Council Member Roberts
VOTE: The motion carried.

Council Member Elwell	AYE
Council Member McDonald	AYE
Council Member Roberts	AYE
Council Member Densley	AYE
Council Member Mendenhall	ABSENT

D. Presentation and discussion regarding Tentative Budgets
Alan Rae provided a PowerPoint presentation to the City Council on the Fiscal Year Ending 2014 Budget. A copy of his presentation is available by request through Ivins City Hall. Revenue for the General Fund currently comes from the following: Charges for Services-27.44%; Property Tax-25.06%; Sales Tax-19.83%; Franchise Tax-10.85%; Intergovernmental-