INTERLOCAL AGREEMENT BETWEEN THE CITY OF SANTA CLARA AND IVINS CITY TO CONSOLIDATE FIRE/RESCUE SERVICES

AGREEMENT made this _____ day of _____, 2017, by and between the CITY OF SANTA CLARA (hereinafter "Santa Clara") and IVINS CITY (hereinafter "Ivins"). In this Agreement Santa Clara and Ivins are collectively referred to as the "Cities" or "SCI."

R E C I T A L S:

A. Santa Clara and Ivins currently provide fire/rescue services within their territorial boundaries.

B. The Cities desire to make long-range plans for the continuation of fire/rescue services, including ambulance transport.

C. The Cities have determined that it is in the best interests of both communities to combine their fire/rescue services in order to obtain economies of scale, better service coverage, and to lower cost to each community.

D. The Cities therefore intend to consolidate their fire/rescue personal property assets under the ownership of Santa Clara into a single fire/rescue department to provide efficient and continuous services with an equitable funding system. Consequently, the Cities enter into this Agreement to further that intent.

E. The Utah Interlocal Cooperation Act, Utah Code Ann. §11-13-101 through 11-13-314 allows public agencies in the State of Utah to enter into agreements for the purpose of joint or cooperative action.

F. The Cities are "public agencies" of the State of Utah for purposes of Utah Code Ann. §11-13-202, and desire to enter into an Interlocal Agreement to consolidate the fire/rescue services

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for Santa Clara and Ivins under the ownership/management of Santa Clara on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the promises, the mutual covenants and undertakings of the Cities, the receipt and sufficiency of which are hereby acknowledged, and in compliance with and pursuant to the provisions of the Utah Interlocal Cooperation Act, the Cities hereby agree as follows:

1. **Consolidation of Fire/Rescue Resources**. Ivins City hereby agrees to convey its fire/rescue personal property assets as set forth on Exhibit "A" and personnel as set forth on Exhibit "B", both of which are attached hereto and by this reference incorporated herein. Santa Clara shall thereafter run a consolidated SCI Fire/Rescue Department, including what was Santa Clara's Wildland firefighting services and Ivins' ambulance transport services. This Agreement does not create a new Interlocal entity.

2. **Effective Date.** The Effective Date of this Agreement ("Agreement Effective Date") shall be the date this Agreement is approved by both the Santa Clara and Ivins City governing bodies and signed by both Mayors. The City Managers for both Cities shall thereafter coordinate the timetable for transferring ownership/management of Ivins' fire/rescue personal property assets and personnel to Santa Clara.

3. **Summary of Scope of Services to be Provided**. Generally, Santa Clara shall continuously, and without interruption, furnish fire/rescue services as needed within (a) the territorial jurisdiction and boundaries of the Cities (hereinafter sometimes referred to as the "Coverage Area"); (b) wildland firefighting services outside of the area; (c) ambulance transport services to the service area specified by the State of Utah; and (d) maintenance of all equipment, particularly vehicles, to the levels required by the State of Utah and/or to the highest current

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standard currently being utilized by either Santa Clara or Ivins, whichever is greater. Santa Clara shall continue to maintain, at a minimum, the current level of ambulance transport service Ivins is currently licensed by the State of Utah to provide. Each City shall pay its share of revenue/costs as set forth in Section 18 below. The parties may mutually agree to reduce or increase the level of service upon written request from any party and the agreement of both parties.

4. **Detailed Description of Basic Services**. The SCI Fire/Rescue Department shall provide the following Basic Services within the Coverage Area:

a. Fire. SCI Fire/Rescue shall provide professional fire response and fire prevention within the geographic area of the two cities, and beyond if requested by Utah Wildland or pursuant to a Mutual Aid Agreement. At a minimum this shall include, but not be limited to, fire suppression of both wildland and structure type fires, inspection and markup of proposed building subdivision and site plans, and attendance at technical or plan review committee meetings, giving reports to each City as set forth below.

b. EMS. SCI Fire/Rescue shall provide professional EMS/Ambulance Transport service within the geographic area of the coverage area currently assigned to Ivins City by the State Bureau of EMS.

c. Administrative Services. Personnel, supplies, and equipment necessary to administratively support the SCI Fire/Rescue department and administer grants and monies to include, but not limited to, command staff, human resources, financial services, media services, and dispatch/records.

d. Training Services. Personnel, supplies, and equipment to support adequate training as determined by the SCI Fire/Rescue Department leadership.

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e. Logistics Services. Personnel, supplies, and equipment to support fire/rescue operations, communications, and fleet services.

5. **Governance**. Day-to-day operations of the SCI Fire/Rescue department shall be governed by its leadership under the administrative authority of Santa Clara. Also, the SCI Fire/Rescue department shall report and be accountable as required to the respective City Councils, Mayors, and City Managers of the respective Cities. Specifically, the SCI Fire/Rescue Chief shall provide at least a monthly report of fire/rescue service, problems, resolution of problems, and successes, to each governing body and at additional times based upon need and request by the City Managers or Mayors. All employees of the SCI Fire/Rescue Department shall be Santa Clara employees who shall report to the SCI Fire/Rescue Chief, who in turn will report directly to the Santa Clara City Manager. The Santa Clara City Manager shall prepare a preliminary budget for the SCI Fire/Rescue Department such that each City Council shall have the opportunity to approve the preliminary budget on or before March 15 of each year for the coming fiscal year beginning July 1. In the event that the budgets are not approved, the parties agree to meet as soon as possible to resolve any differences.

The Ivins Director of Public Safety shall serve as a mentor to the SCI Fire/Rescue Chief. In the event of the replacement of the SCI Fire/Rescue Chief, the Ivins City Public Safety Director, Mayor and City Manager shall be part of the hiring committee with the right to interview prospective candidate(s) and give input on the selection of any such replacement.

a. Disaster Declaration. Either City, or both Cities, on behalf of its jurisdiction, may make a declaration of an emergency or disaster strictly in accordance with local ordinances, state statute or federal law. If an emergency or disaster is declared by either City, then the SCI Fire/Rescue Department shall assume emergency fire/rescue responsibilities within the area for

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which the emergency or disaster is proclaimed during the term of such emergency or disaster. In such event, the SCI Fire/Rescue Chief shall report to and act under the immediate direction of the Mayors of the affected Cities for the pendency of the emergency or disaster for all purposes related to the emergency or disaster.

6. **Equipment; Facilities**.

a. Conveyance of Equipment**.** On the date determined by the City Managers, pursuant to authority granted in the Utah Interlocal Cooperation Act, Ivins shall convey its respective fire/rescue related equipment and supplies set forth at Exhibit A to Santa Clara.

b. Debt Service. Each City shall timely pay all obligations which follow personal property assets or capital assets allocated to the SCI Fire/Rescue Department, including both bond and revolving loan or lease payments.

c. New Pumper Truck. Prior to the end of calendar year 2017, Ivins City shall complete its purchase of an E-One Pumper fire truck.

d. Remodel of Rachel Drive Fire Station. Within one year of the effective date of this Agreement, Santa Clara shall commence the remodel of its Rachel Drive fire station (adjacent to Gubler Park) to add, at a minimum, administrative offices and sleeping quarters.

7. **Personnel**.

a. Employment. On the date determined by the City Managers, all Ivins fire and EMS personnel set forth on Exhibit B hereto shall be offered employment by Santa Clara as Fire/Rescue Officers, firefighters, EMT's or Paramedics subject to the limitation that Santa Clara will not be required to hire any person who does not meet Santa Clara's standards or requirements for new hires. Exhibit "B" will be updated as of the transfer date, and only those Employees listed on the updated Exhibit "B" will be offered employment by Santa Clara. Any full-time personnel from

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either city shall be allowed to carry forward to the effective date a maximum of 20 hours of sick leave and a maximum of 40 hours of vacation. All vacation pay accrued prior to the transfer in excess of these maximums shall be paid off by the respective city prior to the effective date under their existing termination policy. On the transfer date, any current Ivins employees that are offered employment by Santa Clara will accrue benefits and leave time in accordance with the terms, conditions and policies set forth in the Santa Clara Employee Handbook. Current Ivins employees that are offered employment must agree to Santa Clara's residency policy; employees who currently live outside those limits will be given 18 months to relocate for employment.

b. Insurance. Santa Clara shall provide employee insurance benefits including health, disability, life and worker's compensation insurance similar to what Ivins currently makes available to its employees as of the transfer date.

8. **Employment Status**.

a. Official Status. Santa Clara shall have complete control and discretion over the Employees directly or indirectly providing services hereunder, and the Employees shall, at all times, be subject to the terms, conditions and policies set forth in the Santa Clara City Employee Handbook.

b. Salary and Wages. Ivins shall not have any obligation or liability for the direct payment of any salaries, wages, benefits or other compensation to any SCI Fire/Rescue Department employee after the personnel transfer date.

c. Employees' Benefits. The SCI Fire/Rescue Department Employees shall be and remain Santa Clara employees and shall have no right to any pension, merit, or other benefits whatsoever from Ivins City, but shall have such retirement benefits administered to the State of

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Utah as are appropriate to their continued service with Santa Clara under the same State of Utah Retirement System.

9. **Personnel Policies and Procedures.** All Employees shall serve under the terms of the personnel rules, regulations, procedures, grievances, and other provisions (hereinafter "policies") of Santa Clara.

10. **Multijurisdictional Agreements; Automatic Aid and Contractual Agreements**.

a. Automatic Aid. Santa Clara and Ivins are parties to various interlocal agreements and multijurisdictional or automatic/mutual aid agreements. Santa Clara agrees to assume the obligations of such multijurisdictional and/or automatic/mutual aid agreements, and the parties agree to cause such agreements to be amended and assumed by Santa Clara as a party to and beneficiary of such agreements.

11. **Ordinances**. Santa Clara and Ivins may adopt or amend their own ordinances as Santa Clara and Ivins deem necessary to implement to provide for and protect the public health, safety, and welfare of its citizens. The SCI Fire/Rescue Department shall, from time to time, recommend amendments to the Cities' respective ordinances so that such ordinances are consistent with modern fire code and EMS protocols. The Cities shall cause its respective City Councils to give due consideration to adoption of any such ordinances proposed by the SCI Fire/Rescue Department, from time to time.

12. **Reports and Notice of Performance**. The SCI Fire/Rescue Department, by and through the Ivins' Director of Public Safety, or his designee, shall provide reports and notices including, but not limited to:

a. Monthly Reports. On a monthly basis the Ivins' Director of Public Safety, or his designee, shall provide the following reports:

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(i) A monthly report to the City Councils of Santa Clara and Ivins. Information required in those reports will be defined by each City Manager.

(ii) Additional meetings with the City Manager, Mayor and City Council shall be supplied by the Director of Public Safety of Ivins, or his designee, on an as-requested and as-needed basis.

b. Notice of Complaints and Exceptional Behavior. On a current basis each City shall refer to the SCI Fire/Rescue Chief all complaints regarding fire/rescue services, who shall promptly act to resolve such complaints in a professional, reasonable, responsive, and equitable manner. In connection with the monthly report, or sooner if the matter is deemed to be of an emergency nature, the SCI Fire/Rescue Chief shall provide each City Council, Mayor, and City Manager a brief summary of any written complaint received regarding fire/rescue services and the disposition thereof. Such information need not be provided, however, if the SCI Fire/Rescue Chief reasonably deems such notice to be a violation of any privacy act or that such notice would jeopardize any investigation or safety of any person. The SCI Fire/Rescue Chief further shall provide to the respective City Councils, Mayors, and City Managers a brief summary of any written documents demonstrating commendable behavior regarding fire/rescue services and a brief summary of any commendations given.

c. Additional Disclosure. From time to time the SCI Fire/Rescue Department shall, upon request by either City, provide to the requesting City, private, controlled or protected information under the Government Records Management Act ("GRAMA"). The Cities agree to jointly develop and implement a policy in this regard.

13. **Indemnification**. The Cities are governmental entities under the "Utah Governmental Immunity Act" (Utah Code Ann. §63G-7-101, et seq.) (the "**Immunity Act**"). Consistent with the

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terms of the Immunity Act as provided herein, it is mutually agreed that each is responsible and liable for its own wrongful or negligent acts which are committed by it or by its agents, officials, or employees. The Cites do not waive any defenses otherwise available under the Immunity Act, nor does either City waive any limits of Liability currently provided by the Immunity Act. Santa Clara shall defend, indemnify, save and hold harmless Ivins City (including their respective elected and appointed officers and employees) from and against any and all demands, liabilities, claims, damages, actions and/or proceedings, in law or equity (including reasonable attorney's fees and costs of suit) relating to or arising from the fire/rescue services provided, or to be provided, by Santa Clara hereunder, except where such demands, claims, actions or proceedings resulting from the negligence or misconduct of Ivins City, or their respective elected or appointed officers or employees. Similarly, each City shall defend, indemnify, save, and hold harmless the other City from and against any and all demands, liabilities, claims, damages, actions and/or proceedings, in law or equity (including reasonable attorney's fees and costs of suit) relating to or arising from the actions or failure to act of the City, except to the extent where such demands, claims, actions or proceedings may result from the negligence or misconduct of Ivins, or their respective elected or appointed officers or employees. Finally, Santa Clara shall defend, indemnify, save and hold harmless Ivins (including its elected and appointed officers and employees) from and against demands, claims, actions and/or proceedings, in law or equity (including reasonable attorney's fees and costs of suit) relating to or arising from actions of Santa Clara's elected or appointed officers or employees; the SCI Fire/Rescue Department's enforcement of any ordinances of Santa Clara that are alleged to be unconstitutional; or improper disclosure of private, controlled, or protected information under the provisions of GRAMA.

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14. **Term**. This Agreement is effective upon execution, and unless sooner terminated as provided herein, shall terminate fifty (50) years from the date of execution.

15. **Withdrawal**. Either City may withdraw from this Interlocal Agreement based upon the following terms and conditions:

a. Upon the giving of ninety (90) days prior written notice to do so, provided that said notice is given at least ninety (90) days prior to the end of the fiscal year (June 30) of any year. Specifically, in connection with the preliminary budget approval required to be given on or before March 1 of each year, if such approval is not given, the parties shall have until April 1 to resolve any issues or problems associated with the budget, and if such approval is not granted by April 1, it shall be deemed to be an election to withdraw from the Interlocal Agreement.

b. In the event that the Interlocal Agreement is terminated by either party, Ivins City shall receive back the fire and EMS vehicles it transferred to Santa Clara pursuant to this Agreement, with the remainder of personal property fire/rescue assets divided according to the percentages set forth in paragraph 18 hereof. Also, any fire/rescue personal property assets acquired by SCI Fire/Rescue after the effective date of this Agreement, including vehicles, shall be divided and/or interests purchased so as to approximately equally a division according to the percentages set forth in paragraph 18 hereof.

16. **Changes in Coverage Area**. The Cities anticipate that during the term of this Agreement that it is possible that the Cities will annex additional property or may de-annex property. Upon the effective date of the annexation of additional property or de-annexation, the Coverage Area shall be automatically amended to be those areas that are either annexed or de-annexed. In the case of de-annexed property, said property (unless de-annexed into the other City) shall be deleted from the Coverage Area.

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17. **Non-Funding.** The Cities acknowledge that funds are not presently available for performance of this Agreement beyond the close of each respective fiscal year. Each City's obligation for performance of this Agreement beyond that date is contingent upon funds being appropriated for payments due under this Agreement. If no funds or insufficient funds are budgeted and appropriated in any fiscal year, or if there is a reduction in appropriations of either city resulting in insufficient funds for payments due or about to become due under this Agreement, then this Agreement shall create no obligation as to such fiscal year, but instead shall terminate and become null and void for that City on the first day of the fiscal year for which funds were not budgeted and appropriated or, in the event of a reduction in appropriations, on the last day before the reduction becomes effective (except as to those portions of payments herein then agreed upon for which funds are appropriate and budgeted). Such non-funding shall not be construed as a breach of or default under this Agreement and shall be without penalty, additional payments, or other charges of any kind whatsoever to the City, and no right of action for damages or other relief shall accrue to the benefit of the City who has budgeted for continuing services.

18. **Fees for Services**. Annually, Ivins City shall pay a fee (the "Fee") to Santa Clara for services provided. The Fee for such services shall be based on a formula which equitably allocates the cost of the Basic Services. Initially, in the first year (_____, 2017, to _____, 2018), the percentage shall be paid 55% from Ivins City to Santa Clara, and Santa Clara shall bear the other 45%. After the first year the formula shall be recomputed based upon 50% of the weight being applied to the proportion of highest estimates of occupied units, as of February 1 of each year. The other 50% shall be determined based upon most recent available population estimates of Ivins and Santa Clara as of February 1 of each year. Included in the SCI Fire/Rescue Department Budget, and subject to division by the fee structures set forth above, shall

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be the direct Operational Costs of the SCI Fire/Rescue Department, but shall not include administrative expenses or cost of space. In the event that costs associated with the SCI Fire/Rescue Department exceed budget or are anticipated to exceed budget in any given fiscal year, Santa Clara agrees to immediately notify Ivins City, who shall proceed in good faith to consider an increase in budget and to amend its budget accordingly. Specifically, the parties agree with respect to variable expenses, such as overtime, that reasonable budgeting for such expenses shall be made.

19. **Remittance**. Quarterly, Ivins City shall remit 25% (or such other percentage or frequency as Ivins and Santa Clara shall agree) of its respective Fee to Santa Clara at the following address (or at such other address as Ivins may from time to time specify):

Santa Clara City
2603 Santa Clara Dr.
Santa Clara, UT 84765

The payment shall be billed on the first day of each quarter by Santa Clara to Ivins City. Starting with _____, 2017, and on the 1st day of each quarter thereafter for the term of this Agreement, Ivins City shall remit the funds to Santa Clara within thirty (30) days after receipt of the Invoice. If the day the payment is due and payable it is (a) a legal holiday, (b) a Saturday; (c) a Sunday, or (d) another day on which weather or other conditions have made the billing address inaccessible, the payment shall be due and payable on the next day which is not one of the aforementioned days. If any payment is not remitted to Santa Clara when due, Santa Clara shall be entitled to recover interest thereon at the rate interest specified in Utah Code Ann. §15-1-4(3)(a) or its successor, commencing on the date the remittance is due and payable.

20. **Failure to Pay Fee**. In the event Ivins City fails to pay its Fee within thirty (30) days after written notice from Ivins or fails to appropriate and budget its Fee (under the non-funding

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provisions above, or otherwise), for whatever reason, then at Santa Clara's option and upon written notice to Ivins City, Santa Clara shall be deemed to have given the requisite 90 days notice to terminate this Agreement.

21. **Notices**. Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within two (2) days after such notice is deposited in the United States Mail, postage prepaid, and certified and addressed to the respective Cities as set forth below:

TO: Dale Coulam
Ivins City Manager/Attorney
55 N. Main St.
Ivins, UT 84738

TO: Edward O. Dickie, III
Santa Clara City Manager
2603 Santa Clara Dr.
Santa Clara, UT 84765

WITH COPY TO: Matt Ence
Santa Clara City Attorney
Snow, Jensen & Reece
912 W. 1600 S., Suite B-200
St. George, UT 84770

Such address and designees for notice may be changed by either City upon written notice to the other.

22. **Claims and Disputes**. Claims, disputes and other issues between the Cities arising out of or related to this Agreement shall be decided by litigation in the Fifth Judicial District Court of Washington County, Utah. Unless otherwise terminated pursuant to the provisions hereof or otherwise agreed in writing, the SCI Fire/Rescue Department shall carry on the services during

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any such litigation, and subject to the terms of this Agreement, the Cities shall continue to make payments to the SCI Fire/Rescue Department in accordance with the terms of this Agreement.

23. **Dissolution**. The SCI Fire/Rescue Department may be dissolved and operations terminated upon the unanimous written consent of the Cities. Upon dissolution, any Assets actually contributed by the Cities shall be returned to the Cities based upon the formulas set forth in Section 18 above. Any unpaid liabilities of the SCI Fire/Rescue Department shall be paid by, or assumed by, the Cities based on the shared formula percentage then in place under Section 18 above.

24. **Additional Provisions**. The following provisions also are integral to this Agreement:

a. Titles and Captions. All section or subsection titles or captions herein are for convenience only. Such titles and captions shall not be deemed part of this Agreement and shall in no way define, limit, augment, extend or describe the scope, content or intent of any part or parts hereof.

b. Pronouns and Plurals. Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plurals and vice versa.

c. Applicable Law. The provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

d. Integration. This Agreement constitutes the entire agreement between the Cities pertaining to the subject matter hereof, and supersedes all prior agreements and understandings pertaining thereto.

e. Time. Time is of the essence hereof.

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f. Survival. All agreements, covenants, representations and warranties contained herein shall survive the execution of this Agreement and shall continue in full force and effect throughout the term of this Agreement.

g. Waiver. No failure by either City to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Either City may, by notice delivered in the manner provided in this Agreement, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other City. No waiver shall affect or alter the remainder of this Agreement, but each and every other covenant, agreement, term and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring breach.

h. Rights and Remedies. The rights and remedies of the parties hereto shall not be mutually exclusive, and the exercise of one or more of the provisions of this Agreement shall not preclude the exercise of any other provisions hereof.

i. Severability. In the event that any condition, covenant or other provision hereof is held to be invalid or void, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

j. Exhibits. All exhibits attached to this Agreement are expressly made a part of this Agreement as though completely set forth herein. All references to this Agreement, either in

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this Agreement itself or in any of such writings, shall be deemed to refer to and include this Agreement and all such exhibits and writings.

k. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

l. Approval by Attorneys. This Agreement shall be submitted to the authorized attorneys for each of the Cities for approval in accordance with Utah Code Ann. §11-13-202.5.

m. Amendment. This Agreement may not be amended or modified in any respect without the written consent of both Cities. Promptly upon such consent, both Cities shall mutually execute and deliver an amendment to this Agreement. The Amendment shall be effective upon this occurring.

n. No Third Party Beneficiaries. This Agreement is entered into by the parties solely for the benefit of the parties hereto. No obligation, benefit or rights are intended to be created or are created in any third party by execution hereof.

IN WITNESS WHEREOF, each of the Cities, by resolution duly adopted by its City Council, a certified copy of which is attached hereto, caused this Agreement to be signed by its Mayor and attested by its Recorder, and the County, by resolution duly adopted by its Council, a certified copy of which is attached hereto, caused this Agreement to be signed by its Mayor or designee and attested by the County Clerk.

CITY OF SANTA CLARA

_____

Rick Rosenberg, Mayor

ATTEST:

_____

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Recorder

IVINS CITY

_____

Chris Hart, Mayor

ATTEST:

_____

Recorder

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EXHIBIT "A"

Ivins City Fire/Rescue Related Equipment and Supplies to be Conveyed to Santa Clara

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EXHIBIT "B"

Ivins City Fire/Rescue Personnel

Anticipated to Become Employees of Santa Clara

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