ORDINANCE NO. 2025-__

AN ORDINANCE OF IVINS CITY, UTAH, REAUTHORIZING THE ENVIRONMENTAL MITIGATION IMPACT FEE REQUIRED TO FUND THE WASHINGTON COUNTY HABITAT CONSERVATION PLAN

WHEREAS the city council for Ivins City (the "City Council") is authorized by law to exercise its legislative powers through ordinances as are necessary for carrying into effect the duties and powers of the City Council and as are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of Ivins City and its inhabitants, and for the protection of property in Ivins City;

WHEREAS before the City Council can pass an ordinance regulating land use the planning commission for Ivins City (the "Planning Commission") must consider the regulation and conduct a public meeting regarding the proposed land use regulation;

WHEREAS after conducting a public meeting regarding this ordinance on _____ the Planning Commission recommended that the City Council approve this ordinance;

WHEREAS the City Council has investigated and considered whether to reauthorize the environmental impact fee related to the Washington County Conservation Plan;

WHEREAS the City Council finds as follows:

A. Much of Washington County and all of the land located within the municipal boundaries of Ivins City is critical habitat for the Mojave Desert Tortoise, which is listed as a threatened species under the Endangered Species Act of 1973.

B. To mitigate impacts to the Mojave Desert Tortoise habitat the Washington County Habitat Conservation Plan was established in 1995 and later restated and amended in 2020.

C. The Washington County Habitat Conservation Plan is required by the United States Fish and Wildlife Service for Washington County's Incidental Take Permit No. TE036719.

D. The required Habitat Conservation Plan and the Incidental Take Permit resolves conflicts with the Endangered Species Act of 1973 and permits growth, development, and other covered activities to occur in the Mojave Desert Tortoise habitat located within the municipal boundaries of Ivins City.

E. The Habitat Conservation Plan established the Red Cliff's Desert Reserve, a large area of land approximately 77,000 acres in size, which is the primary conservation measure to offset the impacts allowed under the Incidental Take Permit.

F. An environmental mitigation impact fee is necessary to finance the Washington County Habitat Conservation Plan, including the management and monitoring of actions and activities within the Red Cliffs Desert Reserve.

G. The environmental mitigation impact fee imposed herein bears a reasonable relationship to the costs of administration and implementation of the Washington County Habitat Conservation Plan.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Ivins City as follows:

Section 1. Established:

There is established an environmental mitigation impact fee under the authority of Utah Code Ann. § 11-36a-205 (as amended). The environmental mitigation impact fee shall be 0.2 percent of the total construction value of new building permits, payable with the issuance of building permits on all new residential, commercial, and industrial construction within the municipal boundaries of Ivins City. This environmental mitigation impact fee shall not apply to building permits for remodeling, add-ons of existing structures, or outbuildings.

Section 2. Purpose:

The environmental mitigation impact fees assessed herein are required to finance the administration of the Washington County Habitat Conservation Plan.

Section 3. Accounting; Use of Funds:

The Ivins City Director of Finance, or designee, is hereby directed to collect the environmental mitigation impact fee funds in a separate account designated the "endangered species conservation account" and to disburse the funds collected therein on a quarterly basis to Washington County for the administration of the Washington County Habitat Conservation Plan.

Section 4. Reporting Requirements:

Ivins City shall provide Washington County a quarterly report showing the number of subdivision final plats used, acreages, and the number of applicable building permits and the correlating construction values.

Section 5. Sunset Dates:

A. Pursuant to Utah Code Ann. §11-36a-205 (as amended) the environmental mitigation impact fee assessed herein shall sunset every five years, beginning in 2030. The Ivins City Council shall review the environmental mitigation impact fee assessed herein every five years, beginning in 2030. The review is to determine whether or not the environmental mitigation impact fee is still required to finance the Washington County Habitat Conservation Plan, and if the Ivins City Council determines the environmental mitigation impact fee is still required to finance the Washington County Habitat Conservation Plan, it shall reauthorize the impact fee.

B. When making the environmental mitigation impact fee determination as required herein, the Ivins City Council may rely on studies and reports provided by and produced for Washington County.

Section 6. Interlocal Agreement:

This ordinance is subject to an interlocal agreement between Ivins City and Washington County, a copy of which is on file in the records office of the Ivins City, and is incorporated herein by reference.

Section 7. Severability:

If any section, clause, or 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.

Section 8: Effective Date.

This Ordinance shall become effective immediately upon passage and publication.

PASSED AND ADOPTED BY THE IVINS CITY COUNCIL, STATE OF UTAH, ON THIS ____ DAY OF _____, 2025, BY THE FOLLOWING VOTE:

	AYE	**NAY**	**ABSTAIN**	**ABSENT**
Mike Scott	_____	_____	_____	_____
Kevin Smith	_____	_____	_____	_____
Sharon Barton	_____	_____	_____	_____
Sharon Gillespie	_____	_____	_____	_____
Lance Anderson	_____	_____	_____	_____

_____
Chris Hart, Mayor

ATTEST:

_____
Kari D. Jimenez, City Recorder