MEMORANDUM OF UNDERSTANDING
RE: INVESTMENT IN TUACAHN

This Memorandum of Understanding ("Agreement") is entered into effective the ____ day of July, 2015, by and between IVINS CITY, a municipality and political subdivision of the State of Utah, ("Ivins City" or the "City") and TUACAHN CENTER FOR THE ARTS, a Utah non-profit corporation ("Tuacahn"), collectively referred to as "the Parties."

RECITALS

WHEREAS, Tuacahn, a non-profit 501(c)(3), is celebrating its twentieth year of providing wonderful artistic productions here in the beautiful setting of Ivins City; and

WHEREAS, Tuacahn ticket sales currently pay for all of their operating expenses and roughly half of their repair and replacement costs or approximately ninety percent (90%) of their overall costs and would continue to invest in their own maintenance program as they have been doing; and

WHEREAS, after twenty years of operation, however, Tuacahn finds itself in need of critical upgrades in technology, such as lights and sound system, and an expansion that would provide additional comfortable seating, additional rehearsal space, and additional retail space; and

WHEREAS, Tuacahn has developed plans for the needed expansion and upgrades that will make the patrons' experience even more inviting and comfortable, thereby drawing even more visitors to the area during the hot summer months; and

WHEREAS, Tuacahn has already undertaken significant efforts over the past couple of years to raise the necessary funds for the proposed expansion/upgrades privately, but has fallen short of the amount necessary to begin construction in November as planned and as required by many of the private pledges; and

WHEREAS, Tuacahn now finds itself with a very narrow construction window of opportunity for work to be done at the facility (November to April) and in order to meet that window it must have a bond in place by the end of September; this would require receiving commitments for financial assistance from government entities by October of this year, so as not to risk losing much of the donations which have been pledged privately; and

WHEREAS, Tuacahn has increasingly become a significant economic engine for this area and due largely to the significant generation of sales tax and transient room tax from its guests who come to see a Tuacahn show, eat at local restaurants, shop at local stores, and stay overnight in local hotels or other short-term rentals; and

WHEREAS, Ivins City is proud to be the host city for this wonderful venue and even though it currently receives very little in direct economic benefit in the way of such taxes, Ivins City still recognizes the tremendous economic benefit Tuacahn provides to this area and that it has and will continue to provide significant intangible benefits to Ivins City which will increasingly result in greater direct economic benefit to the City in the future; and

WHEREAS, the Ivins City understands the need to make a long-term investment in this significant entity located within its City limits in order to secure its continued existence and revenue production well into the future;

NOW, THEREFORE, the Parties hereby agree as follows:

AGREEMENT

1. The foregoing recitals are incorporated herein and made part of this Agreement by this reference.

2. Prior to approving this Memorandum of Understanding (MOU), Tuacahn must have provided the information required of any applicant desiring to receive RAP tax funds from the City as outlined in Resolution 2015-03.

3. Based upon the all of the foregoing, Ivins City agrees and commits to pay to, or for the benefit of, Tuacahn the sum of $_____ per year for twenty years. This payment shall be made from the one-third portion of the RAP tax the City receives from Washington County which Ivins City has apportioned to the Arts, so long as the City receives RAP tax revenues from Washington County and from other sources thereafter for the remaining term of the twenty year commitment.

4. Tuacahn expressly agrees that none of the funds received from the City, or any bond proceeds that might be obtained using such funds, will be used for salaries or other operating expenses. The use of such funds shall be strictly limited to capital expenditures, including but not necessarily limited to Tuacahn's proposed theater expansion and Tuacahn's needed theater upgrades to seating, lighting and sound systems. Furthermore, Tuacahn expressly agrees that none of said funds or bond proceeds will be used for anything related to Tuacahn High School, but shall be limited solely for capital expenditures related to Tuacahn theater facilities and production equipment.

5. Tuacahn agrees to provide the City with annual accountings that establish such funds have been used solely for the purposes allowed in paragraph (4) above.

6. Tuacahn further agrees to provide the City with annual updates and reports on the status of its Capital Facilities Plans and the status of any sinking fund or other type fund to which Tuacahn is setting aside money for future upgrades to ensure that it keeps current with the technology necessary for professional productions of the type produced by Tuacahn and/or that industry so as not to have the need to seek further financial assistance during the twenty year term of the City's funding set forth in paragraph (3) above. Furthermore, Tuacahn shall annually provide proof to the City that ___% of its claimed depreciation each year has been set aside to a sinking fund or other type fund used as previously set forth in this paragraph.

7. This Agreement constitutes the entire agreement among the parties pertaining to the subject matter contained and supersedes all prior or contemporaneous agreements, representations and understandings of the parties. This Agreement may only be amended by a writing signed by both parties and either party may terminate this Agreement by giving the other thirty (30) days prior written notice of same. However, the Parties agree that the terms of this agreement shall survive and be in addition to any Interlocal Agreement that may be entered with the City and other government entities in Washington County to pool funding committed by those entities.

IVINS CITY:

Attest:

By: _____
Chris Hart, Ivins City Mayor

_____
Kari Jimenez, Ivins City Recorder

TUACAHN CENTER FOR THE ARTS:

_____
Kevin Smith, CEO