REVOCABLE LICENSE AGREEMENT

This **REVOCABLE LICENSE AGREEMENT** ("Agreement") is made and entered into on the ____ day of August, 2016, by and between **IVINS CITY**, a Utah municipal corporation ("CITY") and **ROCKY VISTA UNIVERSITY, LLC,** a Colorado limited liability company ("LICENSEE").

RECITALS

WHEREAS, LICENSEE owns a parcel of real property located on the south side of CITY'S street known as "Center Street," on which LICENSEE operates a medical office building, and a parcel of real property located directly across Center Street from the medical office building, on which LICENSEE is constructing facilities to house a college of osteopathic medicine; and

WHEREAS, LICENSEE desires to install and use a communications network between its medical office building and the college of osteopathic medicine, and LICENSEE has requested of CITY that LICENSEE be allowed to install fiber optic cable within Center Street, as provided herein; and

WHEREAS, CITY is willing to grant to LICENSEE a non-exclusive, revocable license for the installation and use of the fiber optic cable, as provided herein, subject to the terms and conditions set forth in this Agreement and subject to all requirements of the Ivins Municipal Code and state and federal law.

NOW, THEREFORE, incorporating the foregoing recitals herein, the parties agree as follows:

1. **GRANT OF LICENSE.** Subject to the terms and conditions provided herein, CITY hereby grants to LICENSEE a non-exclusive, revocable license (hereinafter "LICENSE") to lay, construct, maintain, operate, repair and remove [3-inch, schedule-40] conduit, through which fiber optic cable will run in Center Street in the area legally described on **Exhibit A,** attached hereto and incorporated herein by reference.

2. **TERMS OF LICENSE.** The License is granted upon the following terms:

- **2.1** The fiber optic cable will connect the medical office building to a building located across Center Street to the north;
- **2.2** There will be no above ground or otherwise visible structures installed within Center Street;
- **2.3** All entry onto Center Street pertaining to this License will be properly coordinated with the City, at least 24 hours in advance; and
- **2.4** Traffic shall not be interrupted by installation or maintenance of the fiber optic cable.

3. **FEE.** In exchange for CITY's grant of the License, LICENSEE agrees that it will install, at LICENSEE's sole cost and expense, to CITY's specifications and in the location specified by CITY, conduit for electrical lines serving the cross-walk that CITY will install across Center Street.

4. **TERMINATION.** CITY reserves the right to revoke and terminate this Agreement upon sale of LICENSEE's property to an entity which is unrelated to LICENSEE, or at such time that the fiber optic cable is no longer in use by LICENSEE. In addition, CITY reserves the right to revoke and terminate this Agreement if Licensee fails to comply with or abide by each and all of the provisions hereof, in which case CITY will give LICENSEE written notice of the violation(s) upon which termination is based, and will specify a reasonable time period, which will not be less than 30 days, within which time LICENSEE must correct the condition(s) constituting the violation(s). Upon LICENSEE's failure to correct within such time period, this Agreement will be terminated at the end of a specified time period, except when the nature of the violation requires more than thirty days to cure and LICENSEE, in good faith, commits to cure the violation within thirty days and thereafter diligently pursues such cure to completion.

5. **WORK IN CITY'S RIGHT-OF-WAY/RESTORATION OF PREMISES.** At least 48 hours before performing any of the acts permitted hereunder in Center Street, LICENSEE must:

   5.1. Give CITY written notice of LICENSEE's intent to perform the act; and

   5.2. Receive approval to perform the work from the Ivins City Engineer or other designated employee.

   The notification above is in addition to contacting a regional notification center such as Blue Stakes. All construction, re-construction, and placement must be done in strict compliance with the plans and specifications prepared by LICENSEE at its sole cost and expense. If emergency repairs are needed within Center Street, LICENSEE will make every reasonable effort to notify CITY of the need for the repairs before the repairs are undertaken.

   Whenever LICENSEE performs any work in CITY's right-of-way under the terms of this Agreement, LICENSEE must comply with the provisions of the Ivins Municipal Code with regard to the securing of permits and the paying of fees for any work that requires the cutting, patching, or replacement of pavement or other street-related materials.

6. **CITY'S RIGHT TO REQUIRE RELOCATION.** Nothing in this Agreement may be construed to grant to LICENSEE any permanent rights whatsoever to continue the location of the fiber optic cable in CITY's streets. CITY reserves the right to require LICENSEE, upon 180 days written notice, to relocate the

fiber optic cable, in accordance with plans and specification approved by CITY, if the fiber optic cable would unreasonably interfere with CITY's use of any of its facilities. Any such relocation of the fiber optic cable must be undertaken and completed with all deliberate speed and at CITY's sole cost and expense.

7. **MAINTENANCE.** LICENSEE must, at all times, maintain the fiber optic cable and conduit in a safe and sound condition of repair and in conformity with any and all laws, ordinances, and governmental regulations applicable thereto.

8. **NON-EXCLUSIVE LICENSE.** LICENSEE's rights under this Agreement are non-exclusive and revocable, and CITY reserves the right to enter into agreements with other parties for the placement of other facilities within the area designated on **Exhibit A,** provided that, in CITY's sole judgment, there is no unreasonable interference with LICENSEE's rights hereunder.

9. **ACCESS**. LICENSEE and its employees and agents will have access to the fiber optic cable subject to such conditions as CITY may designate or approve for the purpose of exercising the rights given herein.

10. **DAMAGES OR REPAIRS TO PREMISES.** If any of CITY's facilities or property are damaged by LICENSEE and if that damage is proximately caused by or attributable to LICENSEE, LICENSEE's fiber optic cable, or the construction, removal or replacement of the fiber optic cable, LICENSEE must reimburse CITY for any and all costs and expenses reasonably or necessarily incurred by CITY in replacing or repairing its property and facilities. LICENSEE must also reimburse CITY for any and all other actual and reasonable costs and expenses incurred, or actual and reasonable revenues forfeited, by CITY, due to damage to CITY facilities or property.

Should it become necessary for CITY to replace, repair, or modify any of its facilities for reasons not proximately caused by or attributable to the fiber optic cable, CITY will assume and bear only those costs and expenses it would have incurred if the fiber optic cable had not been located in CITY's streets and, LICENSEE must bear and reimburse CITY for any and all actual and reasonable additional costs and expenses attributable to the presence of the fiber optic cable in CITY streets.

11. **INDEMNITY.** LICENSEE shall indemnify, defend, and hold harmless CITY and its officers, agents, and employees against any and all liability, claims, actions, causes of action, or demands whatsoever against them, or any of them, before administrative or judicial tribunals of any kind whatsoever, arising out of, connected with, or caused by LICENSEE or LICENSEE's employees, agents, independent contractors, companies, or subcontractors in the performance of, or

in any way arising from, the terms and provisions of this Agreement, whether or not caused in part by a party indemnified hereunder.

12. MISCELLANEOUS.

12.1. Assignment. Neither this Agreement nor any rights, interests, duties, liabilities, obligations, or responsibilities arising out of, concerning, or related in any way to this Agreement (including, but not limited to, accounts, actions, causes of action, claims, damages, demands, liabilities, losses, obligations, or reckonings of any kind or nature whatsoever, for compensatory or exemplary and punitive damages, or declaratory, equitable, or injunctive relief, whether based on contract, equity, tort, or other theories of recovery provided for by the common or statutory law) may be assigned or transferred by LICENSEE, except to a related entity that operates an osteopathic medical school.

12.2. Binding Effect. The rights and obligations of this Agreement will inure to the benefit of, and be binding upon, the parties to this Agreement and their heirs, administrators, executors, personal representatives, successors, and assigns.

12.3. Compliance with All Laws. LICENSEE must, at LICENSEE's sole cost, comply with all of the requirements of municipal, state, and federal authorities now in force, or which may hereafter be in force, pertaining to this Agreement, and must faithfully observe in all activities relating to or growing out of this Agreement all municipal ordinances and state and federal statutes, rules or regulations, and permitting requirements now in force or which may hereafter be in force.

12.4. Authority. Each individual signing this Agreement on behalf of entities represents and warrants that they are, respectively, duly authorized to sign on behalf of the entities and to bind the entities fully to each and all of the obligations set forth in this Agreement.

12.6. Governing Law. The laws of the State of Utah will govern the validity of this Agreement and its interpretation and performance. Any litigation arising in any way from this Agreement must be brought in Washington County, Utah.

12.7. Further Assurances. Each party must execute and deliver such papers, documents, and instruments, and perform such acts as are necessary or

appropriate, to implement the terms of this Agreement and the intent of the parties to this Agreement.

12.8. Merger and Modification. All prior agreements between the parties are incorporated in this Agreement, which constitutes the entire agreement. Its terms are intended by the parties as a final expression of their agreement with respect to such terms as are included herein and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. The parties further intend that this Agreement constitute the complete and exclusive statement of its terms and no extrinsic evidence whatsoever may be introduced in any judicial or arbitration proceeding involving this Agreement. This Agreement may be modified only in a writing approved by the City Council and signed by all the parties.

12.9. Negation of Partnership. The parties hereto are not partners or joint venturers by reason of the provisions of this Agreement.

12.10. No Waiver of Default. The failure of any party to enforce against another party any provision of this Agreement will not constitute a waiver of that party's right to enforce such a provision at a later time, and will not serve to vary the terms of this Agreement.

12.11. Notices. All notices relative to this Agreement must be given in writing and personally served or sent by certified or registered mail and be effective upon actual personal service or depositing in the United States mail. The parties must be addressed as follows, or at any other address designated by notice:

CITY: CITY OF IVINS
55 North Main Street
Ivins, Utah 84738
Attention Dale Coulam, City Manager/City Attorney

LICENSEE: ROCKY VISTA UNIVERSITY, LLC
c/o Timothy B. Anderson, Legal Counsel
301 North 200 East, Suite 3A
St. George, Utah 84770

[signatures follow on next page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date above.

CITY:

IVINS CITY

By _____
Name: _____
Mayor Chris Hart

By _____
Name: _____
City Recorder Kari Jimenez

LICENSEE:

ROCKY VISTA UNIVERSITY, LLC

By: _____
Name: _____
Dr. Clinton Adams
Its President and CEO

Exhibit A
Legal Description

Beginning at a point on the southerly line of Center Street, said point being South 89°31'39" East 1,591.36 feet along the section line and South 40.00 feet from the Southwest Corner of Section 32, Township 41 South, Range 16 West, Salt Lake Base & Meridian, and running;

thence North 00°39'37" East 107.51 feet to the northerly line of Center Street;
thence South 89°31'36" East 10.00 feet along said northerly line;
thence South 00°39'37" West 107.51 feet to said southerly line of Center Street;
thence North 89°31'51" West 10.00 feet along said southerly line to the Point of Beginning.