

DRAFT**GRANT CONTRACT**

THIS GRANT CONTRACT is made and entered into by and between the **COUNTY OF LANCASTER, NEBRASKA**, a political subdivision of the State of Nebraska, hereinafter referred to as "**Sponsor**", and **LINCOLN COMMUNITY FOUNDATION**, a nonprofit corporation, hereinafter referred to as "**Grantee**". Individually, the Sponsor and the Grantee may be referred to as a "Party," and collectively they may be referred to as "Parties."

WITNESSETH:

WHEREAS, the Grantee's primary purpose is to operate a visitor attraction which is owned by the public or a nonprofit organization; and

WHEREAS, the Grantee has established a project for: expanding and improving an existing visitor attraction; planning or developing such expansion, improvements, exhibits or additions; acquiring or expanding exhibits for existing visitor attractions; or promotion and advertising costs associated with such exhibits; and

WHEREAS, the Sponsor desires to expend County Visitor Improvement Grant funds to support the Grantee's project.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed as follows by the Parties hereto:

1. Purpose: The purpose of this Grant Contract is to provide funding for the Grantee's Project, as described in Attachment "A", attached hereto and hereby incorporated by this reference.

2. Scope of Services: The Grantee agrees to complete the Project. Grantee agrees that it shall expend the funds granted hereunder only for the Project.

4. Grant: In order to assist the Grantee in financing the cost of the Project, the Sponsor shall make a Grant in the amount of \$10,000.00 from the Lancaster County Visitors Improvement Fund ("Grant Funds").

5. Term: The term of this Grant Contract shall be from June 1, 2017 through April 30, 2018. The Sponsor may extend the term of the Grant upon good cause shown by the Grantee. Any extension of the Grant term must be in writing and signed by both Parties. Any Grant amount that remains unencumbered by the end of the Grant term, or any reasonable extension thereof, shall be retained by Sponsor and placed in the Lancaster County Visitor Improvement Fund.

6. Project Budget: A Project Budget shall be prepared and maintained by Grantee. Grantee shall carry out the Project and shall incur obligations against and make disbursements of funds provided hereunder by the Sponsor only in conformity with the Project Budget. The Project Budget may be revised from time to time, but no budget or revision thereof shall be effective unless and until the same is approved in writing by the Sponsor.

7. Payment of Grant: Upon completion of the Project, which shall be when the public art app developed in accordance with Attachment "A" goes live, Grantee shall submit a claim or claims for Grant Funds to the Sponsor and (a) a detailed listing of all expenditures and a professional external audit of Grantee that covers the period of the expenditures; or (b) a detailed listing of all expenditures and copies of all receipts, cancelled checks, contracts and/or other documents that substantiate those expenditures. Timely payment of the claim(s) will be made only upon completion of the Project and only after Grantee assures the Sponsor in writing that the Grantee's Project has been completed in accordance with the Grant Contract, and completed in a timely manner.

PROVIDED: The Grantee understands and agrees that the Lancaster County Visitors Improvement Fund ("Improvement Fund") is the sole source of payment of Grantee's claim(s) for Grant Funds pursuant to this Grant Contract. Grantee's claim(s) shall not be paid from the Lancaster County General Fund, or from any other Lancaster County Fund. If for any reason the amount of funds in the Improvement Fund shall be insufficient to meet all obligations of the Improvement Fund, then the Sponsor, in its sole and absolute discretion, will determine the amount of Grant Funds, if any, that can be paid to the Grantee based on the amount of the funds available in the Improvement Fund, until sufficient funds in the Improvement Fund become available to pay Grantee's claim(s) for Grant Funds in full, and the Parties agree that no interest on the amount of such claim(s) shall be due or owing from Sponsor to Grantee as a result of any such delay in Sponsor's payment of Grantee's claim(s), whether such claim(s) be considered liquidated or unliquidated. Grantee agrees that Grantee has no reasonable expectation of payment of any kind from any other source except the Improvement Fund.

8. Audit and Inspection: Grantee shall permit and shall require its agents and employees to permit the Sponsor or its authorized representative to inspect all work, materials, payroll, records of personnel, invoices of materials, and other relevant data and records; and to audit the books, records, and accounts of Grantee pertaining to the Grant Contract and the Project.

9. Not Discriminate: In its performance of this Grant Contract, the Grantee shall not discriminate on the basis of race, creed, sex, national origin, religion, age, marital status, or disability, with respect to either provision of services or in its employment practices.

10. Sponsor Not Obligated to Third Parties: This Grant Contract is not intended to, and does not, create any rights or benefits on behalf of any person other than the Parties to this Grant Contract. Sponsor shall not be obligated or liable hereunder to any person other than the Grantee.

11. Prohibited Interests: Neither Grantee nor any of its contractors or their subcontractors shall enter into any contract, subcontract, or arrangement in connection with the Project provided herein, or any property included or planned to be included in the Project in which any officer, agent, or employee of Grantee during his tenure or for one year thereafter has any financial interest, direct or indirect.

12. Nonperformance: In the event the Grantee fails to complete the Project or fails to meet any of the requirements outlined in this Grant Contract, during the term of this Grant Contract, then and upon the happening of such event, Sponsor shall give written notice to Grantee of such failure to complete, and Grantee shall not receive payment of Grant Funds.

13. Severability: If any portion of this Grant Contract is held invalid, the remainder hereof shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of the applicable law.

14. Independent Contractor: It is the express intent of the Parties that this Grant Contract shall not create an employer-employee relationship, and the Grantee, or any other employee or other person acting on behalf of Grantee in the performance of this Grant Contract, shall be deemed to be independent contractor(s) during the entire term of this Grant Contract or any renewals thereof. Grantee shall not receive any additional compensation in the form of wages or benefits from the Sponsor which are not specifically set forth in this Grant Contract. Grantee shall assume full responsibility for payment of all federal, state, and local taxes or contributions imposed or required under unemployment insurance, social security and income tax law, with respect to Grantee or any such employees of Grantee as may be engaged in the performance of this Grant Contract. It is the express intent of the Parties that this Grant Contract shall not create an agency relationship between the Parties. Neither the Sponsor nor its employees shall be deemed agents of the Grantee, and neither the Grantee nor its employees shall be deemed to be agents of the Sponsor.

15. Hold Harmless: The Grantee shall indemnify and hold harmless the Sponsor, its agents, employees and representatives from all claims, demands, suits, actions, payments, liability, judgments and expenses (including court-ordered attorneys' fees), arising out of or resulting from the performance of this Grant Contract that results in bodily injury, civil rights liability, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom, and is caused in whole or in part by the Grantee, its employees, agents or representatives, either directly or indirectly employed by them. This Section will not require the Grantee

to indemnify or hold harmless the Sponsor for any losses, claims, damages and expenses arising out of or resulting from the negligent or intentional acts of the Sponsor, its agents, or employees.

16. Insurance Requirements: The Grantee shall, prior to beginning work, provide proof of insurance coverage in a form satisfactory to the Sponsor, which shall not withhold approval unreasonably. The coverages and minimum levels required by this contract are set forth below and shall be in effect for all times that work is being done pursuant to this Grant Contract. No work on the Project or pursuant to this Grant Contract shall begin until all insurance obligations herein are met to the satisfaction of the Sponsor, which shall not unreasonably withhold approval. Self-insurance shall not be permitted unless consent is given by the Sponsor prior to execution of the Grant Contract and may require submission of financial information for analysis. Deductible levels shall be provided in writing from the Grantee's insurer and will be no more than \$25,000.00 per occurrence. Said insurance shall be written on an **OCCURRENCE** basis, and shall be **PRIMARY, with any insurance coverage maintained by the Sponsor being secondary or excess.**

a) **Workers' Compensation.** The Grantee shall provide proof of workers' compensation insurance of not less than minimum statutory requirements under the laws of the State of Nebraska and any other applicable State. Employers' Liability coverage with limits of not less than \$500,000.00 each accident or injury shall be included. The Grantee shall also be responsible for ensuring that all subcontractors have workers' compensation insurance for their employees before and during the time any work is done pursuant to this Grant Contract.

b) **Commercial General Liability.** The Grantee shall provide proof of Commercial General Liability Insurance with a minimum limit of not less than \$1,000,000.00 each occurrence and \$2,000,000.00 aggregate. These minimum limits can be met by primary and umbrella liability policies. Coverage shall include: Premises-Operations, Products/Completed Operations, Contractual, Broad Form Property Damage, and Personal Injury. Such coverage shall be endorsed for the general aggregate to be on a **PER PROJECT** basis, and the Grantee shall provide an additional insured endorsement acceptable to the Sponsor. The required insurance must include coverage for all projects and operations of Grantee or similar language that meets the approval of the Sponsor, which approval shall not be unreasonably withheld.

c) **Automobile Liability.** The Grantee shall provide proof of Automobile Liability coverage, which shall include: Owned, Hired and Non-Owned. Bodily Injury and Property Damage Combined Single Limit shall be at least \$1,000,000 Per Accident.

d) **Additional Insured** An Additional Insured endorsement shall be

provided to Sponsor naming Sponsor as additional insured under the commercial general liability policy.

e) **Certificates.** The Grantee shall provide certificates of insurance and endorsements evidencing compliance with these requirements. The Grantee's insurance shall include an endorsement to provide for at least thirty (30) days' firm written notice in the event of cancellation. Intent to notify is not acceptable. During the term of the Grant Contract and during the period of any required continuing coverages, the Grantee shall provide, prior to expiration of the policies, certificates and endorsements evidencing renewal insurance coverages. The Parties agree that the failure of Sponsor to object to the form of a certificate and/or additional insured endorsement provided shall not constitute a waiver of this requirement.

f) **Minimum Scope of Insurance.** All Liability Insurance policies shall be written on an "Occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted otherwise.

g) **Sovereign Immunity.** Nothing contained in this clause or other clauses of this Grant Contract shall be construed to waive the Sovereign Immunity of the Sponsor.

17. Employee Verification: In accordance with Neb. Rev. Stat. §§ 4-108 through 4-114, Grantee agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. § 1324a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. Grantee shall not discriminate against any employee or applicant for employment to be employed in the performance of this Section pursuant to the requirements of state law and 8 U.S.C. § 1324b. Grantee shall require any subcontractor to comply with the provisions of this Section.

18. Forbearance Not Waiver: Sponsor's failure or neglect to enforce any of its rights under this Grant Contract shall not be deemed to be a waiver of Sponsor's rights.

19. Venue: If either Party brings against the other Party any proceeding arising out of this Grant Contract, that Party may bring that proceeding against the

other Party only and exclusively in the Lancaster County District Court in Lincoln, Nebraska, and each Party hereby submits to the exclusive jurisdiction of that court for purposes of any such proceeding.

20. Integration: The Parties hereby agree that this Agreement constitutes the entire understanding of the Parties and supersedes all prior contracts, agreements and negotiations between the Parties regarding the subject matter of this Grant Contract, whether verbal or written.

EXECUTED by Grantee this ____ day of _____, 2017.

LINCOLN COMMUNITY FOUNDATION,
a Nonprofit Corporation, Grantee.

Witness

BY: _____
Title: _____

EXECUTED by Sponsor this ____ day of _____, 2017.

APPROVED AS TO FORM THIS
____ day of _____, 2017.

LANCASTER COUNTY, NEBRASKA
a Political Subdivision, Sponsor

BY: _____
for Joe Kelly
Lancaster County Attorney

BY: _____
Todd Wiltgen, Chair,
Lancaster County Board of Commissioners

ATTACHMENT A

LANCASTER COUNTY VISITORS IMPROVEMENT FUND GRANT REQUEST

Name of Organization Lincoln Community Foundation, Inc.

Name of Agency: Lincoln Partners for Public Art Development – a fund of the Lincoln Community Foundation

Contact Person Lori Thomas, Director of LPPAD; Barbara Bartle, President of LCF

Address/City/State/Zip 215 Centennial Mall South, Suite 100, Lincoln, NE 68508

Telephone: (402)770-3642 **Fax:** (402)476-8523 **Email:** lppaddirector@gmail.com

Organization Status: Non-Profit Association Civic Group Other

Applicant Government/organization Federal ID number 47-0508128

If tax exempt organization, designate IRS classification: 501©3 501©6

Provide a detailed description of your exhibit/attraction:

The mission of Lincoln Partners for Public Art Development (“LPPAD”) is to develop a public art collection of national prominence in Lincoln, Nebraska, which will enrich the quality of life for Lincoln’s residents, complement the City’s exceptional educational and cultural amenities and support a positive economic environment in the community. This program serves to unify the community, to encourage creativity, and to reflect the diverse cultural heritage of Lincoln residents. The quality of the collection, programming, and projects attract visitors, enhance their experience, and bring national recognition and prestige to the City of Lincoln.

Between the City of Lincoln and the Sheldon Museum of Art, Lincoln is home to more than 150 public art pieces. Of these, 7 major pieces of art have been added in the last 3 years. 7 more pieces will be added permanently or temporarily in 2017. Beginning in July of 2017 The Cube will display digital art acquired from ongoing international juried competitions with entries from all over the world. As our collection and commitment to public art continues to grow, we are seeking ways to engage the public, and promote Lincoln as an arts destination and a prestigious public art venue.

According to the most current Art & Economic ProsperityIV report, arts and cultural events yield 1.3 million attendees annually in the city of Lincoln. Because public art is unique in that it can be viewed multiple times a day, in 150 locations throughout the city, 24 hours a day, from a car or by walking, it’s likely that public art has at least 1.3 million attendees (viewers) annually in Lincoln. See attached summary of Art & Economic ProsperityIV (FY2010) report for Lincoln, NE.

Numbers of attendees estimate: Out of town 278,575 Local 1,029,289

Check all that apply:

- Expanding and improving any existing visitor attraction
- Planning or developing such expansion improvements, exhibits or additions
- Acquiring or expanding exhibits for existing visitor attractions
- Promotion and advertising costs associated with such exhibits.

Please describe project as indicated above.

The Public Art Engagement Project would provide a smart phone application named Otocast which will serve as a tour guide for 50 pieces of public art selected from the City of Lincoln's collection and the Sheldon Museum's collection. Otocast provides a platform for mobile audio guides. These guides facilitate discovery of recommended "points of interest" in any geography and encourage exploration of the surrounding area, which in turn increases engagement and benefits local businesses and economy, as visitors spend more time in the area.

This App provides a means to identify, locate, and navigate public art in proximity to the user. Through the use of images, videos, and audio recordings, App users would experience public art in Lincoln, while listening to the artist speak, watching a video of the artist at work, or reading about the historical significance of the sculpture. Users will be immediately immersed in an engaging and contextually significant experience with Lincoln's public art collection.

The App will showcase 50 of the best pieces of Lincoln's public art, while more broadly drawing attention to the entire rapidly growing collection. Because Otocast allows various guides to exist within a single application, people using Otocast anywhere in the world will be made aware of Lincoln's public art collection.

The Public Art Engagement Project covers the expense of gathering the data to be used in the Otocast guide, creating the Lincoln public art guide within the Otocast app, updates to the software, and ongoing technical support throughout the development period up until the app goes live, plus 3 years. The Public Art Engagement Project would also purchase brochures and flyers to be distributed at LNK airport, The Visitors Center, hotels, The Sheldon Museum of Art, The Lincoln Arts Festival etc. and fund social media ads to get the word out.

Project Start Date: Summer 2017 **Completion Date:** April 2018

Is this project part of a larger renovation project? NO

As it pertains to the grant related project, provide breakdowns of radio and television advertising, showing individual costs, call letters and cities of origin. Also give breakdowns of magazine advertising by individual publications and costs. Similarly, separate the costs for brochures, travel shows by location, billboard advertising, etc. Include target market demographics.

(See attached marketing budget)

Do you anticipate submitting future applications for projects relating to this project? NO

Total projected budget (attach detailed budget)

Total Revenue: \$ 0.00

Total Expense: \$ 10,000

How will your project impact new visitor recruitment and lodging tax revenues?

Acquiring a public art app is an initial step to promote interaction with public art and to highlight the vibrant and growing public art scene in Lincoln, NE. With the app, the city of Lincoln will be aligned with other major cities in the US with great public art collections and will help put Lincoln "on the map" as a nationally recognized art venue. Otocast currently provides 104 guides for cities throughout the U.S. with 2,023 points of interest within those guides. Lincoln will be in good company.

Public Art is a unique animal. Unlike its museum and arts festival cousins, public art is free to view and accessible by everyone, and nearly impossible to track its viewers. Because we are unable to accurately predict the number of overnight stays this app will generate, we've looked at three different ways to quantify the value of a public art app: 1) Predict the number of App users based on comparison with other cities who have the app; 2) Estimate the number of app users based on the number of visitors to the Sheldon Museum of Art and the Sheldon Sculpture Garden and use economic impact research for arts organizations in Lincoln, NE to determine local vs. out of town users. 3) Share partnerships and planned future events we intend to host using the public art app. In conclusion, we used the most logical of these three estimates and tried to conservatively guess the number of overnight stays the app will generate.

1) **COMPARISON CITY USING THE APP:** According to Otocast, the city of Columbia, Missouri's public art guide went live in October of 2014 and highlights 39 pieces of public art. These pieces of art have been selected 4,521 times. Audio clips have been played 567 times. With Lincoln's population more than twice the size of Columbia, **we can anticipate the app being accessed approximately 9000 times with audio clips being played nearly 1100 times.**

2) **SHELDON MUSEUM STATISTICS:** We are in a rare position of being able to make an app that incorporates both the world class Sheldon sculpture collection and the city of Lincoln's collection. Most other cities utilizing the Otocast app do not have this kind of collaboration, or 'point of contact' with potential public art viewers. It is only reasonable that our app will be put into the hands of more interested parties because we have a built in audience with the Sheldon visitors. The Sheldon Museum of Art has 50,000 visitors annually. This includes approximately 3,100 6th grade LPS students who tour the sculpture garden and bus loads of elementary students from all over the state. Additionally 20,000 visitors annually attend Jazz in June in the Sheldon Sculpture Garden and 1000 guests attend weddings in the Sheldon Sculpture Garden. While the Sheldon's webpage currently has 46,669 users, 60% of those users are from outside of Lincoln – we know that the Sheldon draws visitors from all over the world.

According to Arts and Economic Prosperity IV, 21.3% of all arts attendees come from outside of the city of Lincoln. Applying the 21.3% to the **71,000 annual visitors of the Sheldon gallery and sculpture garden would predict that 16,400 visitors interested in public art come from outside of the City of Lincoln.** It is reasonable to assume that many Sheldon visitors will utilize the app, though predicting how many will become overnight guests is anyone's guess.

3) **PROJECTED FUTURE EVENTS:** Working with partner organizations such as the Sheldon Museum of Art, Lincoln Parks and Rec, Lincoln Public Schools and Art Reach, we will utilize the app to develop an Amazing Art Race and/or Public Art Hunt to span several months in 2018. The partnership will be geared toward children and families and encourage public art as a form of play, a wellness activity, and an art appreciation learning project. This program will also extend to schools outside of the city of Lincoln. We intend to roll-out the App and public art hunt at two separate events: International Sculpture Day, April 24, 2018 and 'Party in the Parks' in May of 2018. Previous 'Party in the Parks' have had several hundred participants.

A similar public art hunt conducted in Boston, MA using Otocast yielded more than 1800 users over a short three month "hunt". Such use of the App will significantly increase the reach of our project, and introduce more people to Lincoln's public art.

LPPAD will also work with non-art organizations to promote public art and the app on their materials, e.g. Great Plains Trails Network on their widely distributed Trails map and Lets Move Lincoln! on their 'Healthy Community Resources 54321 Go!' map. We will also partner with the Lincoln Arts Council and promote the app through the Lincoln Arts Festival which has a regional draw.

The app will be a major component of future public art programs and events and provide a means to track activity surrounding public art. It will enhance the experience of those already visiting our city, and encourage new visitors to make the trek to Lincoln. Additionally, visitors coming for other events, such as football games, college visits and business travel, will have easy access to Lincoln's public art experience and another reason to bring their family along and stay an extra day.

Estimated annual visitors: Local 53,600 Outside of Lincoln 16,400 (Based on Sheldon visitors)

Estimate Annual Economic impact of your facility and/or project based on lodging tax use
(Use multipliers listed below)

Is this based on annual use of the facility or for a specific event/exhibition? Annual use

#of hotel rooms utilized: 1,640 (10% of outside of Lincoln visitors) X \$245

*National/Regional event Multiplier - \$375 per night

*State event - \$350 per night

*Local event - \$245 per night

TOTAL ECONOMIC IMPACT BASED ON FORMULA: \$401,800

Is this grant request in addition to other project related grant requests?

NO

If yes, then list other grant requests: _____

Grant amount requested from Visitors Promotion Committee

\$10,000.00

Signature of Applicant:

Barbara M. Baitle President, Lincoln Community Foundation, Inc.

Wm Thomas Director, Lincoln Partners for Public Art Development

Date: 4/20/2017

Return Application (s) to:

Lincoln Convention and Visitors Bureau

Attn: Jeff Maul, Executive Director

1135 M St. Suite 300

Lincoln, NE 68501

For more information:

(402)434-5343

jmaul@lincoln.org

ATTACHED:

Completed application with project description & project budget

Operating budget

Marketing plan

Contractors' bid(s)

Support letters and or entity board approval

Proof of 501 (c)3 or 6 status

15 copies of the application, stapled

Public Art Engagement Project – LPPAD

MARKETING BUDGET & PLAN

(Costs are estimates rounded to the nearest dollar)

1) 1000 Brochures, points of distribution	\$350.00
a. Sheldon Museum of Art	
b. Lincoln Arts Festival	
c. Party in the Parks	
d. Visitor's Center	
e. LNK airport	
f. other	
2) 500 Flyers, points of distribution*	\$175.00
a. Lincoln Parks and Rec Facilities	
b. College Campuses	
c. Coffee Houses	
d. Lincoln Public Schools	
e. Bicycle/Trail Organizations	
f. Other	
3) 10 all -weather Signs*	\$325.00
a. Displayed near key pieces of public art	
4) Social Media Ads	\$150.00
a. Facebook	
b. Twitter	
c. Instagram	
5) News Print	\$0.00
a. Neighborhood Extra "Art in Your City" column	
b. "L" Magazine Feature	
c. Lincoln Journal Star Coverage	
d. Lincoln Today Magazine	
6) Cross-Promotional Media Opportunities	\$0.00
a. Sheldon Museum of Art	
b. Lincoln Parks and Rec	
c. Channel 5 City of Lincoln TV	
d. LPS	
e. Great Plains Trails Network Map	
f. Let's Move Lincoln 54321 Go! Map	

Total Marketing Expense: \$1,000

*Attached bids from Firespring indicate these budget numbers are in line with market prices, though these bids do not match exactly in quantity with the budget plan. Minor variations in material, & sizes can be made to stay within budget.

Public Art Engagement Project – LPPAD

PROJECT BUDGET

1) OTOCAST Public Art App for Lincoln, NE	\$9000.00
2) Brochures (1000)	\$350.00
3) 8.5 x 11 Flyer (500)	\$175.00
4) Outdoor signage (10)	\$325.00
5) social media purchased advertising	<u>\$150.00</u>
 TOTAL PROJECT BUDGET:	 <u>\$10,000.00</u>

