

GRANT CONTRACT

THIS GRANT CONTRACT is made and entered into by and between the **COUNTY OF LANCASTER, NEBRASKA**, a county and political subdivision of the State of Nebraska, hereinafter referred to as "**Sponsor**", and the Branched Oak Observatory, 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 is a nonprofit organization which owns and operates a visitor attraction located in Lancaster County;

WHEREAS, the Grantee has established a Project at a visitor attraction that promotes, encourages, and attracts visitors to the County of Lancaster, Nebraska ("County") to use the County's tourism facilities and attend events within the County; and

WHEREAS, on February 23, 2022, the Sponsor's Visitors Promotion Committee recommended approval of Grantee's request in the amount of \$2,500.00 for promotion of the Project;

WHEREAS, Sponsor desires to expend County Visitors Promotion Grant funds to support the promotion and advertising of Grantee's Project, as that promotion and advertising is described and budgeted in Attachment A;

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

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

2. Scope of Services: The Grantee agrees to complete the Project. Grantee agrees that it shall expend the funds granted hereunder only for the promotion and advertising of the Project, as that promotion and advertising is described and budgeted in Attachment "A".

3. Intentionally Omitted.

4. Grant: In order to assist the Grantee in financing the cost of the promotion and advertising of the Project, as that promotion and advertising is described and budgeted in Attachment "A", the Sponsor shall make a Grant in the amount of up to \$2,500.00 from the Lancaster County Visitors Promotion Fund ("Grant Funds").

5. Term: The term of this Grant Contract shall be from the Date of Final Execution through December 31, 2022.

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 Contract term, or any reasonable extension thereof, shall be retained by Sponsor and placed in the Lancaster County Visitors Promotion Fund.

6. Project Budget: A Project Budget for advertising and promotion 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 for advertising and promotion. The Project Budget for advertising and promotion 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. The Project Budget for advertising and promotion is contained solely and exclusively in Attachment "A".

7. Payment of Grant: For the sole and exclusive purpose of funding the cost of promotion and advertising of the Project, as that promotion and advertising is described and budgeted in Attachment "A", the Grantee shall be paid the sum of up to \$2,500.00 upon completion of the Project.

Payment will only be made upon completion of the Project and only after the Grantee assures the Sponsor in writing that the Project has been completed in accordance with the Grant Contract; and completed in a timely manner. Before the conclusion of the term of this Grant Contract, Grantee shall submit a claim 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.

PROVIDED: The Grantee understands and agrees that the Lancaster County Visitors Promotion Fund ("Promotion 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 Promotion Fund shall be insufficient to meet all obligations of the Promotion 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 Promotion Fund, until sufficient funds in the Promotion 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 Promotion 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 and audit all the books, records, accounts, work product, materials, payroll, records of personnel, invoices of materials, and other relevant data of the 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.** Grantee affirmatively represents that Grantee employs no employees, and therefore Grantee does not maintain Workers' Compensation Insurance. Grantee hereby agrees not to hire any employee(s) to perform or exercise any rights or obligations pursuant to this Agreement, provided that, in the event Grantee hires an employee or employees to perform or exercise any rights or obligations pursuant to this Grant Contract, then Grantee shall obtain and maintain Workers' Compensation Insurance of not less than the minimum statutory requirements under the laws of the State of Nebraska and any other applicable State for such employee(s), and, in addition, shall provide seasonable notice to the Sponsor of such hiring and shall provide proof of such insurance

coverage to the Sponsor in a form satisfactory to the Sponsor. Grantee hereby agrees to indemnify and hold harmless the Sponsor, its agents, employees, officials, officers, and representatives, from all claims, demands, suits, actions, payments, liability, judgments and expenses (including court-ordered attorney's fees), arising out of the provisions of the Nebraska Workers' Compensation Act, Neb. Rev. Stat. §§ 48-101 to 48-1,117, arising out of or in any way related to or in connection with 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. The Grantee shall provide an additional insured endorsement acceptable to the Sponsor, which approval shall not be unreasonably withheld.

c) **Additional Insured** An Additional Insured endorsement shall be provided to Sponsor naming Sponsor as additional insured under the commercial general liability policy.

d) **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.

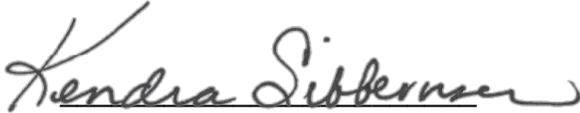
19. Venue: If either Party brings against the other Party any proceeding arising out of this Grant Contract, that Party may bring that proceeding against the other Party only and exclusively in the Lancaster County District Court in Lincoln, Nebraska, and each Party hereby submits to the exclusive jurisdiction of that court for purposes of any such proceeding.

20. No Assignment: Except as provided herein, Grantee shall not assign its rights, duties or responsibilities under this Agreement without the express written permission of the County. Any assignment without the express written permission of the County shall be absolutely void.

21. 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 14 day of April, 2022.

Branched Oak Observatory, a nonprofit corporation, Grantee.


Witness

BY: 

EXECUTED by Sponsor this ____ day of _____, 2022 ("Date of Final Execution").

APPROVED AS TO FORM THIS
____ day of _____, 2022.

COUNTY OF LANCASTER, NEBRASKA
a County and Political Subdivision of the
State of Nebraska, Sponsor

BY: _____
for Patrick Condon
Lancaster County Attorney

BY: _____
Deb Schorr, Chair
Lancaster County Board of Commissioners

<https://linclanc.sharepoint.com/sites/CoAdmin-Admin/Shared Documents/Admin/Committees/Visitors Promotion Committee/promotion fund grants/second round contracts/.docx>

REVIEW OF APPLICATIONS AND DISTRIBUTION OF FUNDS: The Visitors Promotion Committee will review applications and provide recommendations to the Lancaster County Board for final review. The Lancaster County Board reserves full authority to approve or deny any or all applications in whole or in part. Applications approved by the Lancaster County Board will be required to enter into a grant contract with Lancaster County to receive funds. Once a contract has been established with Lancaster County, funds will be paid only upon completion of the project on a reimbursement basis. Bills and receipts with proof of requirements must be received by Lancaster County within 30 days of the project's conclusion in order to be reimbursed. Failure to submit timely full may result in a loss of funds. Obtainment of proof of delivery receipt is strongly recommended if mailed.

Lancaster County Visitors Promotion – Marketing Grant 2021-22 MARKETING GRANT APPLICATION

Please **type** on this form or use this format on separate sheet in the order presented below.

Applicant: Branched Oak Observatory

Contact Person: Michael Sibbernsen

Address: 14300 NW 98th Street City: Raymond State: NE Zip: 68428

Phone: (402) 321-9532 [M.Sibbernsen Mobile]

Email Address: info@branedoakobservatory.com

Name of event or project: Fall StarBQ

Total amount of money requested: \$2500

Date(s) of event or project: September 24th

Describe the event or project: The Fall StarBQ is our largest event of the year and features fun science education for the entire family. Star Wars characters mingle among the crowd for photos, hands-on "space-craft" activities are delivered in the classroom, physics demonstrations are provided by UNL students, amazing raffle prizes are offered, as is BBQ from local food vendors. In the evening, we view the universe through a variety of telescopes.

What is the target market(s) for this event or project? Target markets include families with young children, millennials, college students, and geographic areas up to 100 miles from the event.

List other funding sources for this project: Security First Bank.

How will this project be judged for success? By the number of attendees during the Fall StarBQ event in comparison to previous years, as well as an increase in numbers to adjacent events from greater general marketing exposure.

I have read and accepted the guidelines and requirements for this grant.


Applicants Signature

Signed this 31st day of January, 2022.

(x) Event or project budget attached.

(x) Proof of nonprofit status attached.



BRANCHED OAK
OBSERVATORY

January 31, 2022

EIN: 47-4467998

**Prospective Marketing Expenses Budget for the Lancaster County Visitors
Promotion – Marketing Grant application.**

10,000 General & Event Rack Cards	\$675
1,000 Event-Specific Flyers	\$200
100 Event-Specific Posters	\$175
Advertising NebraskaLife Magazine	\$500
Rack Card & Flyer Distribution	\$450
Marketing Design	\$500

TOTAL - \$2500

Prepared by Michael Sibbersen
CEO – Branched Oak Observatory

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