

## **MONTANA LIBRARY FOUNDATION**

### **- BYLAWS -**

#### **ARTICLE I: NAME**

**Section 1.1. Name.** The name of this Corporation shall be the Montana Library Foundation.

**Section 1.2. Name Change.** The Corporation may, at any time, change its name by vote of a simple majority of the Board of Directors (henceforth “Board”). Such a change will be made official only after the Corporation has filed notice of the new, assumed name with the State of Montana.

#### **ARTICLE II: PURPOSE AND POWERS**

**Section 2.1. Purpose.** The Corporation’s purpose is to support reliable, equitable, and sustainable information access for all Montana residents. The Corporation’s activities will complement and promote the work of the Montana State Library, the State’s public libraries, and the State’s geographic information systems (GIS) community.

**Section 2.2. Powers.** The Corporation shall have the power to do any and all lawful acts which may be necessary to affect the charitable purposes for which the Corporation is organized – or to assist other organizations or persons whose activities further accomplish or foster such purposes. The powers of the Corporation shall include the acceptance of contributions from the public and private sectors, including financial and in-kind donations.

**Section 2.3. Nonprofit Legal Status.** The Corporation is a Montana nonprofit public benefit organization, recognized as tax exempt under Section 501(c)(3) of the United States Internal Revenue Code (the “Code”). The Code is amended from time to time. Any reference to a specific section of the Code shall be deemed to include any future but corresponding sections of the Code.

**ARTICLE III: MEMBERSHIP**

**Section 3.1. Membership.** This corporation shall have no members. Any action or approval of the members or shareholders of a corporation which would otherwise be required by the terms of any agreement to which this corporation is a party, or by which this corporation is bound, or by the provisions of any law, rule or regulation to which this corporation is subject, requires only action or approval of the Board.

**ARTICLE IV: BOARD OF DIRECTORS**

**Section 4.1. Management.** The business and charitable affairs of the corporation shall be managed by or under the direction of a Board of Directors. The Board of Directors shall have primary responsibility for overseeing the activities of this corporation; engaging in long-range planning for this corporation; ensuring the mission of this corporation; and approving the annual budget for this corporation.

**Section 4.2. Number, Composition of Board.** The members of the Board of Directors shall be elected by the Directors. The Board of Directors shall consist of a minimum of five (5) individuals. The initial Board of Directors shall consist of those persons named in the Articles of Incorporation. Such persons shall hold office until the first election of Directors. The Montana State Librarian, and the Chair of the Montana Library Commission, or the Chair's designee, shall serve as ex-officio members of the Board

**Section 4.3. Terms of Directors.** Directors shall serve for a term of three (3) years each, and shall be so elected that approximately one-third (1/3) of the Directors is elected each year. Directors may serve up to three consecutive terms. After serving three consecutive terms, Board members cannot serve on the Board for a minimum of two years before becoming eligible again to re-join the Board. Inaugural Board member terms shall be staggered as one-, two-, or three-year terms.

**Section 4.4. Quorum.** At all meetings of the Board of Directors a majority of the Directors then in office shall be necessary and sufficient to constitute a quorum for the transaction of business.

**Section 4.5. Number Required for Action by Directors.** Except where otherwise required by law, the Articles of Incorporation or these Bylaws, the affirmative vote of a majority of the Directors present at a duly held meeting shall be sufficient for any action.

**Section 4.6. Written Action.** Any action required or permitted to be taken at a meeting of the Board of Directors may be taken by written action signed, or consented to by authenticated electronic communication, by the number of Directors required to take the same action at a meeting of the Board of Directors at which all Directors were present. The written action is effective when signed by the required number of Directors, unless a different effective date is provided in the written action. When written action is taken by less than all of the Directors, all Directors shall be notified immediately of its text and effective date, except that failure to provide such notice does not invalidate the written action.

**Section 4.7. Resignation of Directors.** A Director may resign at any time by giving written notice to the Secretary of the corporation. The resignation is effective without acceptance when the notice is given to the corporation, unless a later effective time is specified in the notice.

**Section 4.8. Removal of Directors.** A Director may be removed from office, with or without cause, by the affirmative vote of a majority of the Directors present at a duly held meeting; provided that not less than five (5) days and not more than thirty (30) days notice of such meeting stating that removal of such Director is to be on the agenda for such meeting shall be given to each Director.

**Section 4.9. Filling Vacancies.** In the event of the death, removal or resignation of a Director, a successor to fill the unexpired term shall be elected by the affirmative vote of a majority of the Directors present at a duly held meeting.

**Section 4.10. Regular Meetings/Annual Meeting.** The Board of Directors shall have regular meetings at such places and times as it shall establish by resolution. The Board shall meet at least quarterly. The Board meetings shall be conducted as determined by the President. The last regular meeting each calendar year will be deemed to be the annual meeting of the Board of Directors. Election of new Directors filling regularly occurring vacancies on the Board will occur at the annual meeting.

**Section 4.11. Special Meetings.** Special meetings of the Board of Directors may be called at any time upon request of the President, or any two (2) Directors, provided that any such request shall specify the purpose or purposes for the meeting. The President shall set the date for the special meeting within three (3) working days of making or receiving such a request and shall give not less than five (5) nor more than thirty (30) days written notice of the time, place and purpose of such special meeting.

**Section 4.12. Committees.** The Board of Directors may establish one or more committees having the authority of the Board in the management of the business of the corporation to the extent determined by the Board. The chair and the members of all committees shall be appointed by the President. Members of a committee need not be Directors and shall hold such office for a term of one (1) year from their appointment or until their successors are appointed, whichever occurs first. Meetings of a committee may be called, from time to time, upon request of the President, the chair of the committee or any two (2) committee members. Notice requirements shall be the same as for special meetings of the Board of Directors, except that notice may be given orally or in writing.

**Section 4.13. Place of Meetings.** The Board of Directors and any committee thereof, may hold its meetings at such places, whether in this state or in any other state, as a majority of the Directors then in office may from time to time appoint. Upon failure to appoint any other place, such meetings shall be held at the principal offices of the corporation.

**Section 4.14. Action by Electronic Communication.**

**4.14.1** Any meeting among Directors may be conducted solely by one or more means of remote communication through which all of the Directors may participate in the meeting, if the same notice is given of the meeting required by Section 4.15, and if the number of Directors participating in the meeting is sufficient to constitute a quorum at a meeting. Participation in a meeting by that means constitutes presence at the meeting.

**4.14.2** A Director may participate in a Board or committee meeting by means of conference telephone or, if authorized by the Board, by such other means of remote communication, in each case through which that person, other persons so participating, and all persons physically present at the meeting may participate with each other during the meeting. Participation in a meeting by that means constitutes presence at the meeting.

**Section 4.15. Notice.** Notice of any meeting of the Board of Directors shall be given at least five (5) days prior to the date of the meeting by written notice mailed to each Director at his or her designated address, or by notice delivered personally or by facsimile. Notice may also be given by a form of electronic communication consented to by the Director to whom the notice is given. Consent by a person to notice given by electronic communication may be given in writing or by authenticated electronic communication. The corporation is entitled to rely on any consent so given until revoked by the Director, provided that no revocation affects the validity of any notice given before receipt by the corporation of revocation of the consent. Electronic notice is deemed given:

**4.15.1** If by facsimile communication, when directed to a telephone number at which the Director has consented to receive notice;

**4.15.2** If by electronic mail, when directed to an electronic mail address at which the Director has consented to receive notice;

**4.15.3** If by a posting on an electronic network on which the Director has consented to receive notice, together with separate notice to the Director of the specific posting, upon the later of: (i) the posting; and (ii) the giving of the separate notice; and

**4.15.4** If by any other form of electronic communication by which the Director has consented to receive notice, when directed to the person.

If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. The notice need not state the purpose of the meeting.

**Section 4.16. Waiver of Notice.** Any Director may execute a written waiver of notice of any meeting required to be given by statute or by any provision of these Bylaws either before, at, or after that meeting, and such waiver when signed and filed as hereinafter provided shall be equivalent to notice. Such waiver shall be filed with the Secretary, who shall enter it upon the minutes or other records of that meeting. Appearance at a meeting by a Director shall be deemed a waiver of notice thereof, unless the appearance is solely for the purpose of asserting the illegality of the meeting.

**Section 4.17. Compensation of Directors.** Directors shall not be compensated for their duties as Directors or officers, except that a Director may receive reasonable compensation for his or her services as an employee or contractor, and Directors may be reimbursed for expenses incurred on behalf of the corporation.

## **ARTICLE V: OFFICERS**

**Section 5.1. Election of Officers.** The officers of the corporation shall be a President, Vice-President, a Secretary, a Treasurer, and such other officers as the Board of Directors may, from time to time, elect. The officers shall be elected for one-year terms by the Board of Directors at the annual meeting of the Board. Board members shall be given at least one week

notice of the meeting and election. Terms begin the first day of the next calendar year. Officers may serve up to three consecutive terms. The Board may also appoint additional Officers as it deems expedient for the proper conduct of the business of the Corporation, each of whom shall have such authority and shall perform such duties as the Board of Directors may determine.

**Section 5.2. Duties of Officers.** The duties of the officers of this corporation shall be:

**Section 5.2.1. President.** The President shall preside at all meetings of the Board of Directors and shall oversee the long term goals and purposes of the corporation. The Chair shall be the chief executive officer of the corporation and shall have all of the powers and duties normally belonging to the President, Chief Executive Officer, or Executive Director of a Montana nonprofit corporation. He or she shall also perform such other duties as may be determined from time to time by the Board of Directors.

**Section 5.2.2. Vice-President.** The Vice-President shall perform such duties as may be determined from time to time by the Board of Directors. The Vice-President so designated shall be vested with all powers of and perform all the duties of the President in the President's absence or inability to act, but only so long as such absence or inability continues. The Vice President shall normally accede to the office of President upon the completion of the President's term of office.

**Section 5.2.3. Secretary.** The Secretary shall attend all meetings of the Board of Directors and any committee thereof, and keep, or cause to keep, the minutes of such meetings, give notices, prepare any necessary certified copies of corporate records, and perform such other duties as may be determined from time to time by the Board of Directors.

**Section 5.2.4. Treasurer.** The Treasurer shall have charge of the corporate treasury, receiving and keeping the monies of the corporation, disbursing corporate

funds as authorized, and shall have all of the powers and duties normally belonging to the Treasurer of a Montana nonprofit corporation.

**Section 5.3. Officers as Members of Board of Directors.** All officers shall be members of the Board of Directors.

**Section 5.4. Resignation of Officers.** An officer may resign at any time by giving written notice of the resignation to the Secretary of the corporation.

**Section 5.5. Removal of Officers.** Any officer may be removed, with or without cause, by the affirmative vote of a majority of the Directors present at a duly held meeting of the Board of Directors for which notice stating such purpose has been given.

**Section 5.6. Filling Vacancies.** Any vacancy in an officer's position shall be filled by a majority vote of the Board of Directors of the corporation at any regular meeting of the Board.

#### **ARTICLE VI: STANDARD OF CARE AND CONFLICTS OF INTEREST**

**Section 6.1. Standard of Care.** It is the responsibility of each Director of this corporation to discharge his or her duties as a Director in good faith, in a manner the Director reasonably believes to be in the best interests of this corporation, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

**Section 6.2. Conflicts of Interest.** A contract or other transaction between this corporation and:

- (a) one or more of its Directors, or a member of the family of a Director;
- (b) a Director of a related organization, or a member of the family of a Director of a related organization; or
- (c) an organization in or of which one or more of the corporation's Directors or a member of the family of the Director are Directors, officers or legal representatives or have a material financial interest,

is not void or voidable because the Director or Directors or the other individual or organization are parties or because the Director or Directors are present at the meeting of the Board of Directors or a committee of the Board of Directors at which the contract or transaction is authorized, approved or ratified, if:

- (a) the contract or transaction was, and the person asserting the validity of the contract or transaction sustains the burden of establishing that the contract or transaction was fair and reasonable as to the corporation at the time it was authorized, approved or ratified; or
- (b) the material facts as to the contract or transaction and as to the Director's or Directors' interest are fully disclosed or known to the Board or a committee, and the Board or committee authorizes, approves or ratifies the contract or transaction in good faith by a majority of the Board or committee, but the interested Director or Directors shall not be counted in determining the presence of a quorum and shall not vote.

For the purpose of this Section a "member of the family" of the Director includes the spouse, parents, children and spouses of children, brothers and sisters or spouses of brothers and sisters of the Director, or any combination of them. Directors shall also abide by any additional Conflicts of Interest policies adopted by the Board, in addition to the stated regulations in this Section.

#### **ARTICLE VII: FINANCE**

**Section 7.1. Receipts.** Any dues, contributions, grants, bequests or gifts made to the corporation shall be accepted or collected only as authorized by the Board of Directors.

**Section 7.2. Deposits.** All funds of the corporation shall be deposited to the credit of the corporation under such conditions and in such banks or financial institutions as shall be designated by the Board of Directors.

**Section 7.3. Contracts; Orders for Payment.** All contracts, loans, checks and orders for the payment, receipt or deposit of money, and access to securities of the corporation shall be as provided by the Board of Directors. Except as otherwise provided by resolution of the Board or Board policy, all contracts, deeds, leases, mortgages, grants, and other agreements of the Corporation shall be executed on its behalf by the President, Executive Director, or other persons to whom the Corporation has delegated authority to execute such documents in accordance with policies approved by the Board.

**Section 7.4. Title to Property.** Title to all property shall be held in the name of the corporation.

**Section 7.5. Annual Budget.** The annual budget of estimated income, income expense and capital expense shall be approved by the Board of Directors.

**Section 7.6. Summary Financial Report.** A summary report of the financial operation of the corporation shall be made by the Treasurer at least quarterly to the Board of Directors.

**Section 7.7. Fiscal year.** The fiscal year of the organization shall be July 1 to June 30.

**Section 7.8. Checks, notes and expenditures.** Checks, drafts and promissory notes up to the amount of \$5,000 shall be signed by the treasurer or president, or an executive director if authorized by the Board. All checks, drafts and notes in excess of \$5,000 shall be signed by two officers. All expenditures in excess of \$10,000 must receive prior approval by the Board of Directors.

## **ARTICLE VIII: EMPLOYEES AND AGENTS**

**Section 8.1. Employees and Agents.** The Board of Directors may choose to appoint an executive director, who shall serve at the pleasure of the Board. Once hired, the executive Director shall hire, direct and discharge all other agents and employees. Prior to hiring an executive director, the Board may hire other agents or contractual employees at it so chooses.

**Section 8.2. Compensation.** The Board shall determine the level of compensation for the executive director, or other agents or contractual employees. The Board shall approve compensation and other personnel guidelines for employees. With approval by the Board of Directors and subject to conflict of interest policies, Directors may serve as staff and receive reasonable compensation for contractual services.

**ARTICLE IX: INDEMNIFICATION**

To the full extent permitted by Montana State Law, as amended from time to time, or by other applicable provisions of law, each person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, wherever and by whomsoever brought (including any such proceeding, by or in the right of the corporation), whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a Director or officer of the corporation, or he or she is or was serving at the specific request of the Board of Directors of the corporation as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall be indemnified by the corporation by the affirmative vote of a majority of the Directors present at a duly held meeting of the Board of Directors for which notice stating such purpose has been given against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding; provided, however, that the indemnification with respect to a person who is or was serving as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise shall apply only to the extent such person is not indemnified by such other corporation, partnership, joint venture, trust or other enterprise. The indemnification provided by this Article shall inure to the benefit of the heirs, executors and administrators of such person and shall apply whether or not the claim against such person arises out of matters occurring before the adoption of this provision of the Bylaws. No indemnification or indemnification advances shall be made with respect to any threatened, pending or civil, administrative, arbitration, investigative or other proceeding brought by or in the right of the corporation against a person.

The Montana Library Foundation may, to the full extent permitted by applicable law from time to time in effect, purchase and maintain insurance on behalf of any person who is or was a member of the Board of Directors, any member of a committee, an officer, or an employee of the corporation against any liability asserted against such person and incurred by such person in any such capacity.

**ARTICLE X: AMENDMENT OF BYLAWS AND ARTICLES OF INCORPORATION**

These Bylaws may be amended at any time and from time to time by the affirmative vote of a majority of the Directors then in office; provided that written notice of the meeting and of the proposed amendment shall be given to each Director not less than five (5) nor more than thirty (30) days before any meeting of the Board of Directors at which an amendment of the Bylaws is to be adopted. Approved amendments to the Bylaws take effect immediately. Amendments to the Articles of Incorporation shall follow the same procedures as amendments to the Bylaws, but require a majority vote of three-quarters of the Directors in office, and take effect following official certification of the amendments.

**CERTIFICATION AND ADOPTION**

We do hereby certify that the above Bylaws of the Montana Library Foundation, Inc., were approved by the Board of Directors on \_\_\_\_\_, do now constitute a complete copy of the Bylaws of the Corporation.

\_\_\_\_\_  
**Name**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Name**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Name**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**