



PO Box 201800 1515 East 6th Avenue Helena, MT 59620 (406) 444-3115

The Montana Libraries Foundation

A proposal of the Montana State Library Commission

August 16, 2017

“Whatever agencies for good may rise or fall in the future, it seems certain that the Free Library is destined to stand and become a never-ceasing foundation of good to all the inhabitants.”

Andrew Carnegie An American Four-in-Hand in Britain

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Introduction

In December, 2016, the State Library Commission (Commission) adopted a new Strategic Framework (Framework) (http://docs.msl.mt.gov/aboutweb/documents/strategic_framework.pdf) that prioritizes the need to secure sufficient and sustainable funding so that the Montana State Library (the Library) and our partners have the funds and capacity to meet the expectations of our partners and Montanans. This priority reflects the Library intent to be an innovative, forward thinking, and fiscally responsible organization in fulfilling our mandates and meeting the expectations of our partners and Montana citizens.

The Library's Fiscal Year 17 budget, as appropriated by the Legislature in House Bill 2 was \$6.029M. Of this budget, \$3.5M was State General Fund, \$269,300 was Coal Severance Tax (CST) funding, \$995,535 was Montana Land Information Act funds, and \$623,138 was federal Library Services Technology Act monies. The balance of funding comes through proprietary funds from member costs for the Montana Shared Catalog, and pass through funds from state agencies that help to fund the Montana Natural Resource Information System (see Appendix A). In many cases, the services offered by the Library are also matched or partially funded by additional local monies through a variety of cost sharing formulas.

When developing the framework, the Commission expressed concern about the volatile nature of several sources of funds used to fund library and information services in Montana. They also acknowledged the political barriers that seem to prevent financial investment in public services. Finally, the Commission recognized their inability to plan strategically and proactively to address these concerns because of the outside influences that govern the sources of funds.

Key funding challenges the Library faces:

- CST funding had become increasingly volatile over the previous two years culminating in the loss of 45% of the Library's coal severance tax appropriation midway through the FY16-17 biennium. This loss of funds resulted in the defunding of the statewide periodical database program in May 2016.
- Recordation fees used to fund the Montana Land Information Account saw all-time low collections in FY14. Despite modest increases in each of the last 3 fiscal years, total collections in FY17 were still well below the historical average. To address low collections the Library cut expenditures for both MLIA grants and operations by \$100,000 in FY 16.
- LSTA funds, while relatively stable, have not increased since 2010 and are not keeping up with the cost of inflation. Further, their relative stability is now in question given calls by the Trump Administration and high-ranking Congressional leadership to defund this program entirely. Concerns over the future of federal funds reflects an ongoing trend of the decreasing availability of federal funding in the forms of contracts and grants across a number of federal partners with which the Library has historically worked.
- Though seemingly stable at the time the Commission drafted the Framework, we now know that Montana's overall tax base appears to be in very real decline. In December, the Commission made plans for a 5% reduction in the Library's operations budget totaling approximately \$160,000. Through additional legislatively enacted cuts, that amount has increased to a staggering \$990,000 in personal services and operation cuts.

In the short term, the Commission and the larger information community seems to have little ability to influence the political and economic factors that affect these sources of funds in a meaningful way at the macro level and so the time has come to create additional leg of funding that the Commission and our partners can influence. To this end, this document suggests a path that will result in the creation of a Montana Libraries Foundation (Foundation).

Foundation funds should supplement rather than supplant public funds. Foundation funds, in the form of an endowment, and/or project dollars would be part of a multi-part strategy to fund library and information services in Montana. The Library and the Commission will still prioritize work to enhance and develop public funding options. Private dollars would supplement and leverage public dollars making the Library and library community better able to adapt to changing circumstances.

Considerations for Funding

“Neighbors-helping-Neighbors” is a core Montana Value and the Library uses this model to build and sustain relationships and to support a useful information infrastructure, as called for in the strategic framework, both of which are necessary to achieve a basic level of library and information services that is the same for every Montanan. This models Montana well because it matches the values of our communities and because Montana’s communities recognize that, in the end, everyone benefits. The key to the success of this model is that it is built on trust, and it also promotes trust.

Ways the Library has served Montanans:

- For approximately fifty years, the Library has been responsible for using federal funds to support library development around Montana.
- The Library administers the state depository program, which connects Montanans to information about our government. This program has proven its ability to stand the test of time, readily adapting to a digital universe.
- The Library provides services to those who cannot read traditional print material including providing access to titles by Montana authors and about Montana.
- When the state first began collecting digital data about Montana’s natural resources, the Legislature at the time deemed it wise to house the data in the State Library for all to use and so was born the Natural Resource Information System and the Natural Heritage Program.
- For nearly two decades the Library has fostered statewide projects that provide scalable infrastructure and make use of current technologies, innovative service delivery, and collaborative funding models that ensure that every Montana library that wishes to do so may make use of the infrastructure to provide state of the art library services in their communities.
- And, most recently, in 2013, the Legislature again recognized the unique role of the Library when it transferred authority for the Montana Land Information Act to the Library in order to better enhance development of and access to the state’s geographic information.

By focusing on scalable infrastructure, innovative approaches to relationships, and use of new technology and services the Library strives to create a future in which Montanan’s libraries, information partners, and users, are engaged in creating thriving communities. By ensuring that

this model has stable funding, that supports a resilient library and information community in Montana that is able adapt and thrive amidst changing, and challenging circumstances, the Library can achieve its vision a thriving Montana.

Useful Information Infrastructure for all Montanans

A useful information infrastructure includes the technology, data, and people working together to ensure that Montanans have the information and library services they need to understand and influence change in their communities. Montanans use good information to reach their potential, achieve their goals, learn, problem solve, find solace, connect with one another, and build their futures. For Montana libraries, a useful information infrastructure means that any library has access to and can afford to make use of a core set of scalable technologies, provided by the Library, in collaboration with our information partners to meet libraries and users' information needs through resource sharing. Though this core set of technologies can and must change as technology changes, today it includes the following statewide technology systems and services:

- OCLC Group Services: http://libraries.msl.mt.gov/statewide_projects/oclc_services
- Montana Shared Catalog: http://libraries.msl.mt.gov/statewide_projects/montana_shared_catalog
- MontanaLibrary2Go: http://libraries.msl.mt.gov/statewide_projects/montanalibrary2go
- Montana Courier Alliance: http://libraries.msl.mt.gov/statewide_projects/courier
- Montana Memory Project: http://libraries.msl.mt.gov/statewide_projects/montana_memory_project
- Lifelong learning programming.

To the greatest extent possible, technology and services should utilize shared systems that support interoperability and collaboration. Tools should further aid our local partners' ability to meet us at their point of opportunity including migrating and creating more web-based services to ensure access by the citizens.

In addition to the collections of published materials found in most of Montana's libraries, a useful information infrastructure that serves Montana information needs must include that data and information that is unique to Montana. Information that should be accessible to all includes:

- Natural Resource information about Montana including information about Montana's plants, animals, habitats, water resources and information about our landscape. Much of this data is administered under contract through the University of Montana by the Montana Natural Heritage Program;
- State Government information in the form of digital publications, produced by the State of Montana and intended for public distribution so that Montanans may witness, engage in, and influence the actions of our government;
- Montana geographic information, which informs policy and action in all sectors of life in Montana. This data is developed and managed by a variety of partners including local governments, state agencies, federal partners and is, or should be, discoverable and accessible to users through the Library.
- One-of-a-kind heritage resources that exist in the libraries, archives, and museums around Montana.

The Commission further desires that the Library identify ongoing projects and data development needs that would further enhance a useful information infrastructure. Current costs associated with these needs is \$1.5M (see Appendix B).

Stakeholders

As previously stated, the Library's approach to our work has always been through a "neighbor-helping-neighbor" model. The intent behind seeking stable, long-term funding is to secure sufficient funding for the library and information community across Montana. Therefore, to be successful, we must engage in a wide range of stakeholders including but not limited to:

Montana library users

Montana Library Community

- Librarians and Board Members Representing all types of libraries
- Foundations and Friends Groups
- The Montana Library Association

Montana GIS Community

- Geographic Information Professionals
- The Montana Association of Geographic Information Professionals

Montana University System

Montana Natural Resources Community

Additional stakeholders

- Montana Association of Counties
- Montana League of Cities and Towns
- Montana State Legislature
- Montana Telecommunications Association
- State Agencies
- Tribal Governments
- Local Governments

Recommended legal model

Foundation and Endowment

Given the Commission's desire for a stable revenue source that will stand the test of time, an endowment, managed by a foundation, that can fund, through interest, some or all of the funding considerations identified above seems logical. The foundation would be a separate non-profit entity created at the direction of the Commission. After its creation, it would run as a separate legal entity run by an executive director and overseen by a foundation board. The State Librarian and Chair of the Commission or appointed Commissioner should have seats on the board. The board would be responsible for determining specific fundraising and funding goals and policies. The Commission and the foundation should hold a memorandum of understanding that describes

the legal relationship between the Library and the foundation and that addresses how funding priorities will be established and documented (see Appendix C for a sample MOU from the State Parks Foundation).

Near-term vs. Long-term funding options

Since 1997, the Commission has had the legal authority to administer a trust as provided for in 22-1-225 Montana Code Annotated. The Library is legally required to deposit any donation it receives in the Trust. The Trust is invested with the State Board of Investments. The Commission grants authority to spend Trust monies in accordance with any wishes of the donor and the Montana State Library Trust policy (See Appendix D). The Library may not transfer any donation deposited in the trust to another legal entity outside of state government including a foundation. Recognizing that some individuals may wish to see their donations put to use more immediately, the Trust remains a viable option for donors while the foundation increases the opportunity for donors who wish to contribute private funds. The Library and a foundation will need to make clear distinctions between the Trust and the Foundation for donors.

Other considerations

Collaboration with local foundations and friends groups

Approximately 65 Montana public libraries have either a Foundation or a Friends Group or both. Additionally, academic and special libraries may receive support from foundations. These organizations are instrumental to funding local library needs and support everything from day-to-day operations to major capital campaigns. It is the intent of the Commission that the Montana Libraries Foundation collaborate with, and never compete with, any library foundation or friends group in Montana. In much the same way that the Library's statewide projects support the entire Montana library community, the Commission recognizes that any effort to raise funds for a Montana Libraries Foundation must also support all library foundations. By focusing on funding and fundraising for statewide projects and services, the Commission hopes that libraries, and their foundations and friends groups, will benefit directly from the Montana Libraries Foundation freeing up local monies for truly local needs.

Public vs. Private funding

There is some understandable concern about the risk to Legislative funding if the Legislature perceives that services of the State Library may be funded through private monies instead of public dollars. In researching this issue further, staff found that 63 MT libraries have their own foundations and/or friends groups and approximately 30 State Libraries also have their own foundations. A former foundation director from a Montana public library foundation stated that public funds should be viewed as funding basic services but foundation funds are necessary for truly great library services. Additionally, building a group of influential donors with a long-term interest a foundation should actually grow political influence supporting libraries.

The risk of the loss of public funds as the result of the collection of private donations is further minimized in the face of the dramatic cuts the Library is currently experiencing. This view further reinforces the need for the Commission to take control over at least some of the Library's funding in order to ensure a core level of stable funding.

One way to address this concern is to require documented local and state Maintenance of Effort (MOE) to ensure that the public sector continues to support library and information services

through their own investment. This requirement further leverages both public and private monies. Details of MOE should be further defined in an MOU and/or in future funding documents.

Legal advice

The Attorney General's (AG) Office provides legal services to the Library under contract. This contract cannot, and should not, be extended to a foundation since it would not be a state agency. Further, should the Library and the Commission ever find itself in conflict with a foundation, the AG's Office would provide legal services to the Library.

Next steps

Foundation consultant

The Library should use monies available in the Trust to enter into a contract with a foundation consultant. This consultant, under the direction of the State Librarian and Commission, will be responsible for the design and initial formation of the foundation. The work of the consultant would include, but is not limited to:

- Engaging an attorney to draft articles of incorporation and other necessary legal documents;
- Drafting policies and procedures;
- Entering into contracts to develop marketing and fundraising materials;
- Developing strategic priorities and initial fundraising goals;
- Exploring opportunities for partnerships with key stakeholders;
- Seating a foundation board.
- Working with the board to hire an executive director at the point in time the foundation can sustain staff.

To meet state procurement requirements, the Library must conduct a request for proposal to hire a foundation consultant. To help draft an RFP in order to hire the best possible consultant, the Library should enter into a short-term contract with a consultant to help draft the RFP. A short-term consultant should be hired as soon as possible. It would be the goal for the Library to enter into a contract with a foundation consultant no later than December 31, 2017.

Acknowledgements

The Commission wishes to acknowledge the following individuals for providing advice and guidance:

- Paula Beswick, Bozeman Library Foundation (retired)
- Charlene Porsild, Montana History Foundation
- Mary Rutherford, Montana Community Foundation
- Amy Sullivan, Montana Community Foundation
- Jeff Welch, State Parks Foundation

Appendix A

MONTANA STATE LIBRARY					
FY 17 OPERATIONAL BUDGET					
	STATEWIDE LIBRARY RESOURCES		MONTANA DIGITAL LIBRARY		
	Library Development	Talking Book Library	User Services Information Management Information Products	Administration	TOTAL
Full Time Equivalent (FTE) Level	6.62	6.00	11.81	8.65	33.08
PERSONAL SERVICES	456,045	296,245	943,435	751,593	2,447,318
OPERATIONS					
Contracted Services	204,903	16,409	813,939	80,906	1,116,157
Periodical Elec Data	0				0
Library Development Projects	68,682				68,682
*Resource Sharing-OCLC	98,886				98,886
*Resource Sharing-MSC	98,886				98,886
Supplies and Materials	7,436	6,500	17,508	61,500	92,944
Communications	12,354	17,600	47,013	33,943	110,910
Travel	27,600	3,600	22,417	23,100	76,717
Rent	65,545	124,857	180,080	150	370,632
Repair and Maintenance	15,775	9,200	6,000	29,176	60,151
Other Expenses	19,100	800	13,096	63,548	96,544
TOTAL OPERATIONS	619,166	178,966	1,100,053	292,323	2,190,508
EQUIPMENT:					
Library Books	0	0	4,097		4,097
Equipment	0	0		9,600	9,600
TOTAL EQUIPMENT	0	0	4,097	9,600	13,697
SUB-TOTALS	1,075,211	475,211	2,047,585	1,053,516	4,651,523
GRANTS:					
Federation Grants (CST)	176,122	0	0	0	176,122
State Aid - Area/Pop	395,766	0			395,766
LSTA 15					0
LSTA 16	139,447				139,447
LSTA 17	44,956	0	0	0	44,956
Montana Land Information Grants			621,685		621,685
TOTAL GRANTS	756,291	0	621,685	0	1,377,976
TOTALS	1,831,502	475,211	2,669,270	1,053,516	6,029,499
FUNDING					
General Fund	859,501	277,872	1,385,983	983,173	3,506,529
Coal Severance Tax Shared Account	247,804		21,500		269,304
Library Services and Technology Act (LSTA)	372,727	197,339		53,072	623,138
Montana Shared Catalog - Proprietary Acct	351,470				351,470
State Agency Contracts *(See Below)			283,523		283,523
Montana Land Information Account			978,264	17,271	995,535
	1,831,502	475,211	2,669,270	1,053,516	6,029,499
*State Agency Contracts					
Department of Transportation					
Department of Environmental Quality					
Department of Natural Resources & Conservation					
Fish, Wildlife and Parks					
Universities					
MSL Trust account does not start with a budgeted amount. Request to spend from the account will be brought up and approved by the Commission before expenditures may occur. Can not be used for ongoing operational cost. The Commission will always see the balance of the account on their quarterly reports.					

Appendix B

Funding needs analysis

Project	LSTA	General Fund	CST	Library Contributions	MLIA	Total cost (minus personnel)
OCLC	\$32,880	\$49,443	\$49,443	\$282,540		\$414,306
MSC *	\$10,000	\$49,443	\$49,443	\$218,040		\$326,926
Courier **	\$9,950			\$70,000		\$79,950
MTLib2Go ***	\$40,000					\$40,000
MMP	\$14,727			\$14,727		\$29,454
MTNHP Contract ****		\$328,710			\$10,000	\$338,710
MLIA Grants					\$250,000	\$250,000
GIS Coordination					\$50,000	\$50,000
Information Management		\$40,000				\$40,000
Total	\$107,557	\$467,596	\$98,886	\$585,307	\$310,000	\$1,569,346
Additional options						
MSC new libraries	\$6,800					
LD Training/Outreach	\$48,000					
Special or OTO projects						
Leadership trainings						
Advocacy efforts						
	* Does not include library contributions for salaries					
	** Funding may not be adequate					
	*** Does not include library contributions for content					
	**** Current funding is not adequate					

Appendix C

Sample MOU

MASTER MEMORANDUM OF UNDERSTANDING
BETWEEN
Montana Department of Fish, Wildlife & Parks AND
Montana State Parks Foundation

This MASTER MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into by and between the Montana State Parks Foundation, a Montana non-profit corporation ("Foundation") and the Montana Department of Fish, Wildlife & Parks through its State Parks Division ("Montana State Parks" or "Division"), collectively referred to as "the parties."

This MOU outlines the general working relationship for coordination and cooperation between Montana State Parks and the Foundation and serves as a framework for more specific projects and collaboration described in mutually adopted Annual Workplans and in addendums to this MOU.

BACKGROUND

The Foundation was created as the lead nonprofit partner to Montana State Parks to bring additional capacity to Montana State Parks to assist with stewardship of parks, to enhance of the visitor experience, and to increase community engagement and advocacy for Parks. A primary purpose of the Foundation is to provide support from the private sector for critical efforts of Montana State Parks in its stewardship of Montana's state parks. The nature of the Foundation may, on occasion, permit it to develop relationships that benefit the mission of Montana State Parks but which are not appropriate for Montana State Parks because of budgetary and/or other limitations.

Montana State Parks is authorized by state law to manage, protect, conserve, and preserve properties, lands, and water under its jurisdiction relative to their role in tourism and the economic health of Montana.

Whereas, the purposes of this Agreement are consistent with the objectives and purposes of the Foundation and Montana State Parks, the Foundation and Montana State Parks desire to enter into this Agreement for the purpose of setting forth and defining their relationship and the manner in which various aspects of such relationship will be handled.

A. STATEMENTS OF MUTUAL BENEFIT AND INTERESTS

The mission of Montana State Parks is to preserve and protect our state's heritage and the natural beauty of our public lands for the benefit of our families, communities, local economies and out-of-state visitors. Its objectives are to provide excellent land stewardship, safety and service through recreation, innovation and education. Its goals are to provide an extraordinary experience for visitors and to keep the state park system strong now and for generations to come.

The mission of the Montana State Parks Foundation is to support Montana's State Parks, enhance the visitor experience, and build a community dedicated to sustaining Montana State Parks for the future.

B. PURPOSE

- To recognize the Foundation as the lead nonprofit partner of Montana State Parks and to empower it to raise funds on behalf of Montana State Parks.
- To offer the Foundation the opportunity to participate in the success of Montana State Parks and its programs through work to enhance the visitor experience, support and build capacity within Friends groups and other nonprofit partners, and contribute to the stewardship of Montana State Parks through advocacy.
- To clearly articulate the nature of the relationship between the Foundation and Montana State Parks in order to foster trust, transparency, and collaboration in the parties' work together.

C. AUTHORITY

This agreement is entered into under the authority of the:

1. Mont. Code Ann. § 23- 1-101 *et seq.*
2. Foundation Bylaws, as amended

D. Montana State Parks shall:

1. Assign an employee to be its liaison (Liaison) with the Foundation to facilitate the working relationship. The Liaison will assist Montana State Parks with information gathering, accurate documentation, and full disclosure in order to bring about cooperation and mutual understanding between the Foundation and Montana State Parks.
2. Provide a link to the Foundation website on the Montana State Parks website while also working collaboratively to message through other media platforms.
3. Share data collected to the widest range possible to enhance enjoyment of the park system; and also to inform and strengthen cooperative programs and project work, goals, and objectives.
4. Allow the Foundation to use the Montana State Parks logo in conjunction with approved projects and programs, on its website and in other communications. Logo must be used according to Montana State Parks policy and guidelines.
5. Provide promotion of approved special events and programs as they fit into the Montana State Parks media and promotions schedule.
6. Provide training and other development and administrative support to the Foundation, as available and allowable by law.
7. Participate in planning and operation of Foundation programs, as appropriate, for example attending Foundation board meetings, participating in annual and long range planning and providing fiscal advice for approved projects.
8. To enhance collaboration and effectiveness between the Foundation and Montana State Parks, Montana State Parks may provide office space; access to

a Montana State Parks computer, telephone, office equipment, and supplies; and safety and PPE equipment, as needed, to Foundation staff and/or contractors when it is beneficial for program operations and allowable under law.

9. Review proposed donations from the Foundation to ensure they meet Montana State Parks' needs, requirements, and specifications.
10. For operational and programmatic success, as allowed by law, integrate Foundation staff or volunteers, as appropriate, into Montana State Parks operations in areas where staff people (Foundation and Montana State Parks) will have overlapping duties and/or responsibilities.
11. Allow the Foundation to place Department-approved donation boxes and fundraising appeals on State Park property as specified in Department policy.
 12. Allow for the use of Montana State Parks media for Foundation website, promotional materials, social media, and fundraising materials.
 13. Generally work with the Foundation to achieve mutually agreed upon goals.

E. The Foundation shall:

1. Support the mission of Montana State Parks.
2. Maintain its 501(c)3 status with the IRS, including timely filing of 990s and Montana Secretary of State Montana Corporation Annual Reports filings.
3. Maintain an ex-officio/non-voting position on its Board for the Montana State Parks Administrator or his/her designee.
4. Provide a link to the Montana State Parks website on the Foundation Website and through active support of other social media platforms.
5. Share data collected for outreach, education, and marketing purposes to inform and strengthen cooperative program and project work, goals, and objectives.
6. Allow the State to use the Foundation logo in conjunction with projects and programs in the approved workplan, on its website and in other communications, with approval. Logo must be used according to Montana State Parks guidelines.
7. Provide Montana State Parks with an annual work plan which includes at least the following:
 - (1) Annual park project list (what the Foundation will support in the upcoming year)
 - (2) Annual fundraising plan
 8. Coordinate on and off-site fundraising opportunities and events in close collaboration with Montana State Parks and local parks as appropriate.
 9. Coordinate any on-park or Montana State Parks collateral material (including social media) sponsorship or donor recognition in close collaboration with Montana State Parks and in accordance with the Montana State Parks Sponsorship and Donations Policy.
 10. Develop effective communication mechanisms with the general public and Foundation donors and supporters, which may include website, Facebook, Twitter, and other social media.

11. Hire, train, and pay its own employees, including an Executive Director.
12. Designate a person to act as the liaison with Montana State Parks.
 13. Act in a prudent and businesslike manner and in accordance with nonprofit best practices and ethical obligations.
 14. Establish, adhere to, and periodically assess its gift-management and acceptance policies.
 15. Establish and enforce policies to protect donor and prospective donor confidentiality.
 16. Maintain reasonable records incident to the performance of this Agreement, for all efforts of the Foundation that are for the benefit of Montana State Parks, and shall allow access to those records by Montana State Parks, the Legislative Auditor, and the Legislative Fiscal Analyst.
 17. Maintain accurate annual information regarding activities accomplished for the benefit of Montana State Parks, which may be reviewed by the Montana State Parks Liaison upon request.
 18. Generally, work with State Parks to achieve mutually agreed upon goals.

F. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

1. MONTANA PUBLIC RECORDS LAW. Any information furnished to Montana State Parks under this instrument is subject to the public's right to know under Mont. Const. Art. II § 9, and Montana's open records law found in Mont. Code Ann. § 2-6-101, *et seq.*
2. PARTICIPATION IN SIMILAR ACTIVITIES. This MOU in no way restricts Montana State Parks or the Foundation from participating in similar activities with other public or private agencies, organizations, and individuals.
3. AUTHORITY RETAINED. It is the expressed intention and understanding of the parties that the Foundation does not have authority to represent or bind Montana State Parks, except pursuant to written notice from the Division, or a motion duly made and adopted by the State Parks and Recreation Board ("Board") pursuant to a requisite vote thereof. Nothing contained in this Agreement may be construed as limiting the use by Montana State Parks of its logo or Montana State Parks' name, or as granting to the Foundation any right to use the logo except as otherwise specified herein.
4. COMMENCEMENT & TERM. This MOU takes effect upon the signature of Montana State Parks and shall remain in effect for five years from the date of execution. This MOU may be extended or amended upon written request of either Montana State Parks or the Foundation and with the subsequent written concurrence of the other. Either Montana State Parks or the Foundation may terminate this MOU with a 60-day written notice to the other.
5. TERMINATION OR DISSOLUTION OF THE FOUNDATION. This Agreement may be immediately terminated by either party in the event that

the other party breaches any provision hereof, acts in bad faith, or is grossly negligent in the performance of its obligations. Termination is effective upon the receipt by the other party of a written notice containing a reasonably detailed description of such breach. In the event that this MOU is terminated, or as a result of the dissolution of the Foundation, the Foundation shall, within 30 days after termination provide Montana State Parks with an accounting of all projects on Montana State Parks lands and any pending fundraising issues approved and performed under this Agreement.

6. RESPONSIBILITIES OF PARTIES Montana State Parks and the Foundation and their respective agencies and offices will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated, transparent, and mutually beneficial manner.

7. ARM 'S LENGTH. All transactions between the Foundation and Montana State Parks will be conducted on an arm's-length basis. The following arrangement is consistent with an arm's-length relationship: It is expected that the mutual objective of the Foundation's and Montana State Parks' working relationship will be what is in the best interest of both.

8. INDEMNIFICATION. The Foundation agrees to hold Montana State Parks harmless from and against any and all claims whatsoever involving any negligent act or omission of any officer, director, agent or employee of the Foundation that causes personal injury or death at any program, event or project undertaken or sponsored by the Foundation. Montana State Parks agrees to hold the Foundation harmless from and against any and all claims involving any negligent act or omission of any officer, director, commissioner, agent or employee of Montana State Parks that causes personal injury or death at any program, event or project undertaken or sponsored by the Foundation.

9. CLARIFICATION OF ROLES. It is understood that the indemnification clause set forth in paragraph 8 above is in effect only when Foundation employees are acting in their capacity as board members, staff, or contractors, of the 501(c)3 organization. Foundation members acting as volunteers for the State of Montana must be within the course and scope of their State-authorized activities and have a signed Volunteer Agreement form on file to be considered for coverage for their liability exposure as authorized volunteers of the State.

10. NON-FUND OBLIGATING DOCUMENT. Nothing in this MOU shall obligate either Montana State Parks or the Foundation to obligate or transfer any funds. Specific projects or activities that involve the transfer of funds, services, or property among the various agencies and offices of Montana State Parks and the Foundation will require execution of addendum or additional agreements and be contingent upon the availability of appropriated funds.

Such activities must be independently authorized by appropriate statutory authority. This Master MOU does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.

11. NOTICES. Any communications affecting the operations covered by this agreement given by Montana State Parks or the Foundation is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by email or fax, as follows: to the Montana State Parks at the address shown in the MOU and at the Foundation address as shown in the MOU. Notices are effective when delivered in accordance with this provision or on the effective date of the notice, whichever is later.

12. ENDORSEMENT. Any Foundation contributions made under this MOU do not by direct reference or implication convey Montana State Parks endorsement of the Foundation's products or activities.
13. MERGER This Agreement constitutes the entire agreement among the parties hereto with respect to the subject matter hereof, and supersedes and replaces all prior agreements and understandings, oral or written with respect to the transactions contemplated herein. No modification of or addendum to of this Agreement will be binding unless executed in writing and signed by both parties. The headings contained herein are for convenient reference only and will not be used to construe or interpret this Agreement.
14. AUTHORIZED REPRESENTATIVES. By signature below, the Friends certifies that the individuals listed in this document as representatives of the Friends are authorized to act in their respective areas for matters related to this agreement.
15. PRINCIPAL CONTACTS. The principal contacts for this document are:

Appendix D

Trust Policy

Montana State Library Commission Policy

Montana State Library Trust

MCA 22-1-226

Guidelines

In 1997, the legislature established an expendable trust (22-1-225, 22-1-226, MCA) that enables the Montana State Library to accept bequests and other donations, to expend these monies, and to earn interest. The following guidelines are established to help donors understand how the State Library will accept, invest, report on, and distribute any donated funds.

Acceptance:

Unless otherwise provided by the donor, donations received pursuant to 22-1-103, MCA, must be placed in the Montana State Library Trust. The State Library will maintain an accounting of all donations, their designated use (if any), interest earned, and expenditures made from the trust. The State Librarian will discuss any donation that may require significant administration expense with the State Library Commission before accepting such donation.

Investment:

As required by law, the trust is invested by the board of investment in accordance with investment principles established for the investment of state funds in title 17, chapter 6, part 2. Interest earned is retained in the trust and may be used for providing library service to Montana citizens.

Distributions:

Donors may specify a particular library program to receive the benefit of the donation or may leave the designated use of the donation unspecified. Donations intended for use by a particular program will be limited for use to benefit that program. Donated funds with no program designation will be considered for any beneficial use by the State Librarian and State Library Commission.

Donated funds will be to provide enhancements to library services over and above normal operating services. Donated funds will not be used for items such as employee salaries, employee benefits, routine operational expenses, or for established ongoing maintenance contracts unless authorized by the State Librarian and State Library Commission.

The State Library Commission shall approve any distribution from the trust.

Reports:

The State Librarian will provide the Commission with a financial report for the trust each quarter.