



MEMO

To: Montana State Library Commissioners
From: Jennie Stapp, State Librarian
Subject: Trust for Montana Libraries Memorandum of Agreement review
Date: April 4, 2024

The following documents constitute the existing agreements between the Montana State Library Commission and the Trust for Montana Libraries.



MEMORANDUM OF Agreement

among and between the

Montana State Library Commission and the Trust for Montana Libraries

The following constitutes an operating agreement between the Montana State Library Commission (MSLC) and the Trust for Montana Libraries (Trust) (hereinafter referred to collectively as the Organizations). It stands until and unless it is modified or terminated by mutual agreement of the boards of the Organizations. The boards of the Organizations agree to review this memorandum annually.

The MSLC is the governing Commission for the Montana State Library (MSL); the MSLC was established in § 22-1-101, Montana Code Annotated. The MSLC operates the State Library, whose mission is to help all organizations, communities, and Montanans thrive through excellent library resources and services.

The Trust is a 501(c)(3) organization, incorporated in the State of Montana (<https://www.mtlibrarytrust.org/>). Its purpose is to support high quality information and library services for all Montanans by complementing and promoting the work of the MSL, which supports the State's libraries and geographic information system community. The Trust is governed by a Board of Trustees (Board). The Trust is a legally separate entity and not a part of the MSL.

The MSLC acknowledges that the Trust is an independent organization, and as such, funding to the MSL from the Trust will be determined by the Board in accordance with this agreement.

The MSLC agrees to include the Trust in annual planning processes to ensure that both Organizations are included and aware of the goals and direction of the MSL, as set by the MSLC. See Appendix A, flowchart.

The MSLC agrees to discuss with the Trust, at least annually, how the Trust resources and support will help promote MSL initiatives.

The MSLC agrees to encourage all private donors to make their gifts to the Trust.

The MSLC agrees to allow time on its meeting agendas for a report by the Trust Chair.

The Trust agrees to support the MSL and its policies.

The Trust agrees to respect the privacy of MSL patrons.

The Trust agrees to include the State Librarian and a State Library Commissioner as non-voting members at all board meetings and to allow time on the agenda for an MSL report.

The Trust agrees to share a report of its earnings and activities, at least annually, at a meeting of the MSLC.

The Trust agrees that any and all monies raised will be spent for MSL programs, services, and other needs defined by the MSLC unless otherwise agreed to by both the Trust and the MSLC. The Trust will only fund initiatives approved by the MSLC.

The Trust will seek approval from the MSLC before accepting any restricted gifts on behalf of the MSLC. If the MSLC agrees to the restrictions, the MSL will abide by the restrictions set forth by the donor.

The Trust agrees to oversee any endowments or permanent funds that are created to support the MSL. Additionally, the Trust will accept grants or other gifts requiring a non-profit status, that go directly to support MSL needs. See Appendix B Fiscal Sponsor MOA.

The Trust agrees to create and maintain appropriate policies and procedures to assure strong financial stewardship of their resources, the privacy of its donors, appropriate acceptance of donated gifts, and other matters as required by law. Additionally, the Trust agrees to submit annual reports as required by local, state or federal law, and will make its financial records available for review if requested by the MSL.

The Trust agrees that it will dissolve if it ceases to actively fundraise and promote the MSL. If it disbands or dissolves, any assets held by the Trust will be transferred either to the MSL or other entity designated by the MSLC.

The Trust's primary roles and responsibilities will be to raise funds. The Trust may develop additional activities, such as advocacy, public awareness, or programming and in consultation with the MSLC.

Approved and Agreed:

For The Montana State Library:

By: _____
Jennie Stapp, State Librarian

Date: _____

For The Trust for Montana Libraries

By: _____
Sara Groves, Chair

Date: _____

Fiscal Sponsor and Fiduciary Agent Agreement

The Trust for Montana Libraries (Trust), a non-profit organization incorporated in the State of Montana

and

The Montana State Library Commission (MSLC), a Commission of the State of Montana

Agree that it is within the scope of the mission of the Trust, and the interest of the State Library, for the Trust to serve as fiscal sponsor and fiduciary agent for some grants, gifts, or other contributions from third parties for programs, services or projects conducted by the State Library for which the State Library would not otherwise have the legal standing to apply.

The Trust's role as fiduciary agent:

1. The Trust agrees to act as fiduciary agent for money it receives from whatever source, which is intended for use by the State Library, and to disburse those funds upon approval by the MSLC.
2. When requested by the MSLC, the Trust assumes the role of applicant organization in funding requests and all related fiscal and administrative responsibilities.
3. The Trust places restricted gifts, grants, contributions and other revenues received by the Trust for the purposes of promoting the work of the State Library into a restricted fund to be used for the sole purpose for which it was given. All assets in this restricted fund are to be reported as income of the Trust, for tax purposes and for purposes of Trust financial statements. The Trust has variance powers necessary to treat the restricted fund as a Trust asset in accordance with Statement No. 136 issued by the Financial Accounting Standards Board while this Agreement is in effect.
4. All decisions associated with the budgeting of funds will be the responsibility of State Librarian as approved by the MSLC. The Trust will ensure such decisions are in compliance with the Trust's own policies and procedures, as well as in compliance with any requirements of the funder.
5. If allowed by the grantor, the Trust may receive up to 5% of non-governmental grant awards and 10% of all government grant awards to be

used for administrative expenses. The Trust reserves the right to refuse to serve as fiscal sponsor for grants that do not pay indirect costs. The State Library does not otherwise guarantee that the Trust will be compensated for its administrative duties. There will be no other reimbursement to the Trust under this MOA. The amount to be received by the Trust – if any - will be agreed to jointly with the MSLC, in advance of the grant proposal submission, and in agreement with the requirements and policies of the funder.

6. The Trust does not assume any responsibility should injury occur to a third-party, unless the liability is a result of fiscal management.

The Trust's responsibilities:

1. Maintain appropriate accounting and financial systems to document receipt of funds, costs incurred, claims made.
2. Receive copies of all financial correspondence related to State Library accounts for which Trust is named as account holder.
3. Maintain separate records of disbursements related to State Library grant funds.
4. Make reimbursements as invoiced and approved by State Library representative.
5. Participate as signatory in contractual agreements with providers to State Library as necessary to accomplish grant requirements.
6. Prepare budget reports as requested by a State Library representative.
7. Aid in completion of budget reports required by grantors.
8. Keep receipts in accordance with Montana State Statutes and the requirements of the particular funder.
9. Make records available or upon request by the State Librarian should there be a financial audit of any grants made to the State Library.

10. Provide a representative to participate in meetings necessary to achieve the roles hereinafter set forth.

State Library responsibilities:

1. Lead the application process for State Library grants.
2. Notify the Trust by email when a grant is received and send a thank you letter to the funder, noting the fiscal partner relationship between State Library and the Trust.
3. Initiate all agreements for contracts made as part of State Library that will be paid from accounts held at the Trust.
4. Collect all invoices on behalf of State Library and approve and submit to the Trust for payment.
5. Allocate budget funds to proper line items and monitor expenditures to preclude over spending.
6. Ensure budget reports required by funders are completed and submit final reports to funders.
7. Provide a representative to participate in meetings necessary to achieve the roles hereinafter set forth.
8. Assume responsibility, should injury occur to a third-party, unless the liability is one of fiscal management.

Joint Responsibilities:

1. Share with one another copies of final grant proposals and reports for reporting and record keeping.
2. Participate in site visits from funders, except when both partners agree that only one representative is necessary.

Term:

The term of this Memorandum of Agreement shall be for a period beginning January 1, 2021 and remain in effect through December 31, 2022.

Amendment/Termination:

This MOA may be modified both parties by mutual agreement. Such modifications shall be in writing and signed by both parties. In the event that either party wishes to terminate the MOA, parties shall first meet to discuss the issues. If no resolution can be agreed upon, either party may, in writing, indicate the intent to terminate the MOA at the conclusion of the funding streams active at the time of dissolution. In the event of such a termination, all remaining financial assets shall become the property of the State Library.

This memorandum of understanding is made _____, 2021 and signed by executive officers of both the Trust and the State Library.

Sara Groves, President
The Trust for Montana Libraries

Jennie Stapp, State Librarian
Montana State Library