



Billings Community Foundation Fiscal Sponsorship Agreement

This is an agreement made on _____, 2018, by and between the Sponsor and the Project.

The Sponsor: *BILLINGS COMMUNITY FOUNDATION*

The Sponsor is a nonprofit corporation, exempt from federal tax under section 501(c)(3) of the Internal Revenue Code, as amended (the "Code").

The Project:

The Project is an unincorporated organization formed for the purposes of:

The Agreement:

The Sponsor desires to act as the Fiscal Sponsor of the Project, by receiving assets and incurring liabilities identified for the Project, and using them to pursue the objectives for which the Project is being established, which the Sponsor's Board of Directors has determined will further its charitable goals. The Project is represented by an Advisory Committee (listed and included as parties to this agreement) and Project Leader that desires to manage the Project on behalf of the Sponsor.

1. Receipt of Funds: The Sponsor agrees to receive grants, contributions and gifts to be used for the Project, and to make those funds available to the Project.
2. Delegation: As of the effective date, management of the program activities of the Project is delegated by Sponsor Board of Directors to the Project Leader and Advisory Committee, subject to the ultimate direction of Sponsor Board. The Project Leader, or Advisory Committee, serves as a subordinate body to the Sponsor Board and as an integral part of Sponsor.
3. Restricted Fund / Variance Power: Beginning on the effective date, Sponsor shall place all gifts, grants, contributions, and other revenues received by Sponsor for the purposes of the Project into a restricted fund to be used for the sole benefit of the Project's mission as that mission may be defined by the Committee from time to time with the approval of Sponsor. Sponsor retains the unilateral right to spend such funds so as to accomplish the purposes of the Project as nearly as possible within Sponsor's sole judgment, subject to any donor-imposed restrictions, as to purpose, on the charitable use of such assets. The parties agree that all money and the fair market value of all property, in the restricted fund be reported as the income of Sponsor, for both tax purposes and for purposes of Sponsor's financial statements. It is the intent of the parties that this Agreement be interpreted to provide Sponsor with variance powers necessary to enable Sponsor to treat the restricted fund as Sponsor's asset in accordance with Statement No. 136 issued by the Financial Accounting Standards Board, while this Agreement is in effect.
4. Acknowledgment of charitable donations on behalf of the Project: The Sponsor agrees that all grants, charitable contributions and gifts which it receives for the Project will be reported as contributions to the Sponsor as required by law, and further agrees to acknowledge receipt of any such grant, charitable contribution or gift in writing and to furnish evidence of its status as an exempt organization under Section 501(c)(3) to the donor upon request. The Sponsor agrees to notify the Project of any change in its tax-exempt status.

5. Protection of tax-exempt status: The Project agrees not to use funds received from the Sponsor in any way which would jeopardize the tax-exempt status of the Sponsor. The Project is not to use any funds received through the Sponsor in an attempt to influence legislation within the meaning of Internal Revenue Code (IRC) Section 501(c)(3). No agreement, oral or written, to that effect has been made between Sponsor and the Project. The Project shall not use any portion of the funds received from the Sponsor to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, to induce or encourage violations of law or public policy, to cause any private inurement or improper private benefit to occur (Paying more than fair market value in exchange for goods or services provided by an insider), nor to take any other action inconsistent with IRC Section 501(c)(3). The Project agrees to comply with any written request by the Sponsor that it cease activities which might jeopardize the Sponsor's tax status, and further agrees that the Sponsor's obligation to make funds available to it is suspended in the event that it fails to comply with any such request. Any changes in the purpose for which grant funds are spent must be approved in writing by the Sponsor before implementation. The Sponsor retains the right, if the Project breaches this Agreement, or if the Project jeopardizes the Sponsor's legal or tax status, to withhold, withdraw, or demand immediate return of grant funds.
6. Use of Funds: The Sponsor also authorizes the Project to make expenditures, which do not exceed total contributions for the Project, on its behalf for use in the Project. The Project agrees to use any and all funds received from the Sponsor solely for legitimate expenses of the Project and to account fully to the Sponsor for the disbursement of these funds. On behalf of the Project and with its funds, the Sponsor will pay for the Project's direct expenses. The Sponsor will obtain authorization from the Project to pay these expenses using the Project's funds.
7. Reimbursement for financial services and administrative support: **The Sponsor will retain ___ % of project revenues that come to the Sponsor for the Project or \$____, whichever is greater**, to cover the administrative costs of Fiscal Sponsorship. In addition to serving as fiscal sponsor and financial manager for the Project, the Sponsor will provide administrative support on an "as available" basis to the Project. The percentage retained may be reviewed by the Sponsor and adjusted if deemed necessary.
8. Financial accounting and reporting: The Project must act within the financial policies of the Sponsor. The Sponsor will maintain books and financial records for the Project in accordance with generally accepted accounting principles. The Project's revenue and expenses shall be separately classed in the books of the Sponsor. The Sponsor will provide reports reflecting revenue and expenses to the Project on a monthly basis, within two weeks after the end of each month, and, on an annual basis, within three months after the end of each fiscal year of the Sponsor.
9. Employment: The Project must get approval from the Sponsor's Board of Directors prior to hiring paid staff. Since the Project staff will legally be employees of the Sponsor, and subject to the same personnel policies and benefits that apply to all employees of the Sponsor, a review of revenue and expenses is required.
10. Governance: The Project agrees to abide by the Sponsor's Code of Ethics. Authority to manage the programmatic activities of the Project is delegated by the Sponsor's Board of Directors to the Project's Advisory Committee or Project Leader, subject at all times to the ultimate direction and control of the Sponsor's Board of Directors. An Advisory Committee is a group of individuals that serves as a subordinate body to Sponsor Board.
11. Project Activities and Contracts: All community programs, public information work, and fundraising events shall be conducted by the Project. Processing and acknowledgment of cash and noncash revenue items, negotiation of leases and contracts, disbursement of Project funds (including grants), and other activities conducted by the Project shall be the ultimate responsibility of the Sponsor, are subject to the Sponsor's approval and shall be conducted in the name of the Sponsor. Project may not enter into any financial or legal contract without prior approval of Sponsor.
12. Incurring Debts and Liabilities: The Project agrees to operate without debt financing and will not make expenditures beyond the level of available cash in the Project Account or enter into contracts that would do so.

13. Fundraising: The Project may solicit gifts, contributions, and grants on behalf of the Sponsor which are earmarked for the activities of the Project. The Project's choice of funding sources to be approached and the text of the Project's letters of inquiry, grant applications, and other fundraising materials are subject to approval by the Sponsor. The Sponsor's Board Chairman must co-sign all original letters of inquiry, and grant agreements, if applicable. All grant agreements, pledges, or other commitments with funding sources to support the Project shall be executed by the Sponsor. The cost of any reports or other compliance measures required by such funding sources shall be borne by the Project. The Sponsor must be copied at least one week in advance on all progress and final report submissions. The Sponsor shall be responsible for the processing and acknowledgment of all monies received for the project, which shall be reported as the income of the Sponsor for both tax purposes and for purposes of the Sponsor's financial statements. Grants involving government or public agency monies have substantial reporting and auditing requirements; therefore, if the Project desires to apply for government or public agency grants, the Project must get advance approval to do so from the Sponsor.
14. Project Volunteers: The Project agrees to have all volunteers who provide services to, or perform services for, the Project without compensation for their time sign the Sponsor's Volunteer Waiver and Release form. The Project will turn in completed forms to Sponsor.
15. Project Identification: The Project agrees to state that it is "A project of Billings Community Foundation" on all Project materials and external communications.
16. Termination: This agreement shall terminate when the objectives of the Project can no longer reasonably be accomplished by the Sponsor. If the objectives of the Project can still be accomplished but either the Committee or Sponsor desires to terminate Sponsor's fiscal sponsorship of the Project, the following understandings shall apply. Either party may terminate this Agreement by giving 60 days' written notice to the other party. Another nonprofit corporation which is tax-exempt under IRC Section 501(c)(3) and is not classified as a private foundation under Section 509(a) must be willing and able to sponsor the Project (the "Successor"). The Successor must be approved in writing by both parties by the end of the 60-day written notice period. If the parties cannot agree on a Successor to sponsor the Project, the Project shall have an additional 60 days to find a Successor willing and able to sponsor the Project. If a Successor is found, the balance of assets held by the Sponsor for the Project, together with any other assets held or liabilities incurred by the Sponsor in connection with the Project, shall be transferred to the Successor at the end of the notice period or any extension thereof, subject to the approval of any third parties (including funding sources) that may be required. If the Project has formed a new organization qualified to be a Successor as set forth in this Paragraph, such organization shall be eligible to receive all such assets and liabilities so long as such organization has received a determination letter from the Internal Revenue Service which states the new organization is exempt from federal tax under section 501(c)(3) of the Internal Revenue Code no later than the end of the notice period or any extension thereof. If no Successor is found, the Sponsor may dispose of the Project's assets and liabilities in any manner consistent with applicable tax and charitable trust laws and other obligations.
17. Indemnification: The Project shall indemnify and hold harmless the Sponsor and its officers, directors, members, consultants, agents, employees, assigns and successors (collectively, the "Indemnities") from all suits, actions, causes of action, judgments, damages, claims, losses, liabilities, and expenses of any kind, including without limitation reasonable attorneys' fees, costs, and expenses, and including without limitation claims of bodily injury, death, and/or property damage ("collectively, a "Loss") that are related to, that may arise from, or are in any way connected with the Project including, but without limitation of the foregoing, any carelessness, negligence, or improper conduct by the Project or its agents, owners, members, employees, contractors, patrons, suppliers, or licensees. The Project agrees to acquire Liability Insurance in the minimum amount of \$ _____ and include the Sponsor as an "Additional Insured" in the policy.
18. Attorney's Fees: In the event a party to this Agreement is compelled to bring any action or proceeding to enforce or interpret this Agreement, or otherwise enforce its rights under this Agreement, the parties agree the prevailing party shall be awarded its costs and fees, including reasonable attorney fees.
19. Miscellaneous: Each provision of this agreement shall be separately enforceable, and the invalidity of one provision shall not affect the validity or enforceability of any other provision. The failure of the Sponsor to exercise any of its rights under this Agreement shall not be deemed a waiver of such rights.

This Agreement constitutes the only agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof. This agreement may not be amended or modified, except in a writing signed by all parties to this Agreement.

By signing below, both parties agree to execute this Agreement on the day and year first written above.

Billings Community Foundation

By: _____
Lauren Wright, Executive Director

Date

Project:

By: _____
Project Leader

Date