

**AMENDMENT#1 TO  
CONTRACT FOR SERVICES  
Between the  
Montana State Library  
And  
The Nature Conservancy  
For  
State Fiscal Years 2003/2004**

This will constitute an Amendment to the Contract for Services entered into by the above parties on November 6, 2001 to implement the Montana Natural Heritage Program. In accordance with Section #21 of the Contract, this signed Amendment will serve to amend the existing Contract as follows:

- Section #4 shall be revised so that the Contract "shall remain in effect until June 30, 2005, unless terminated in accordance with the 'Termination' section of this agreement."
- Section #5 shall be revised to add the following text to the end of the current Section:

For State Fiscal Years 2004 and 2005, The Library agrees to pay The Conservancy for the work performed and services rendered pursuant to Appendix 1A, SCOPE OF WORK. The Library agrees to pay The Conservancy for direct expenses up to \$605,364 for NHP operations under the terms of this agreement. The Library will reserve an additional \$20,000 for payment of expenses incurred directly by the Library in support of NHP operations. If, at the end of the contract period, expenses incurred directly by the Library exceed \$20,000, the final payment to The Conservancy will be decreased by the amount of such difference. If the Library's direct expenses fall short of \$20,000, the remaining unspent balance will be available for payment of direct expenses incurred by The Conservancy. No funds that are unspent after all costs incurred for State Fiscal Years 2002/2003 are paid shall be carried over to pay for costs incurred for State Fiscal Years 2004/2005.

For State Fiscal Years 2004 and 2005, The Library agrees to pay The Conservancy in accordance with the following schedule of payments and procedures:

An advance of \$75,670 will be paid by the Library to cover an estimate of expenses for the first quarter (the period prior to payment of the first invoice). No later than forty-five (45) calendar days after the end of each calendar quarter, The Conservancy shall submit invoices itemizing all actual expenses incurred by The Conservancy for the work performed under this Amendment for the prior quarter. Within thirty (30) calendar days after receipt of the documentation the Library will pay the lesser of either:

- 1) actual itemized expenses submitted, or
- 2) 1/8 (\$75,670) of the total contract amount for NHP operations and any portion of the pro-rated allocation from previous quarters that has not been paid to The Conservancy (up to the maximum of the actual itemized expenses for the quarter being billed).

The advance will be deducted one-half from each of the last two quarterly billings.

The Conservancy is required to make available any files holding documentation for such expenses, in lieu of submitting detailed receipts, and to make reports on other Heritage Program revenues and expenditures available to the Library.

- Section #7 shall be revised to add the following to the end of the current Section:

The records pertaining to each state fiscal biennium covered by this agreement shall be maintained for three years following the end of that biennium.

- Sections #10 and # 12 shall be revised to substitute “Biotics” for “BCD” and “NatureServe” for “the Association for Biodiversity Information (ABI).”
- Section #15A , entitled “Insurance” and containing the following text, shall be added following Section 15:

For State Fiscal Years 2004 and 2005, The Conservancy shall maintain for the duration of the Amendment, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Conservancy, its agents, employees, representatives, or assigns. This insurance shall cover such claims as may be caused by any negligent act or omission by the Conservancy in relation to the work carried out under this Amendment. The Conservancy’s insurance coverage shall be primary insurance as respect to performance of work under this Amendment relating to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be excess of the Conservancy’s insurance related to performance of work under this Amendment and shall not contribute with it.

Specific Requirements for Commercial General Liability: The Conservancy shall purchase and maintain Occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1 million per occurrence and \$1 million aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Conservancy or its officers, agents, representatives, or assigns related to performance of work under this Amendment.

Specific Requirements for Automobile Liability: The Conservancy shall purchase and maintain Occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1 million per occurrence and \$1 million aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Conservancy or its officers, agents, representatives, or assigns related to per performance of work under this Amendment.

Additional Insured Status: The State, its officers, officials, employees, and volunteers are to be covered as additional insured’s for automobiles leased, hired or borrowed by the Conservancy in relation to work carried out under this Amendment. The Conservancy is required to maintain workers’ compensation insurance or an independent contractor’s exemption covering the subcontractor and/or employee while

performing work for the State of Montana in accordance with § 39-71-120/401/405, Montana Code Annotated. This insurance/exemption must be valid for the entire period of this Amendment. Any deductible or self-insured retention must be declared to and approved by the Library. At the request of the Library, either: 1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Library, its officers, employees, or volunteers; 2) the Conservancy shall procure a bond guaranteeing payment of losses and related investigations, claims administrations, and defense expenses.

Certificates of Insurance: Insurance is to be placed with an insurer with Bests' rating of no less than A-. All certificates and endorsements are to be received by the Library prior to the provision of a service or purchase of a product. The Library reserves the right to require complete copies of insurance policies at all times.

- Section #15B , entitled "Liability" and containing the following text, shall be added following new Section 15A:

Hold Harmless/Indemnification: The Conservancy agrees to protect, defend, and save the Library and the state of Montana, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Conservancy's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Conservancy and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the Library or the state of Montana, under this Agreement.

Appendix IA, entitled "Scope of Work, THE NATURE CONSERVANCY, for operation of the Montana Natural Heritage Program, State Fiscal Years 2004/2005" and attached herewith, shall be added following Appendix I.

All other Sections of the Contract remain the same.

Montana State Library

By: \_\_\_\_\_  
Karen Strege, Director

Date: \_\_\_\_\_

The Nature Conservancy

By: \_\_\_\_\_  
Jamie Williams, State Director

Date: \_\_\_\_\_