

## PUBLIC LIBRARY FOUNDATIONS RESOURCES FOR FLORIDA'S PUBLIC LIBRARIES

### 5. THE PUBLIC/PRIVATE PARTNERSHIP AGREEMENT THE MEMORANDUM OF UNDERSTANDING

*“A foundation and its governance must be set up carefully to make sure that the efforts and energies of the Foundation clearly and solely benefit the library.”*

*Robert Cannon, Director, Broward County Libraries Division*

One of the first steps to take when a decision is made to set up a library foundation is for the library to clarify its desire and intention to pursue private funding with its local government entity — city or county. By notifying the elected officials of its plans to raise funds to complement the public funding it receives and by securing the blessing of these officials, the library is strengthening its long-term goals of bringing together a mix of public and private funding to create better services, collections and/or facilities.

Creating a Memorandum of Understanding (MOU) between the library foundation and the library is a sound approach and, in fact, may be required by the library's public jurisdiction. If the situation calls for it, a three-party MOU among the governmental entity, the library's administrative board and the nonprofit entity may be appropriate. The MOU is a written and signed agreement that sets forth the principles and guidelines under which the parties agree to meet their goals. The MOU should be drafted by the library director and a board member or staff member of the library foundation with the assistance of an attorney. If the library has an active Friends group that will continue to act as its fundraising vehicle in some manner, a MOU between the library and the Friends can be developed in the same manner. If the library has multiple Friends group, a master MOU should be developed and signed by the president of each group.

The MOU should cover, at minimum, the following areas (examples, in italics, follow each area):

- Names of the parties to the agreement.
  - *The Sunset Rays County Library Board and the Library Foundation of the Sunset Rays County Public Library.*
- Purpose of the Library Foundation.
  - *The solicitation of private contributions to support enhanced collections, improve services and assist in capital improvements for the Sunset Rays County Public Library. These private funds are not intended to replace the Sunset Rays County government's ongoing responsibilities for the continued operation of the Sunset Rays County Public Library.*
- Purpose of the MOU.
  - *To put forward, in writing, the respective roles, responsibilities and fiscal relationship between the Sunset Rays County Public Library and the Library Foundation of Sunset Rays County.*
- The roles and responsibilities of the parties.
  - *The Foundation is authorized to raise funds to further its mission and purpose as set forth in this agreement. The Library will provide the Foundation with a list of its funding needs and priorities on at least an annual basis. The Board of Directors of*

## PUBLIC LIBRARY FOUNDATIONS RESOURCES FOR FLORIDA'S PUBLIC LIBRARIES

*the Foundation shall take these needs and priorities into account when raising funds and determining the use of the Foundation's assets.*

- An understanding of the respective roles, responsibilities and financial relationships between the Library and the Foundation.
  - *The Foundation will recognize all donors consistent with the policies agreed to by the Library's Board of Trustees.*
  - *The Foundation will make all hiring, retention and compensation decisions with regards to its employees. The Foundation's employees are not employees of the Sunset Rays County Public Library.*
  - *The Library will provide office space to the Foundation rent-free and will provide an accounting of its in-kind financial support to the Foundation on an annual basis.*
  - *The Foundation will pay for its own photocopying, telephone, and office supplies.*
  - *The Foundation will provide an annual audited financial statement to the Library Director and the Library's Board of Trustees.*
- Term of MOU.
  - *The term of the MOU shall be for ten years commencing January 1, 2011.*

Additional areas to be covered may include:

- Indemnification
- Intellectual Property Rights
- Disposition of Assets Upon Liquidation

The Jacksonville Public Library is currently developing a Memorandum of Understanding between its board of trustees and the Jacksonville Public Library Foundation. Among the items to be included in the MOU are a description of the relationship between the Jacksonville Public Library Foundation, the Jacksonville Public Library, and the Library's governance; the Foundation's responsibilities in terms of fundraising and asset management; and the mutual responsibilities of the Library and Foundation in terms of meeting together, acting in partnership and exchanging information. Because the MOU is in draft form and has not been finalized and adopted, it is not included in this resource guide.