

**OPERATING AGREEMENT  
BETWEEN GREAT FALLS COLLEGE MONTANA STATE UNIVERSITY  
AND MONTANA STATE UNIVERSITY FOUNDATION, INC.**

THIS AGREEMENT (“Agreement”), dated as of this \_\_\_\_ day of \_\_\_\_\_ 2024 by and between Great Falls College Montana State University and the Montana State University Foundation, Inc., a non-profit corporation.

**RECITALS**

WHEREAS, Montana State University Bozeman (“MSU”) has three independently accredited affiliate institutions (MSU Northern, MSU Billings, Great Falls College MSU) and two imbedded two-year colleges (Gallatin College and City College), the institutions work collaboratively to educate students, create knowledge and art, and serve communities by integrating learning, discovery and engagement and foster a “one MSU” philosophy when appropriate.

WHEREAS, Great Falls College MSU is a unit of the Montana University System and an affiliate institution of MSU;

WHEREAS, the Montana State University Foundation, Inc. d/b/a the Montana State University Alumni Foundation (“Alumni Foundation”), is an independent corporation, incorporated in the state of Montana, organized under Section 501(c)(3) of the Internal Revenue Code, and governed by the Articles of Incorporation as amended by the Board of Governors of the Alumni Foundation on January 27, 2023, and Bylaws adopted by the Board of Governors of the Alumni Foundation on July 27, 2023, for the sole purpose of providing support to advance the students, faculty and staff of Montana State University, consistent with the mission and priorities of Montana State University;

WHEREAS, Great Falls College MSU recognizes the Alumni Foundation as its sole affiliated foundation for the purposes outlined in Section 901.9 of the Montana University System Policy and Procedures Manual; and

WHEREAS, Great Falls College MSU is organizationally and operationally separate from MSU, independently accredited, and seeks to secure, grow, and invest its philanthropic assets. Great Falls College is responsible for its own donor cultivation, solicitation, and stewardship. The Alumni Foundation shall, for mutually agreed consideration, provide advancement support services to Great Falls College MSU:

- Gift processing and receipting;
- Fund administration;
- Investment of assets; and
- Gift and financial reporting.

NOW THEREFORE, in consideration of the mutual covenants and commitments of Great Falls College MSU and the Alumni Foundation (“Parties”) contained herein, the mutual benefits to be gained by the performance *hereof*, and other good and valuable consideration, receipt of which is hereby acknowledged, the Parties understand and agree as follows.

## TERMS OF AGREEMENT

### Section 1-Mutual Responsibilities

Great Falls College MSU recognizes the Alumni Foundation is a private, independent corporation with the authority to keep its records and data confidential from public records requests to the extent allowed by law. As such, Great Falls College MSU will adhere to Alumni Foundation policies and procedures that protect the confidential nature of the Alumni Foundation's data and foster the reasonable expectation of privacy attendant to that data as allowed by law.

Additionally, the Alumni Foundation agrees to abide by limitations regarding disclosure and use of any educational records provided in support of the Agreement. Both the Alumni Foundation and Great Falls College MSU shall be held to the highest standards of confidentiality and shall sign confidentiality and data security agreements as required.

### Section 2 -Prospect Management

Critical to development success is a coordinated and strategically managed plan for key donors, friends, and prospects with potential to support one or more of MSU's affiliated institutions and/or priorities. The CEO/Dean of Great Falls College MSU, or their designee, will oversee prospect management to benefit the mission and goals of Great Falls College MSU and work collaboratively with development professionals at all MSU affiliated institutions to assure prospective donors' interests are communicated, managed, and fulfilled.

**Section 3- Great Falls College MSU Responsibilities:** Great Falls College MSU shall provide to the Alumni Foundation as outlined below:

- 3.1 Compliance. Great Falls College MSU agrees to comply with the provisions of all applicable Alumni Foundation policies, including but not limited to: Fee Administration Policy-inclusive of all gift and administrative fees; Gift Acceptance Policy; Minimum Named Endowment and Fund Levels Policy; Conflict of Interest Policy; and Confidentiality Statement.
- 3.2 Gift Development and Coordination. Great Falls College MSU shall maintain primary responsibility to develop private philanthropic gifts for the benefit of Great Falls College MSU. Great Falls College MSU's CEO/Dean, or their designee, shall be the single point of contact for coordination with the Alumni Foundation on all gift details, including but not limited to gift agreements, terms of fund, endowment delivery, dispersal, and other issues related to Great Falls College MSU private gifts. Great Falls College MSU and the Alumni Foundation shall coordinate as appropriate on development of prospects with affinity to multiple priorities.

- 3.3 Development Support. The MSU Great Falls College CEO/Dean, or his/her designee, is encouraged to attend monthly meetings of the Alumni Foundation Development Team, as well as take advantage of available trainings.
- 3.4 Stewardship. Great Falls College MSU shall be responsible for stewardship of all gifts designated to Great Falls College MSU. Where appropriate, Great Falls College MSU may request the Alumni Foundation to manage or assist with donor stewardship as needed.

**Section 4 - Alumni Foundation Responsibilities:** The Alumni Foundation Board of Governors is responsible for the control and management of all assets of the Alumni Foundation, including the prudent management of all gifts made to the Alumni Foundation consistent with donor intent and according to all Alumni Foundation policies, procedures and applicable laws. The Alumni Foundation is responsible for the performance and oversight of all aspects of its operations based on a comprehensive set of bylaws that clearly address the board's fiduciary responsibilities. In compliance with these policies, procedures, and applicable laws, the Alumni Foundation shall provide Great Falls College MSU the following:

- 4.1 Constituent Data & Information. As requested, the Alumni Foundation will provide reports of donors and potential prospects for use by Great Falls College MSU in development efforts. The Data & Information Services team may support additional data-related inquiries and requests while also managing updates to data records as provided by the Great Falls College MSU team.
- 4.2 Gift Documentation Support. Upon request by Great Falls College MSU, the Alumni Foundation shall provide gift documentation support to Great Falls College MSU which may include review of Gift Agreements, Pledges, Term of Funds, or other correspondence intended to secure a gift for the benefit of Great Falls College MSU or MSU. The Alumni Foundation shall also work with Great Falls College MSU to amend existing Gift Agreements and Terms of Funds as needed to ensure gifts can be fully utilized.
- 4.3 Gift Acceptance, Processing and Acknowledgment. The Alumni Foundation will enter gifts for the benefit of Great Falls College MSU into their constituent database and promptly acknowledge and issue receipts for all such assets given to the Alumni Foundation, The Great Falls College CEO/Dean will also be informed when gift acceptance and acknowledgment occur.
- 4.4 Asset Management. The Alumni Foundation shall establish and, from time to time, modify asset allocation, disbursement, and spending policies and procedures that adhere to all current and future applicable federal and state laws including the Uniform Prudent Investor Act (UPIA) and the Uniform Prudent Management of Institutional Funds Act (UPMIFA), as amended or modified from time to time.

The Alumni Foundation shall receive, hold, manage, invest, and disburse contributions of cash, securities, and other forms of property, including the immediate investment of gifts and deferred gifts that are contributed in the form of planned and deferred-gift instruments.

4.5 Fund Administration and Distribution. The Alumni Foundation shall administer private gifts to benefit Great Falls College MSU and shall transfer funds to the designated entity within Great Falls College MSU in compliance with applicable laws, Great Falls College MSU policies, and fund or applicable gift agreements.

Per the Alumni Foundation's Disbursement Policy for MSU and Affiliated Organizations, the Alumni Foundation's disbursements on behalf of the University must be for reasonable expenses that support the University and its programs, are consistent with donor intent, and do not conflict with any applicable laws and regulations.

When establishing a new fund, the Alumni Foundation shall disclose any terms, conditions, or limitations legally imposed by the donor or legal determination on the gift. Great Falls College MSU shall abide by such restrictions and provide appropriate acknowledgment of such terms, conditions, or limitations and documentation of compliance.

4.6 Other Information. The Alumni Foundation will provide copies or provide access to all public documents of the Alumni Foundation including relevant policies and procedures as determined by the Alumni Foundation Board of Governors, organizational documents, audited financial statements, and Form 990, Return of Organization Exempt from Income Tax, as required by law.

## **Section 5-Other Matters**

5.1 Consideration. The Alumni Foundation will assess its standard administrative fees as per its Fee Administration Policy on gifts and endowments for the benefit of Great Falls College MSU. Temporarily restricted gifts for the benefit of Great Falls College MSU will be invested in the Alumni Foundation's Short-Term Investment Pool ("STP"). Administrative fees and earnings on the STP shall be used to fund the operations of the Alumni Foundation, including the services provided as per the Agreement.

5.2 Winding Up Upon Dissolution. Should the Alumni Foundation cease to exist or cease to be an IRC §501 (c) (3) organization, it will transfer all assets and property held on behalf of Great Falls College MSU to Great Falls College MSU or its assignee, as long as that assignee is a charitable organization in good standing. Any transition to Great Falls College MSU or its assignee will occur on an agreed upon reasonable timetable designed to minimize donor disruption and any potential tax issues. If a timetable cannot be agreed upon within the first ninety (90) days of a termination notice as outlined in section 5.6 the matter shall be resolved through mandatory mediation using a mediator from the American

Arbitration Association. For purposes of this section, a corporate reorganization, merger, or consolidation or a renaming of the Alumni Foundation shall not constitute a cessation of existence provided the Alumni Foundation, or its successor, is recognized as the affiliated foundation of Great Falls College MSU for the purposes outlined in Section 901.9 of the Montana University System Policy and Procedures Manual.

5.3 Regent's Approval. This Agreement is not effective until approved by the Montana Board of Regents. The Parties agree and understand that this Agreement will be reviewed and approved by the Board of Regents every two (2) years. The Parties agree and understand that this Agreement will be in effect from February 1, 2024 through January 31, 2026.

5.4 Liability Exposure. The parties understand and agree that the liability of Great Falls College MSU, its officials and employees, is controlled and limited by the provisions of Title 2, Ch. 9, MCA. Any provisions of this Agreement shall be controlled, limited and otherwise modified to limit any liability of the State of Montana and Great Falls College MSU to that set forth in the above cited law.

5.5 Indemnification.

- (a) Each party agrees to be responsible and assume liability for its own wrongful or negligent acts or omissions, or those of its officers, agents or employees, to the full extent required by law.
- (b) Each party agrees to maintain reasonable coverage for such liabilities either through commercial insurance or a reasonable self-insurance mechanism, and the nature of such insurance coverage or self-insurance mechanism will be reasonably provided to the other upon request.

5.6 Termination

This Agreement may be terminated at any time by the mutual written consent of the Parties or termination may be invoked by either party upon six (6) months written notice to the other.

If necessary, to ensure a smooth transition of the assets, the former deadlines may be extended by Great Falls College MSU as outlined in section 5.2. In the absence of a termination notice, this Agreement shall be automatically renewed year to year under the same terms as set forth in this Agreement.

For reasonable cause, Great Falls College MSU may withdraw recognition of the Alumni Foundation as the affiliated foundation of Great Falls College MSU after consultation with the Commissioner of Higher Education and written notice to the members of the Montana Board of Regents.

This Agreement supersedes the previous Operating Agreement entered into by the Parties and approved by the Board of Regents in January 2022.

The parties have caused this MOU to be executed by their duly authorized officers as of the date set forth below.

**GREAT FALLS COLLEGE**  
**MONTANA STATE UNIVERSITY**

**MONTANA STATE UNIVERSITY FOUNDATION, INC.**  
D/B/A Montana State University Alumni Foundation

By: \_\_\_\_\_  
Dr. Stephanie Erdmann  
Chief Executive Officer & Dean

By: \_\_\_\_\_  
Ms. Fran Albrecht  
President & Chief Executive Officer

Date \_\_\_\_\_

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