

**AUDIT  
FEBRUARY 18, 2021**

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<b>TAB</b>	<b>DESCRIPTION</b>	<b>ACTION</b>
1	LCSC FOUNDATION OPERATING AGREEMENT	Motion to approve

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**LEWIS-CLARK STATE COLLEGE**

**SUBJECT**

Operating agreement between Lewis-Clark State College and the Lewis-Clark State College Foundation

**REFERENCE**

October 2009	Board approved operating agreement between Lewis-Clark State College and the Lewis-Clark State College Foundation.
December 2017	Board again approved operating agreement between Lewis-Clark State College and the Lewis-Clark State College Foundation.

**APPLICABLE STATUTE, RULE, OR POLICY**

Idaho State Board of Education Governing Policies & Procedures, Section V.E.

**ALIGNMENT WITH STRATEGIC PLAN**

Goal 2: Educational Attainment, Objective C: Access

**BACKGROUND/DISCUSSION**

Board policy requires a foundation of an institution to be formally recognized by the Board as a nonprofit corporation or affiliated foundation to benefit a public college or university in Idaho. The operating agreement between an institution and an affiliated foundation must be approved by the Board prior to execution and must be re-submitted to the Board every three (3) years, or as otherwise requested by the Board, for review and re-approval. The operating agreement must address the topics outlined in Policy V.E.

Since the Board last approved the operating agreement between Lewis-Clark State College and the Lewis-Clark State College Foundation, the Board indicated that when the agreement was brought back to the Board next it should more closely conform with the policy and the operating agreement template provided by the Board. Accordingly, Lewis-Clark State College and the Lewis-Clark State College Foundation have updated their Operating Agreement.

The format has been substantially updated to meet the Board recommended format. However, substantively the agreement remains the same with the addition of Exhibit L – “Endowment Fund Fee Policy” of which is a new policy, a corresponding reference to the new fee policy in Exhibit B – “Service Agreement”, and the addition of a not to exceed supplemental compensation amount in section V.7.

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**IMPACT**

The Operating Agreement now aligns with Board Policy and renews the positive working relationship between Lewis-Clark State College and the Lewis-Clark State College Foundation.

**ATTACHMENTS**

Attachment 1 – Proposed Operating Agreement Between Lewis-Clark State College and Lewis-Clark State College Foundation

Attachment 2 – Redline comparing the Proposed Operating Agreement to the Board Template

Attachment 3 – Redline comparing the Proposed Operating Agreement to the 2017 Operating Agreement

**STAFF COMMENTS AND RECOMMENDATIONS**

At its March 2020 meeting, the Audit Committee (Committee) discussed the institutions' use of the template operating agreement required by Board Policy V.E.2.b. Use of the template is required in order to ensure that institutions meet the requirements of Board Policy V.E. when they negotiate and execute operating agreements with their affiliated foundations. The Committee decided that when an institution does not use the template as the basis for its agreement with its foundation, that the institution provide the Board with a detailed annotation of Board Policy V.E.2.b. which cross references the paragraph in the proposed operating agreement which fulfills each policy requirement and a certification from the institution that the agreement meets all requirements of Board Policy V.E.

Lewis-Clark State College has provided a redline of the proposed agreement to the foundation operating agreement template. There are several deviations from the Board's template, but these deviations are not inconsistent with Board Policy V.E.

1. The operating agreement between Lewis-Clark State College and the Foundation addresses loaned employee matters in its services agreement instead of having a separate loaned employee agreement. A separate loaned employee agreement is not required by Board policy V.E. but is presumed to be used in the template.
2. Board Policy V.E. does not require that a foundation reimburse the institution for salary and administrative costs, although the template presumes that this will be the case. LCSC's operating agreement with its foundation does not have a contractual obligation for the foundation to reimburse it for such costs.
3. Board Policy V.E. requires Board approval of compensation to institution employees. The proposed foundation agreement allows for the foundation to annually provide funds in an amount not to exceed \$25,000 to the College for employee achievement awards. "Such awards will be made primarily with funds donated to the Foundation for that purpose and any additional

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Foundation funds used will be approved by the Board of Directors in the Foundation's annual budget. The College identifies the faculty and staff who will be recipients of these awards and disburses the funds to the recipients."

Staff recommends approval.

**BOARD ACTION**

I move to approve the Operating Agreement between Lewis-Clark State College and Lewis-Clark State College Foundation as presented in Attachment 1.

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_ Carried Yes \_\_\_\_\_ No \_\_\_\_\_

**OPERATING AGREEMENT  
BETWEEN  
LEWIS-CLARK STATE COLLEGE FOUNDATION, INC.  
AND  
LEWIS-CLARK STATE COLLEGE**

This Operating Agreement (“Operating Agreement”) between Lewis-Clark State College Foundation, Inc. (“Foundation”) and Lewis-Clark State College (“College”) is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

WHEREAS, the Foundation was organized and incorporated April 4, 1984 for the purpose of generating voluntary private support from alumni, employees, friends, corporations, foundations, and others for the benefit of the College.

WHEREAS, the Foundation exists to receive contributions, raise, and manage private resources supporting the mission and priorities of the College, and provide opportunities for students and employees and a degree of institutional excellence unavailable with state funding levels.

WHEREAS, the Foundation promotes access, excellence and relevance in higher education through financial support of the College. The Foundation is dedicated to assisting the College in the building of the endowment to address, through financial support, the long-term academic and other priorities of the College.

WHEREAS, as stated in its articles of incorporation, the Foundation is a separately incorporated 501(c)(3) organization and is responsible for identifying and nurturing relationships with potential donors and other friends of the College, soliciting cash, securities, real and intellectual property, and other private resources for the support of the College, and acknowledging and stewarding such gifts in accordance with donor intent and its fiduciary responsibilities.

WHEREAS, in connection with its fund-raising and asset-management activities, the Foundation utilizes, in accordance with this Operating Agreement, personnel experienced in planning for and managing private support.

WHEREAS, the mission of the Foundation is to secure, manage and distribute private contributions and support the growth and development of the College.

WHEREAS, the College and Foundation desire to set forth in writing various aspects of their relationship with respect to matters such as the solicitation, receipt, management, transfer and expenditure of funds.

WHEREAS, the Parties hereby acknowledge that they will at all times conform to and abide by the Idaho State Board of Education's Governing Policies and Procedures, Gifts and Affiliated Foundations Policy V.E., and that they will submit this Operating Agreement for initial State Board of Education ("State Board") approval, and thereafter every three (3) years, or as otherwise requested by the State Board, for review and re-approval.

WHEREAS, the Foundation and the College intend for this Operating Agreement to be the written operating agreement required by State Board Policy V.E.2.b.

NOW THEREFORE, in consideration of the mutual commitments herein contained, and other good and valuable consideration, receipt of which is hereby acknowledged, the Parties agree as follows:

## **ARTICLE I**

### **Foundation's Purposes**

The Foundation is the primary affiliated foundation responsible for securing, managing and distributing private support for the College. Accordingly, to the extent consistent with the Foundation's Articles of Incorporation and Bylaws, and the State Board's Policies and Procedures, the Foundation shall: (1) solicit, receive and accept gifts, devises, bequests and other direct or indirect contributions of money and other property made for the benefit of the College from the general public (including individuals, corporations, other entities and other sources); (2) manage and invest the money and property it receives for the benefit of the College; and (3) support and assist the College in fundraising and donor relations.

In carrying out its purposes, the Foundation shall not engage in activities that: (1) conflict with federal or state laws, rules and regulations (including all applicable provisions of the Internal Revenue Code and corresponding Federal Treasury Regulations); (2) cause the College to be in violation of applicable policies of the State Board; or (3) conflict with the role and mission of the College.

## **ARTICLE II**

### **Foundation's Organizational Documents**

The Foundation shall provide copies of its current Articles of Incorporation and Bylaws to the College. The Foundation, to the extent practicable, also shall provide the College with an advance copy of any proposed amendments to the Foundation's Articles of Incorporation and Bylaws. The College shall provide all such documents to the State Board.

## **ARTICLE III**

### **College Resources and Services**

1. College Employees.

a. *College/Foundation Liaison:* The College's Director of College Advancement shall serve as the College's Liaison to the Foundation and as the Foundation Executive Director.

- i. The College's Director of College Advancement shall be responsible for coordinating the College's and the Foundation's fundraising efforts and for supervising and coordinating the administrative support provided by the College to the Foundation.
- ii. The College's Director of College Advancement or designee shall attend each meeting of the Foundation's Board of Directors and shall report on behalf of the College to the Foundation's Board of Directors regarding the College's coordination with the Foundation's fundraising efforts.
- iii. The College's Director of College Advancement shall be responsible for the supervision and control of the day-to-day operations of the Foundation. More specific duties of the Director of College Advancement is set forth in the Service Agreement attached hereto as Exhibit "B" ("Service Agreement").

d. *Other College Employees Holding Key Foundation or Administrative or Policy Positions:* In the event the College and the Foundation determine it is appropriate for one or more additional College employees who function in a key administrative or policy making capacity for the College (including, but not limited to, any College Vice-President or equivalent position) to serve both the College and the Foundation, then, pursuant to State Board Policy V.E., this Operating Agreement shall be amended to clearly set forth the authority and responsibilities of the position of any such College employee.

e. *Limited Authority of College Employees.* Notwithstanding the foregoing provisions, no College employee who functions in a key administrative or policy making capacity for the College (including, but not limited to, any College Vice-President or equivalent position) shall be permitted to have responsibility or authority for Foundation policy making, financial oversight, spending authority, and investment decisions.

2. Support Services. The College shall provide administrative, financial, accounting, investment, and development services to the Foundation, as set forth in the Service Agreement attached hereto as Exhibit "B" ("Service Agreement"). All College employees who provide support services to the Foundation shall remain College employees under the direction and control of the College, unless agreed that the direction and control of any such employee will be vested with the Foundation in a written Loaned Employee Agreement. The Foundation will pay directly to the College the portion of the overhead costs associated with the services provided to the

Foundation pursuant to the Service Agreement. The portion of such costs shall be determined by the agreement of the Parties.

3. College Facilities and Equipment. The College shall provide the use of the College's office space and equipment to the Foundation upon the terms agreed to by the College and the Foundation. The terms of use (including amount of rent) of the College's office space and equipment shall be as set forth in the Service Agreement.

4. No Foundation Payments to College Employees. Notwithstanding any provision of this Operating Agreement to the contrary, the Foundation shall not make any payments directly to an College employee in connection with any resources or services provided to the Foundation pursuant to this Operating Agreement.

#### **ARTICLE IV**

##### **Management and Operation of Foundation**

The management and control of the Foundation shall rest with its Board of Directors.

#### 1. Gift Solicitation.

*Authority of College's Director of College Advancement.* All Foundation gift solicitations shall be subject to the direction and control of the Director for College Advancement.

a. *Form of Solicitation.* Any and all Foundation gift solicitations shall make clear to prospective donors that (1) the Foundation is a separate legal and tax entity organized for the purpose of encouraging voluntary, private gifts, trusts, and bequests for the benefit of the College; and (2) responsibility for the governance of the Foundation, including the investment of gifts and endowments, resides in the Foundation's Board of Directors.

b. *Foundation is Primary Donee.* Absent unique circumstances, prospective donors shall be requested to make gifts directly to the Foundation rather than to the College.

#### 2. Acceptance of Gifts.

a. *Approval Required Before Acceptance of Certain Gifts.* Before accepting contributions or grants for restricted or designated purposes that may require administration or direct expenditure by the College, the Foundation shall obtain the prior written approval of the College. Similarly, the Foundation shall also obtain the prior written approval of the College of the acceptance of any gift or grant that would impose a binding financial or contractual obligation on the College.

b. *Acceptance of Gifts of Real Property.* The Foundation shall conduct adequate due diligence on all gifts of real property that it receives. All gifts of real property intended to be held and used by the College shall be approved by the State Board before acceptance



by the College and the Foundation. In cases where the real property is intended to be used by the College in connection with carrying out its proper functions, the real property may be conveyed directly to the College, in which case the College and not the Foundation shall be responsible for the due diligence obligations for such property.

c. *Processing of Accepted Gifts.* All gifts received by the College or the Foundation shall be delivered (if cash) or reported (if any other type of property) to the Foundation's designated gift administration office (a unit of the Foundation) in accordance with the Service Agreement.

3. Fund Transfers. The Foundation agrees to transfer funds, both current gifts and income from endowments, to the College on a regular basis as agreed to by the Parties. The Foundation's Treasurer or other individual to whom such authority has been delegated by the Foundation's Board of Directors shall be responsible for transferring funds as authorized by the Foundation's Board of Directors.

a. *Restricted Gift Transfers.* The Foundation shall inform the College officials into whose program or department funds are transferred of any restrictions on the use of such funds and provide such officials with access to any relevant documentation concerning such restrictions. Such College officials shall account for such restricted funds separate from other program and department funds in accordance with applicable College policies and shall notify the Foundation on a timely basis regarding the expenditure of such restricted funds.

b. *Unrestricted Gift Transfers.* The Foundation may utilize any unrestricted gifts it receives for any use consistent with the Foundation's purposes as generally summarized in Article I of this Operating Agreement. If the Foundation elects to use unrestricted gifts to make grants to the College, such grants shall be made at such times and in such amounts as the Foundation's Board of Directors may determine in the Board's sole discretion.

4. Foundation Expenditures and Financial Transactions.

a. *Signature Authority.* The Foundation designates the Foundation Board President and Vice President as the individual(s) with signature authority for the Foundation in all financial transactions. The Foundation may supplement or change this designation with written notice to the College; provided, however, in no event may the person(s) with Foundation signature authority for financial transactions be an College employee.

b. *Expenditures.* All expenditures of the Foundation shall be (1) consistent with the charitable purposes of the Foundation, and (2) not violate restrictions imposed by the donor or the Foundation as to the use or purpose of the specific funds.

5. College Report on Distributed Funds. On a regular basis, which shall not be less than annually, the College shall report to the Foundation on the use of restricted and unrestricted funds transferred to the College. This report shall specify the restrictions on any restricted funds. The

Foundation shall approve expenditures prior to fund transfers to the College and the Foundation will retain details of the uses of such funds.

6. Transfer of College Assets to the Foundation. No College funds, assets, or liabilities may be transferred directly or indirectly to the Foundation without the prior approval of the State Board except when:

- a. A donor inadvertently directs a contribution to the College that is intended for the Foundation in which case such funds may be transferred to the Foundation so long as the documents associated with the gift indicate the Foundation was the intended recipient of the gift. In the absence of any such indication of donor intent, such funds shall be deposited in an institutional account, and State Board approval will be required prior to the College's transfer of such funds to the Foundation.
- b. The College has gift funds that were originally transferred to the College from the Foundation and the College wishes to return a portion of those funds to the Foundation for reinvestment consistent with the original intent of the gift.
- c. Transfers of a *de minimis* amount not to exceed \$10,000 from the College to the Foundation provided such funds are for investment by the Foundation for scholarship or other general College support purposes. This exception shall not apply to payments by the College to the Foundation for obligations of the College to the Foundation, operating expenses of the Foundation or other costs of the Foundation.
- d. The transfer is of funds raised by the College for scholarship or program support and the funds are deposited with the affiliated foundation for investment and distribution in accordance with the purpose for which the funds were raised.

7. Separation of Funds. All Foundation assets (including bank and investment accounts) shall be held in separate accounts in the name of the Foundation using Foundation's Federal Employer Identification Number. The financial records of the Foundation shall be kept using a separate chart of accounts. For convenience purposes, some Foundation expenses may be paid through the College such as payroll and campus charges. These expenses will be paid through accounts clearly titled as belonging to the Foundation and shall be reimbursed by the Foundation on a regular basis.

8. Insurance. The Foundation shall maintain insurance to cover the operations and activities of its directors, officers and employees. The Foundation shall also maintain general liability coverage.

9. Investment Policies. All funds held by the Foundation, except those intended for short term expenditures, shall be invested in accordance with the Uniform Prudent Management of Institutional Funds Act, Idaho Code Sections 33-5001 to 33-5010, and the Foundation's

investment policy which is attached hereto as Exhibit "C"; provided, however, the Foundation shall not invest any funds in a manner that would violate the applicable terms of any restricted gifts. The Foundation shall provide to the College any updates to such investment policy which updates shall also be attached hereto as Exhibit "C".

10. Organization Structure of the Foundation. The organizational structure of the Foundation is set forth in the Foundation's Articles of Incorporation and the Bylaws. The Foundation agrees to provide copies of such Articles and Bylaws as well as any subsequent amendments to such documents to both the College and the State Board. Any such amendments to the Articles and Bylaws shall be attached hereto as additions to Exhibit "D" and "E", respectively.

## **ARTICLE V**

### **Foundation Relationships with the College**

At all times and for all purposes of this Operating Agreement, the College and the Foundation shall act in an independent capacity and not as an agent or representative of the other Party, provided, however, the College and the Foundation acknowledge that the Foundation carries out functions for the benefit of the College. As such, the Parties shall share certain information as provided below.

1. Access to Records. Subject to recognized legal privileges and any third-party obligations of confidentiality and protection of proprietary information, each Party shall have the right to access the other Party's financial, audit, donor and related books and records as needed to properly conduct its operations.

2. Record Management.

a. The Parties recognize that the records of the Foundation relating to actual or potential donors contain confidential information. Such records shall be kept by the Foundation in such a manner as to protect donor confidentiality to the fullest extent allowed by law. Notwithstanding the access to records permitted above, access to such confidential information by the College shall be limited to the College's President and any designee of the College's President.

b. The Foundation shall be responsible for maintaining all permanent records of the Foundation including but not limited to the Foundation's Articles, Bylaws and other governing documents, all necessary documents for compliance with IRS regulations, all gift instruments, and all other Foundation records as required by applicable laws.

c. Although the Foundation is a private entity and is not subject to the Idaho Public Records Law, the Foundation, while protecting personal and private information related to private individuals, is encouraged, to the extent reasonable, to be open to public inquiries related to revenue, expenditure policies, investment performance and/or similar non-personal and non-confidential financial or policy information.

3. Name and Marks. Consistent with its mission to help to advance the plans and objectives of the College, the College grants the Foundation the limited, non-exclusive right to use the name of the College, for use in its support of the College. The Foundation shall operate under the College's logotype in support of its organizational business and activities. Any use by the Foundation of the College's logotypes or other trademarks must be with prior approval of the College through the Communications and Marketing Department.

4. Identification of Source. The Foundation shall be clearly identified as the source of any correspondence, activities and advertisements emanating from the Foundation.

5. Establishing the Foundation's Annual Budget. The Foundation shall provide the College with the Foundation's proposed annual operating budget and capital expenditure plan (if any) prior to the date the Foundation's Board of Directors meeting at which the Foundation's Board will vote to accept such operating budget. Any of the College's funding requests to the Foundation shall be communicated in writing to the Foundation's President and Executive Director by March 1 of each year.

6. Attendance of College's President at Foundation's Board of Director Meetings. The College's President shall be invited to attend all meetings of the Foundation's Board of Directors and may act in an advisory capacity in such meetings.

7. Supplemental Compensation of College Employees. Any supplemental compensation of College employees by the Foundation must be preapproved by the State Board. Any such supplemental payment or benefits must be paid by the Foundation to the College, and the College shall then pay compensation to the employee in accordance with the College's normal practice. No College employee shall receive any payments or other benefits directly from the Foundation. The Foundation Board of Directors may provide funds to the College annually for Faculty and Staff Achievement Awards, in an amount not to exceed \$25,000. Such awards will be made primarily with funds donated to the Foundation for that purpose and any additional Foundation funds used will be approved by the Board of Directors in the Foundation's annual budget. The College identifies the faculty and staff who will be recipients of these awards and disburses the funds to the recipients.

## **ARTICLE VI**

### **Audits and Reporting Requirements**

1. Fiscal Year. The Foundation and the College shall have the same fiscal year.
2. Annual Audit. On an annual basis, the Foundation shall have an audit conducted by a qualified, independent certified public accountant who is not a director or officer of the Foundation. The annual audit will be provided on a timely basis to the College's President and the State Board, in accordance with the State Board's schedule for receipt of said annual audit. The Foundation's annual statements will be presented in accordance with standards promulgated by the

Financial Accounting Standards Board (FASB). The Foundation is a component unit of the College as defined by the Government Accounting Standards Board (GASB). Accordingly, the College is required to include the Foundation in its financial statements which follow a GASB format. Therefore, the Foundation will include in its audited financial statement, schedules reconciling the FASB Statements to GASB standards in the detail required by GASB Standards. The annual audited financial statements, including the auditor's independent opinion regarding such financial statements, and schedules shall be submitted to the College Controller's Office in sufficient time to incorporate the same into the College's statements. All such reports and any accompanying documentation shall protect donor privacy to the extent allowable by law.

3. Separate Audit Rights. The College agrees that the Foundation, at its own expense, may at any time during normal business hours conduct or request additional audits or reviews of the College's books and records pertinent to the expenditure of donated funds. The Foundation agrees that the College and the State Board, at its own expense, may, at reasonable times, inspect and audit the Foundation's books and accounting records.

4. Annual Reports to College President. On a regular basis, which shall not be less than annually, the Foundation shall provide a written report to the College President setting forth the following items:

- a. the annual financial audit report;
- b. an annual report of Foundation transfers made to the College, summarized by College department;
- c. an annual report of unrestricted funds received by the Foundation;
- d. an annual report of unrestricted funds available for use during the current fiscal year;
- e. a list of all of the Foundation's officers, directors, and employees;
- f. a list of College employees for whom the Foundation made payments to the College for supplemental compensation or any other approved purpose during the fiscal year, and the amount and nature of that payment;
- g. a list of all state and federal contracts and grants managed by the Foundation;
- h. an annual report of the Foundation's major activities;
- i. an annual report of each real estate purchase or material capital lease, investment, or financing arrangement entered into during the preceding Foundation fiscal year for the benefit of the College; and

- j. an annual report of (1) any actual litigation involving the Foundation during its fiscal year; (2) identification of legal counsel used by the Foundation for any purpose during such year; and (3) identification of any potential or threatened litigation involving the Foundation.

## **ARTICLE VII**

### **Conflict of Interest and Code of Ethics and Conduct**

1. Conflicts of Interest Policy and Code of Ethics and Conduct. The Foundation's Conflict of Interest Policy is attached as Exhibit "F", and its Code of Ethical Conduct is set forth as Exhibit "G".

2. Dual Representation. Under no circumstances may an College employee represent both the College and the Foundation in any negotiation, sign for both entities in transactions, or direct any other College employee under their immediate supervision to sign for the related Party in a transaction between the College and the Foundation. This shall not prohibit College employees from drafting transactional documents that are subsequently provided to the Foundation for its independent review, approval and use.

3. Contractual Obligation of College. The Foundation shall not enter into any contract that would impose a financial or contractual obligation on the College without first obtaining the prior written approval of the College. College approval of any such contract shall comply with policies of the State Board with respect to State Board approval of College contracts.

4. Acquisition or Development of Real Estate. The Foundation shall not acquire or develop real estate or otherwise build facilities for the College's use without first obtaining approval of the State Board. In the event of a proposed purchase of real estate by the Foundation for the College, the College shall notify the State Board at the earliest possible date. Any such proposed purchase for the College's use shall be a coordinated effort of the College and the Foundation. Any notification to the State Board required pursuant to this paragraph may be made through the State Board's chief executive officer in executive session pursuant to the open meeting law, set forth in Idaho Code, Title 74, Chapter 2.

## **ARTICLE VIII**

### **General Terms**

1. Effective Date. This Operating Agreement shall be effective on the date set forth above.

2. Right to Terminate. This Operating Agreement shall terminate upon the mutual written agreement of both Parties. In addition, either Party may, upon 90 days prior written notice to the other, terminate this Operating Agreement, and either Party may terminate this Operating Agreement in the event the other Party defaults in the performance of its obligations and fails to cure the default within 30 days after receiving written notice from the non-defaulting Party

specifying the nature of the default. Should the College choose to terminate this Operating Agreement by providing 90 days written notice or in the event of a default by the Foundation that is not cured within the time frame set forth above, the Foundation may require the College to pay, within 180 days of written notice, all debt incurred by the Foundation on the College's behalf including, but not limited to, lease payments, advanced funds, and funds borrowed for specific initiatives. Should the Foundation choose to terminate this Operating Agreement by providing 90 days written notice or in the event of a default by the College that is not cured within the time frame set forth above, the College may require the Foundation to pay any debt it holds on behalf of the Foundation in like manner. The Parties agree that in the event this Operating Agreement shall terminate, they shall cooperate with one another in good faith to negotiate a new agreement within six (6) months. In the event negotiations fail, the Parties will initiate the dispute resolution mechanism described below (through reference to the Foundation President and the State Board) to further attempt to negotiate a new agreement within the time period specified herein, they will refer the matter to the State Board for resolution. Termination of this Operating Agreement shall not constitute or cause dissolution of the Foundation.

3. Dispute Resolution. The Parties agree that in the event of any dispute arising from this Operating Agreement, they shall first attempt to resolve the dispute by working together with the appropriate staff members of each of the Parties. If the staff cannot resolve the dispute, then the dispute will be referred to the President of the Board of the Foundation and the College President. If the Foundation Board President and College President cannot resolve the dispute, then the dispute will be referred to the Foundation President and the State Board for resolution. If they are unable to resolve the dispute, the Parties shall submit the dispute to mediation by an impartial third Party or professional mediator mutually acceptable to the Parties. If and only if all the above mandatory steps are followed in sequence and the dispute remains unresolved, then, in such case, either Party shall have the right to initiate litigation arising from this Operating Agreement. In the event of litigation, the prevailing Party shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses, including court costs, attorney fees, and other professional expenses.

4. Dissolution of Foundation. Consistent with provisions appearing in the Foundation's Bylaws and Articles of Incorporation, should the Foundation cease to exist or cease to be an Internal Revenue Code §501(c)(3) organization, the Foundation shall transfer to the State Board (or College, as applicable) the balance of all property and assets of the Foundation from any source, after the payment of all debts and obligations of the Foundation, and such property shall be vested in the State Board in trust for the continued support and benefit of the College.

5. Board Approval of Operating Agreement. Prior to the Parties' execution of this Operating Agreement, an unexecuted copy of this Operating Agreement must be approved by the State Board. Furthermore, this Operating Agreement, including any subsequent modifications and restatements of this Operating Agreement, shall be submitted to the State Board for review and approval no less frequently than once every three (3) years or more frequently if otherwise requested by the State Board.

6. Modification. Any modification to the Operating Agreement or Exhibits hereto shall be in writing and signed by both Parties.

7. Providing Document to and Obtaining Approval from the College. Unless otherwise indicated herein, any time documents are to be provided to the College or any time the College's approval of any action is required, such documents shall be provided to, or such approval shall be obtained from, the College's President or an individual to whom such authority has been properly delegated by the College's President.

8. Providing Documents to and Obtaining Approval from the Foundation. Unless otherwise indicated herein, any time documents are to be provided to the Foundation or any time the Foundation's approval of any action is required, such document shall be provided to, or such approval shall be obtained from, the Foundation's Board of Directors or an individual to whom such authority has been properly delegated by the Foundation's Board of Directors.

9. Notices. Any notices required under this Operating Agreement may be mailed or delivered as follows:

To the College:

President  
Lewis-Clark State College  
500 8<sup>th</sup> Avenue  
Lewiston, ID 83501

To the Foundation:

Executive Director  
Lewis-Clark State College Foundation, Inc.  
500 8<sup>th</sup> Avenue  
Lewiston, ID 83501

10. No Joint Venture. At all times and for all purposes of this Memorandum of Understanding, the College and the Foundation shall act in an independent capacity and not as an agent or representative of the other Party.

11. Liability. The College and Foundation are independent entities and neither shall be liable for any of the other's contracts, torts, or other acts or omissions, or those of the other's trustees, directors, officers, members or employees.

12. Indemnification. To the extent allowed by law, the College and the Foundation each agree to indemnify, defend and hold the other Party, their officers, directors, agents and employees harmless from and against any and all losses, liabilities, and claims, including reasonable attorney's fees arising out of or resulting from the willful act, fault, omission, or



negligence of the Party, its employees, contractors, or agents in performing its obligations under this Operating Agreement. This indemnification shall include, but not be limited to, any and all claims arising from an employee of one Party who is working for the benefit of the other Party. Nothing in this Operating Agreement shall be construed to extend to the College's liability beyond the limits of the Idaho Tort Claims Act, Idaho Code §6-901 et seq.

13. Assignment. This Operating Agreement is not assignable by either Party, in whole or in part.

14. Governing Law. This Operating Agreement shall be governed by the laws of the State of Idaho.

15. Severability. If any provision of this Operating Agreement is held invalid or unenforceable to any extent, the remainder of this Operating Agreement is not affected thereby and that provision shall be enforced to the greatest extent permitted by law.

16. Entire Agreement. This Operating Agreement constitutes the entire agreement among the Parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings pertaining thereto.

17. List of Attachments

- a. Exhibit A – Loaned Employee Agreement
- b. Exhibit B - Service Agreement
- c. Exhibit C – Investment Policy
- d. Exhibit D - Articles of Incorporation
- e. Exhibit E – Bylaws
- f. Exhibit F – Conflict of Interest Policy
- g. Exhibit G – Code of Ethical Conduct
- h. Exhibit H – Gift Acceptance Policy
- i. Exhibit I - Policy for Accounting for Gift Revenue
- j. Exhibit J – Foundation Insurance
- k. Exhibit K - Committee Descriptions
- l. Exhibit L – Endowment Fund Fee Policy

IN WITNESS WHEREOF, the College and the Foundation have executed this Operating Agreement on the above specified date.

Lewis-Clark State College

By: \_\_\_\_\_  
Its: President

Lewis-Clark State College Foundation, Inc.

By: \_\_\_\_\_  
Its: President

**EXHIBIT "A"**

Loaned Employee Agreement

Not applicable at this time

**EXHIBIT "B"**

## Service Agreement

1. Staff
  - a. The Director of College Advancement, an employee of the College, shall serve as Executive Director of the Foundation and shall supervise the College Advancement staff who are likewise employees of the College and who will provide administrative services to the Foundation. The College is responsible for the employment and compensation of College Advancement Staff providing services to the Foundation, including the Director of College Advancement in his or her capacity as Executive Director of the Foundation. Subject to approval by the President of the College, the Foundation may appoint an employee of the College to serve as Treasurer. The Treasurer shall provide and/or supervise the provision of financial and accounting services for the Foundation. While providing services to the Foundation, College employees are subject to the oversight and direction of the Board of Directors of the Foundation. Executive officers of the College (President and Vice Presidents) shall not serve as Foundation Board officers or staff members.
2. Additional services the College provides to the Foundation
  - a. Access to the College's financial system to receive, disburse and account for funds of the Foundation. Except for funds transferred into Foundation's brokerage accounts, all funds received by the Foundation shall be deposited with the College and credited to one or more agency accounts established in the name of the Foundation within the College's financial system. In using the College's financial services, the Foundation shall comply with the College's financial and administrative policies and procedures.
  - b. Accounting services, to include cash receipts and disbursements, accounts receivable and payable, bank reconciliation, reporting and analysis, and internal auditing.
  - c. Investment, insurance, and similar services.
  - d. Development services, including research, information systems, donor records, communications and special events.
3. Facilities, Furnishings and Office Equipment
  - a. The business office of the Foundation shall be located in the College Advancement Office at 500 8th Avenue, Lewiston, Idaho. The College will provide office space to the Foundation including providing all maintenance and utilities, and local and long-distance telephone service for use in the business of the Foundation. The furnishings, computers, copiers and other items of office equipment used in the Foundation's office are owned by the College but shall be made available for use in the business of the Foundation. The cost of repairing, maintaining and replacing such furnishings and equipment shall be paid by the College.
4. Reimbursement

- a. Except as otherwise provided in the Agreement and Exhibit “L” (“Endowment Fund Fee Policy”), the Foundation shall have no obligation to reimburse the College for costs incurred by the College for personnel, use of facilities or equipment or for other services provided to the Foundation by the College. The Foundation established a fee as referenced in Exhibit L to assist with offsetting general operating costs such as accounting, fundraising, and other administration costs in support of the mission and vision of LC State. Neither the Foundation nor the College require the fee revenue to be transferred to the College though, as mutually agreed upon, all or part of the fee revenue may be transferred to offset the cost of services provided under this agreement. No payments shall be made directly from the Foundation to College employees in connection with resources or services provided to the Foundation under this Agreement.

## EXHIBIT "C"

### Investment Policy

#### PURPOSE

The purpose of this Investment Policy Statement (IPS) is to establish a clear understanding between the Lewis-Clark State College Foundation ("Foundation") and the Foundation's professional "Advisor" as to the investment objectives and policies applicable to the Foundation's investment portfolio. This Investment Policy Statement will:

- Establish reasonable expectations, objectives and guidelines in the investment of the portfolio's assets
- Set forth an investment structure detailing permitted asset classes and expected allocation among asset classes
- Encourage effective communication between the Advisor and the Foundation.
- Create the framework for a well-diversified asset mix that can be expected to generate acceptable long term returns at a level of risk suitable to the Foundation.

This IPS is not a contract. This IPS is intended to be a summary of an investment philosophy that provides guidance for the Advisor.

#### ADVISOR CONTRACT

The Advisor Contract will typically be awarded for an initial three (3) year period with an option for one additional two (2) year renewal. The decision to enter a new contract or engage in an RFP process or other process shall be at the sole discretion of the Foundation Board. The Board may, at its discretion, choose to forego an RFP process or other process in favor of entering into a new contract with the existing advisor. All fees shall be firm for the term of the contract and will be included in any contract agreement. A performance review will be conducted annually by the Foundation Finance & Investment Committee, or by any of its designated subcommittees.

If, for any reason, the Foundation should wish to discontinue the professional's services, the Foundation, with thirty (30) days' written notice, may terminate the contract.

#### INVESTMENT OBJECTIVES

The primary investment objective for the Foundation's assets is to seek long term growth. However, the Foundation does intend to withdraw 4% annually to provide for required distribution. The cash flow intentions of the Foundation are detailed in the Foundation's Spending Policy.

#### TIME HORIZON

For the purposes of planning, the time horizon for investments is perpetuity. The Foundation recognizes that capital values fluctuate over shorter periods and the possibility of capital loss does exist. However, historical asset class return data suggest that the risk of principal loss over a holding period of at least ten years can be minimized with the long-term investment mix employed under this IPS.

#### RISK TOLERANCE

The Foundation is a moderate risk taker with regard to these investment assets. The portfolio will be managed in a manner that seeks to minimize principal fluctuations over the established horizon and is consistent with the stated objectives. Financial research has demonstrated that risk is best minimized through diversification of assets.

#### ASSET ALLOCATION

Academic research suggests that the decision to allocate total assets among various asset classes will far outweigh security selection and other decisions that impact portfolio performance. After reviewing the long-term performance and risk characteristics of various asset classes and balancing the risks and rewards of market behavior, the following asset classes were selected to achieve the objectives of the Foundation's Portfolio.

Table 1-1

Asset Category	Target Allocation	Acceptable Range
CASH	2%	1% - 10%

<b>FIXED INCOME</b>	<b>28%</b>	<b>20% - 40%</b>
<b>STOCKS</b>	<b>70%</b>	<b>60%-80%</b>
<b>TOTAL</b>	<b>100%</b>	

\*International stocks not to exceed 17.5% of the total portfolio.

### **Updated Allocations**

From time to time, it may be desirable to amend the basic allocation policy or calculations. When such changes are made, updates will be attached to this Investment Policy Statement as Appendix A and will be considered part of this Investment Policy Statement. The Advisor will provide to the Foundation the recommended or desired targeted allocation percentages. The recommendation will fall within the acceptable range as indicated in table 1-1.

### **Portfolio Rebalancing**

From time to time, market conditions may cause the portfolio's investment in various asset classes to vary from the targeted allocation. To remain consistent with the asset allocation guidelines established by this IPS, each asset class in which the portfolio invests shall be reviewed annually by the Advisor and rebalanced back to the recommended weighting if the actual weighting varies by 3% or more from the recommended weighting (e.g., if the targeted allocation for a particular asset class is 10% and the actual is less than 7% or more than 13%, that asset class will be adjusted back to the targeted 10% allocation by either adding assets or distributing assets to or from the other asset classes.)

### **DIVERSIFICATION**

Investment of the Foundation's funds shall be limited to the following categories:

#### Permitted Investment Categories

1. Cash and cash equivalents, including money market funds
2. Fixed income assets
  - a) Bonds (corporate, U.S. government, or government agency)
  - b) Bank certificates of deposit
3. Stocks (Large and Small U.S. -based and Foreign companies)

#### Excluded Categories for Investment

1. Derivatives
2. Natural resources
3. Precious metals
4. Venture capital

#### Investment Concentration

At all times there must be a minimum of three investment categories represented among the Foundation's assets. There shall be no maximum limit to the number of categories. No individual security held shall represent more than 14% of the total portfolio. (The Foundation considers mutual funds and ETFs to be a security).

### **INVESTMENT MONITORING AND CONTROL PROCEDURES**

#### Reports

1. Advisor shall provide the Foundation with a monthly report that lists all assets held by the Foundation, values for each asset and all transactions affecting assets within the portfolio, including additions and withdraws.
2. Advisor shall provide the Foundation on a quarterly basis and within 30 days of the end of each calendar quarter, the following reports:
  - a) Portfolio performance results over the last quarter, year, 3 years and 5 years
  - b) Performance results of comparative benchmarks for the same periods; performance shall be reported on a time-weighted basis.
3. Advisor shall assist in the development of investment policies, objectives and guidelines.

4. Advisor shall prepare asset allocation analyses as necessary and recommend asset allocation strategies with respect to the Foundation's objectives.
5. Advisor shall provide research on specific issues and opportunities and assist the Foundation finance & Investment Committee in special tasks.
6. Advisor shall make tactical implementation decisions, including rebalancing, within the asset allocations ranges set by the Foundation and among investment managers with communication of such decisions and the rationale at the next Foundation meeting. Such decisions will be tracked by the Advisor who will report the results of each of those decisions in its Investment Review provided to the Foundation for its quarterly meetings.
7. Advisor shall notify the Foundation Finance & Investment Committee of any significant changes in portfolio managers, personnel or ownership of any investment management firm hired by the Foundation.
8. Advisor shall, overall, be proactive with the Administration of the Foundation in the management of the Foundation's investments.

**Meeting**

Advisor shall meet with the Foundation's Finance and Investment Committee at least annually (or semi-annually if the Foundation chooses) in order to give a detailed report as to activity in the investment account, manager selection, tactical changes in the asset allocation weightings or other information the Foundation shall require.

Advisor shall also meet annually with the Foundation Board in September of each year to give a detailed report on the Foundation's investments.

**ADOPTION**

Adopted and Revised by the Foundation on this 16<sup>th</sup> day of June, 2015.



**EXHIBIT "D"**

## Articles of Incorporation

**FILED/EFFECTIVE**

01 MAR -9 AM 8:57  
 SECRETARY OF STATE  
 STATE OF IDAHO  
**ARTICLES OF AMENDMENT**  
**LEWIS-CLARK STATE COLLEGE**  
**EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION**  
 (now, LEWIS-CLARK STATE COLLEGE FOUNDATION, INC.)

DAVID SECRETARY OF STATE  
 03/01/14/2001 09:57  
 3841 CI: 28457 BH: 3846  
 38.00 = 38.00 NON PROF

C 75476

WHEREAS, the members of Lewis-Clark State College Educational Assistance and Development Foundation, Inc., at a duly called meeting, after proper notice, adopted the following resolution amending and restating the Articles of Incorporation to change the name of the corporation and to conform those Articles to the provisions of the Idaho Non-Profit Corporations Act by the affirmative vote of all members present at such meeting, constituting a majority of the voting power of the members of the corporation entitled to vote, to wit:

BE IT RESOLVED that the Articles of Incorporation of Lewis-Clark State College Educational Assistance and Development Foundation, Inc., be, and the same are hereby, amended and restated in their entirety as follows:

**AMENDED AND RESTATED ARTICLES****ARTICLE I****Preliminary Matters**

- 1.01 **Name.** The name of this corporation is LEWIS-CLARK STATE COLLEGE FOUNDATION, INC.
- 1.02 **Nonprofit Status.** This corporation is a nonprofit corporation.
- 1.03 **Duration.** The duration of this corporation shall be perpetual.

**ARTICLE II****Purposes**

- 2.01 **Charitable Scope of Purposes.** This corporation is organized and shall be operated exclusively for charitable, scientific, literary, and educational purposes, within the meaning of §501(c)(3) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws (hereinafter called Internal Revenue Code"), and Treasury Regulations issued thereunder. This corporation shall serve the public interest, and no part of its assets or the income therefrom shall inure to the benefit of any private individual, except for payment of

reasonable compensation for services rendered to the corporation. No substantial part of the activities of this corporation shall directly or indirectly consist of attempting to influence legislation by propaganda or otherwise, and the corporation shall not directly or indirectly participate in, or intervene (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles of incorporation, this corporation shall not conduct or carry on any activities not permitted to be conducted or carried on (a) by a corporation exempt from federal tax under § 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under § 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

- 2.02 Higher Education.** In further limitation of the general charitable purposes set forth above, this corporation is organized and shall be operated for the purpose of advancing the goals of higher education. The goals of higher education shall be broadly construed to encompass the charitable, scientific, literary, artistic, educational, social and athletic objectives normally associated with nonsectarian institutions of higher education.
- 2.03 Lewis-Clark State College.** The purposes of this corporation shall be accomplished primarily by encouraging, promoting, supporting, performing and carrying out the functions, programs, operations and purposes of Lewis-Clark State College, an institution of higher education and an agency of the State of Idaho with its principal campus located in Lewiston, Idaho, so long as it is an institution of higher education and an agency of the State of Idaho or an organization described in § 501(c)(3) of the Internal Revenue Code, contributions to which are deductible under § 170(c)(2) of the Internal Revenue Code. By way of illustration and not limitation, it shall be within the purposes of this corporation to:
- a. Funds.** Coordinate fund raising activities on behalf of Lewis-Clark State College and receive, hold, invest and administer donations of every kind on its behalf.
  - b. Programs.** Promote, support, develop, perform, carry out and extend the educational undertakings of Lewis-Clark State College, and in furtherance thereof, to support and conduct any and all charitable, scientific, literary, artistic, educational, social and athletic activities relating thereto.

- c. **Facilities.** Support, conduct and operate such activities as may be designed or intended to facilitate or enhance the educational, cultural, living and operational conditions at Lewis-Clark State College; to provide support for, maintain, enlarge, and extend the curricula, services, faculty, staff, and real or personal properties of Lewis-Clark State College.
- d. **Financial Assistance.** To provide financial or other assistance to the students, faculty and staff of Lewis-Clark State College in their efforts to acquire new knowledge and to extend the educational endeavors of Lewis-Clark State College.
- e. **Cooperation.** Promote cooperation, coordination with, and assistance to other charities in the area of Lewiston, Idaho, particularly schools and hospitals.

### ARTICLE III Powers

- 3.01 **Statutory Powers.** This corporation shall have all rights and powers now given to nonprofit corporations generally under the laws of the State of Idaho, including those powers now set forth in § 30-3-23 of the Idaho Code, and all further and broader rights and powers which may in the future be given to nonprofit corporations generally under any subsequent laws of this state. No subsequent repeal or amendment of any such laws shall diminish or restrict those corporation's rights and powers.
- 3.02 **Activities.** In addition to raising funds and making grants, the corporation may, itself, actively conduct programs designed to accomplish the purposes set forth in Article II, above. Such activities may be engaged in for or on behalf of Lewis-Clark State College in order to assist it in performing its functions or carrying out its purposes.
- 3.03 **Limitations.** No part of the net earnings or assets of the corporation shall inure to the benefit of, or be distributable to, its members, directors, officers or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article II hereof. No substantial part of the activities of the corporation shall be for the purpose of carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in, (including the publishing and distribution of statements) any political campaign on behalf of any candidate for

public office. Notwithstanding any other provisions of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under § 501(c)(3) of the Internal Revenue Code or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under § 170(c)(2) of the Internal Revenue Code or the corresponding section of any future federal tax code.

**ARTICLE IV**  
**No Members**

The corporation shall not have any members.

**ARTICLE V**  
**Board of Directors**

The affairs of the corporation shall be managed by a Board of Directors. The number of directors serving on the Board of Directors shall be fixed in accordance with the corporation's Bylaws. Other than the directors constituting the initial board of directors, who are designated in these articles, the Directors shall be elected, appointed or designated in the manner and for the term or terms provided in the Bylaws of the corporation.

The names and street addresses of the persons constituting the initial board of directors are:

Name	Address
Niel Zimmerman President - LCSC	500 Eighth Street Lewiston, ID 83501
Rita Morris Provost and Academic Vice-President - LCSC	500 Eighth Avenue Lewiston, ID 83501
Dean Froehlich Vice-President of Administrative Services - LCSC	500 Eighth Avenue Lewiston, ID 83501
Richard Meier Vice-President of Student Affairs - LCSC	500 Eighth Avenue Lewiston, ID 83501
Barbara Bowen President LCSC Alumni Association	601 Burrell Drive Lewiston, ID 83501



Gene Straughan Faculty Senate Chair Elect- LCSC	P. O. Box 189 Colton, WA 99113
Eugene Baldeck Appointed Director	2214 Vineyard Lewiston, ID 83501
Scott Arnone Appointed Director	1445 G Street, Suite 101 Lewiston, ID 83501
Charles Brown Appointed Director	322 Main Street Lewiston, ID 83501
Bob DeVleming Appointed Director	P.O. Box 57 Lewiston, ID 83501
Donna Doyle Appointed Director	566 Crestline Circle Drive Lewiston, ID 83501
Joe Hall Appointed Director	1617 21 <sup>st</sup> Street Lewiston, ID 83501
Harriet Husemann Appointed Director	523 Cedar Lewiston, ID 83501
Jackie McIver Appointed Director	835 Main Street Lewiston, ID 83501
Sam Penney Appointed Director	P.O. Box 305 Lapwai, ID 83540
Joe Stegner Appointed Director	216 Prospect Lewiston, ID 83501
A. L. Alford, Jr. Elected Director	505 C Street Lewiston, ID 83501
Howard Hayes Elected Director	P.O. Box 816 Lewiston, ID 83501

Darrel Inman Elected Director	P.O. Box 856 Lewiston, ID 83501
Terry Kolb Elected Director	P.O. Box 937 Lewiston, ID 83501
William Mannschreck Elected Director	2956 Mayfair Ridge Lewiston, ID 83501
Eadie Saxton Elected Director	1035 29 <sup>th</sup> Street Lewiston, ID 83501
Marilyn Stonebraker Elected Director	1224 Third Street Lewiston, ID 83501
Charles F. Woods Elected Director	308 Main Street Lewiston, ID 83501
John Young Elected Director	P.O. Box 917 Lewiston, ID 83501

#### ARTICLE VI Registered Agent

- 6.01 Registered Office.** The street address of the initial registered office of this corporation is the office of the Vice-President for Administrative Services, Lewis-Clark State College, Eighth Avenue and Sixth Street, Lewiston, ID 83501.
- 6.02 Registered Agent.** The name and initial registered agent of the corporation at such street address is Dean A. Froehlich.

#### ARTICLE VII. Distribution on Dissolution

Upon dissolution or winding up of the corporation, its assets remaining after payment, or provision for payment of all debts and liabilities of this corporation shall be to the Idaho State Board of Education, as the Board of Trustees of Lewis-Clark State College; provided, however, that if at such time Lewis-Clark State College or its successor in interest is not an agency of the State of Idaho or an exempt organization described in § 501(c)(3) of the Internal Revenue Code or has substantially failed or abandoned its operations or been

dissolved, then the remaining assets of the corporation shall be distributed to such other agencies of the State of Idaho or non-profit fund foundation or corporation involved in higher education which is organized and operated exclusively for charitable purposes and which has established its tax exempt status under § 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, as the Board of Directors may direct. Any such assets not distributed shall be distributed by the district court of the county in which the principal office of the corporation is then located, excluding for any purposes or to such organizations as the court shall determine to be consistent with the purposes of the corporation.

#### ARTICLE VIII.

##### Bylaws

Provisions for the regulation of the internal affairs of the corporation shall be set forth in the Bylaws. The Board of Directors of the corporation shall be authorized to amend the corporation's Bylaws at a properly noticed special or regular meeting of the Board of Directors.

#### ARTICLE VIX.

##### Amendment of Articles

This corporation reserves the right to amend, alter, change or repeal any provisions contained in these articles of incorporation in any manner now or hereafter prescribed or permitted by statute.

IN WITNESS WHEREOF, the duly undersigned officers have signed and attested these Articles of Amendment.

DATED this 20<sup>th</sup> day of February 2001.

LEWIS-CLARK STATE COLLEGE  
EDUCATIONAL ASSISTANCE AND  
DEVELOPMENT FOUNDATION

BY Edith K. Sayton  
President

Attest:

John Young  
Secretary

**State of Idaho**

**Department of State.**

**CERTIFICATE OF INCORPORATION  
OF**

LEWIS-CLARK STATE COLLEGE EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, hereby certify that duplicate originals of Articles of Incorporation for the incorporation of LEWIS-CLARK STATE COLLEGE EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION, duly signed pursuant to the provisions of the Idaho Nonprofit Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I issue this Certificate of Incorporation and attach hereto a duplicate original of the Articles of Incorporation.

Dated April 4, 19 84.



**GREAT SEAL OF  
THE STATE OF IDAHO**

*Pete T. Cenarrusa*

SECRETARY OF STATE

*Dorise Dener*

Corporation Clerk

CINP 779



Apr 4 8 29 AM '84

LEWIS-CLARK STATE COLLEGE  
EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION  
ARTICLES OF INCORPORATION

APRIL 1984

LEWIS-CLARK STATE COLLEGE  
EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION  
ARTICLES OF INCORPORATION

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LEWIS-CLARK STATE COLLEGE  
EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION, Inc.  
ARTICLES OF INCORPORATION

ROBERT P. BROWN, Esquire, being over the age of twenty-one (21) years, for the purpose of forming a corporation under the provisions of the Idaho Nonprofit Corporation Act, Title 30, Chapter 3 of the Idaho Code, hereby adopts these articles of incorporation:

ARTICLE I  
Preliminary Matters

- 1.01 Name. The name of this corporation is LEWIS-CLARK STATE COLLEGE EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION, Inc.
- 1.02 Nonprofit status. This corporation is a nonprofit corporation.
- 1.03 Duration. The duration of this corporation shall be perpetual.

ARTICLE II  
Purposes

- 2.01 Charitable scope of purposes. This corporation is organized and shall be operated exclusively for charitable, scientific, literary, or educational purposes, within the meaning of §501(c)(3) of the Internal Revenue Code of 1954, as amended, or corresponding provisions of any subsequent Federal tax laws (hereinafter called Internal Revenue Code"), and Treasury Regulations issued thereunder. This corporation shall serve the public interest, and no part of its assets or the income therefrom shall inure to the benefit of any private individual, except for payment of reasonable compensation for services rendered to the corporation. No substantial part of the activities of this corporation shall directly or indirectly consist of attempting to influence legislation by propaganda or otherwise, and the corporation shall not directly or indirectly participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles of incorporation, this corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an exempt organization described in §501(c)(3) of the Internal Revenue Code, contributions to which are deductible under §170(c)(2) of the Internal Revenue Code.

- 2.02 Higher education. In further limitation of the general charitable purposes set forth above, this corporation is organized and shall be operated for the purpose of advancing the goals of higher education. The goals of higher education shall be broadly construed to encompass the charitable, scientific, literary, artistic, educational, social and athletic objectives normally associated with nonsectarian institutions of higher education.
- 2.03 Lewis-Clark State College. The purposes of this corporation shall be accomplished primarily by encouraging, promoting, supporting, performing and carrying out the functions, programs, operations and purposes of Lewis-Clark State College, an institution of higher education and an agency of the State of Idaho with its principal campus located in Lewiston, Idaho, so long as it is an institution of higher education and an agency of the State of Idaho or an organization described in §501(c)(3) of the Internal Revenue Code, contributions to which are deductible under §170(c)(2) of the Internal Revenue Code. By way of illustration and not limitation, it shall be within the purposes of this corporation to:
- a. Funds. Coordinate fund raising activities on behalf of Lewis-Clark State College and receive, hold, invest and administer donations of every kind on its behalf.
  - b. Programs. Promote, support, develop, perform, carry out and extend the educational undertakings of Lewis-Clark State College, and in furtherance thereof, to support and conduct any and all charitable, scientific, literary, artistic, educational, social and athletic activities relating thereto.
  - c. Facilities. Support, conduct and operate such activities as may be designed or intended to facilitate or enhance the educational, cultural, living and operational conditions at Lewis-Clark State College; to provide support for, maintain, enlarge, and extend the curricula, services, faculty, staff, and real or personal properties of Lewis-Clark State College.
  - d. Financial assistance. To provide financial or other assistance to the students, faculty and staff of Lewis-Clark State College in their efforts to acquire new knowledge and to extend the educational endeavors of Lewis-Clark State College.
  - e. Cooperation. Promote cooperation, coordination with, and assistance to other charities in the area of Lewiston, Idaho, particularly schools and hospitals.



ARTICLE III  
Powers

- 3.01 Statutory powers. This corporation shall have all rights and powers now given to nonprofit corporations generally under the laws of the State of Idaho, including those powers now set forth in §30-307 of the Idaho Code, and all further and broader rights and powers which may in the future be given to nonprofit corporations generally under any subsequent laws of this state. No subsequent repeal or amendment of any such laws shall diminish or restrict this corporation's rights and powers.
- 3.02 Activities. In addition to raising funds and making grants, the corporation may, itself, actively conduct programs designed to accomplish the purposes set forth in Article II, above. Such activities may be engaged in for or on behalf of Lewis-Clark State College in order to assist it in performing its functions or carrying out its purposes.
- 3.03 Limitations. No power or authority shall be exercised by this corporation in any manner or for any purpose which is not permitted for an exempt organization described in §501(c)(3) of the Internal Revenue Code, contributions to which are deductible under §170(c)(2) of the Internal Revenue Code.

ARTICLE IV  
Members

- 4.01 Management authority. The management of the affairs of this corporation shall be vested in its members pursuant to Section 30-314(c) of the Idaho Code.
- 4.02 Apportionment of voting rights among classes. All voting rights shall be exercised by a single class of membership designated "trustee members", with each trustee member entitled to one (1) vote on each matter submitted to a vote at a meeting of such members. The bylaws of the corporation may provide for the designation of any one or more classes of nonvoting members. Except as set forth in these Articles of Incorporation, the designation, number, qualifications, terms of office, manner of selection, time and place of meetings, rights, powers, and duties of the members of each class shall be prescribed in the bylaws of the corporation.
- 4.03 Compensation. No member of the corporation shall receive any compensation for his or her services as a member of the corporation, but the corporation may pay reasonable compensation to any person, including a member of the corporation, for other services actually rendered to the corporation.

- 4.04 Notice of organization meeting. Actual personal notice of the organization meeting of the members of the corporation shall be sufficient notice pursuant to Section 30-324(b) of the Idaho Code.

ARTICLE V  
Directors

There shall be no directors of the corporation, the management of the affairs of the corporation being vested in the trustee members pursuant to Section 30-314 of the Idaho Code.

ARTICLE VI  
Principal Organizer

- 6.01 Name. The name of the principal organizer of this corporation is LEE A. VICKERS, who is over the age of twenty-one (21) years.
- 6.02 Address. The street address of the principal organizer is Office of the President, 8th Avenue and 6th Street, Lewiston, Idaho 83501.

ARTICLE VII  
Registered Office and Registered Agent

- 7.01 Registered office. The street address of the initial registered office of this corporation is Office of the President, Lewis-Clark State College, 8th Avenue and 6th Street, Lewiston, Idaho 83501.
- 7.02 Registered agent. The name of the initial registered agent at such street address is LEE A. VICKERS.

ARTICLE VIII  
Amendment of Articles

This corporation reserves the right to amend, alter, change or repeal any provisions contained in these articles of incorporation in any manner now or hereafter prescribed or permitted by statute.

ARTICLE IX  
Dissolution

In the event of termination, dissolution or liquidation of this corporation, the net assets remaining after payment of all debts and obligations of the corporation shall be transferred and conveyed exclusively to Lewis-Clark State College or its successors-in-interest; provided, however, that if at such time Lewis-Clark State College or its successor-in-interest is not an agency of the State of Idaho or an exempt organization described in §501(c)(3) of the Internal Revenue Code, or has substantially failed or abandoned its operations or been dissolved, then the

remaining assets of this corporation shall be distributed to such other agencies of the State of Idaho and exempt organizations described in §501(c)(3) of the Internal Revenue Code involved in higher education as the board of directors may direct.

## ARTICLE X

### Incorporator

- 10.01 Name. The name of the incorporator of this corporation is ROBERT P. BROWN, Esquire, who is over the age of twenty-one (21) years.
- 10.02 Address. The street address of the incorporator is 13th and Idaho Streets, Lewiston, Idaho 83501.

IN WITNESS WHEREOF, the incorporator has signed these Articles of Incorporation in duplicate this 2nd day of April, 1984.

Robert P. Brown (SEAL)  
ROBERT P. BROWN, Incorporator

STATE OF I D A H O )  
 : ss.  
County of NEZ PERCE )

On this 2nd day of April, 1984, before me the undersigned, a notary public in and for the State of Idaho, personally appeared ROBERT P. BROWN, known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

( S E A L )

Betty E. Knight  
Notary Public in and for the State of  
Idaho, Residing at Lewiston, therein.

## Bylaws

### AMENDED AND RESTATED BYLAWS OF LEWIS-CLARK STATE COLLEGE FOUNDATION, INC.

#### ARTICLE I. In General

**1.01 Nature of Bylaws.** The following paragraphs contain provisions for the regulation and management of LEWIS-CLARK STATE COLLEGE FOUNDATION, INC., a nonprofit corporation organized and operating under the laws of the State of Idaho.

**1.02 Conflicts.** In the event that there is a conflict between a provision of these Bylaws and a mandatory provision of the laws of the State of Idaho, or the Articles of Incorporation of the corporation, then the mandatory provision of the laws of the State of Idaho, or the Articles of Incorporation shall control.

#### ARTICLE II. Principal Office

**2.01 Principal Office.** The principal office of the corporation in the State of Idaho shall be located at Lewis-Clark State College, 500 8th Avenue Lewiston, ID 83501. The corporation may have such other offices, either within or without the State of Idaho, as the Directors may designate from time to time.

#### ARTICLE III. Non-Director Members

**3.01 Foundation Members.** In addition to the Directors as defined in Article IV below, the corporation may recognize a class of benefactors and supporters designated as "Foundation Members", which class may be further subdivided into any number of subclasses as may be determined by the Directors.

**3.02 No Management Authority or Voting Rights.** Foundation Members, as described in 3.01 above, shall have no authority to manage the affairs of the corporation, and shall not be entitled to vote on any matter relating to the corporation. Foundation Members shall have the right to attend and participate in meetings of the Directors.

**3.03 Rights and Privileges.** Except as may be otherwise provided in these Bylaws or the Articles of Incorporation, Foundation Members shall have such recognition, rights, privileges as may be determined by the Board of Directors. Foundation Members are invited to attend meetings of the Board of Directors.

**3.04 Selection.** Individuals or organizations who are interested in the objectives and purposes of the corporation may be admitted as Foundation Members by majority vote of the Directors upon meeting such qualifications as may be determined by the Directors.

**3.05 Designated Members.** The following individuals shall serve as Designated Members by virtue of their offices, to serve for the term of their respective offices. Designated Members do not have voting rights.

- a. The President of Lewis-Clark State College.
- b. The Provost and Vice President for Academic Affairs of Lewis-Clark State College.
- c. The Vice President for Finance and Administration of Lewis-Clark State College.
- d. The Foundation Treasurer as appointed by Lewis-Clark State College with the consent of the Foundation.



- e. The Faculty Senate Chair Elect of the Lewis-Clark State College Faculty Association.
- f. The Lewis-Clark State College Alumni Association Board Representative.
- g. The Vice President of Student Affairs of Lewis-Clark State College.

**3.06 Membership Roster and Certificates.** The corporation shall maintain a roster of Foundation Members, and may issue certificates, cards, or other evidence of association.

**3.07 Personal Status of Association.** Association as a Foundation Member shall be personal to the associate admitted, and shall not survive the death of any individual associate nor be transferred by any means whatsoever.

**3.08 Resignation.** A Foundation Member may resign at any time by written notice to the corporation.

**3.09 Removal.** Association as a Foundation Member may be reviewed for any action which is detrimental to the best interests of the corporation, or for failure to actively support corporate purposes, or to actively participate in corporate activities. Removal shall require the affirmative vote of a majority of the Directors.

#### **ARTICLE IV. Directors**

**4.01 General Powers.** All corporate powers shall be exercised by or under the authority of the Board of Directors. The business and affairs of the corporation shall also be managed under the direction of the Board of Directors, except as otherwise provided in the Idaho Non-Profit Corporation Act or the Articles of Incorporation.

**4.02 Presumption of Assent.** A Director of the corporation who is present at a meeting of its Board of Directors at which any action on any corporate matter is taken shall be presumed to have assented to the action unless such Director's dissent shall be entered in the minutes of the meeting or unless such Director shall file such Director's written dissent to such action with the secretary of the meeting before the adjournment thereof or shall forward such dissent by certified or registered mail to the secretary of the corporation within three days after the adjournment of the meeting. Such right of dissent shall not apply to a Director who voted in favor of such action.

**4.03 Qualification.** Directors need not be officers of the corporation nor residents of the State of Idaho.

**4.04 Elected Directors.** The corporation shall have such Directors as may be elected by majority vote of the Directors, as then constituted, at the annual meeting of Directors. The number of such elected Directors serving at any time shall, in no event, exceed thirty (30). Each Director, including the Director whose terms are expiring, shall have the right to vote for as many persons as there are Directors to be elected, but no Director shall be entitled to cumulate his or her votes.

**4.05 Terms of Elected Directors.** The terms of the Elected Directors pursuant to Article 4.04 shall serve for a period of three (3) years until the annual meeting in the year in which their respective terms expire and until their successors are duly appointed or elected and qualified.

**4.06 Resignation.** Any Director may resign at any time giving written notice to the corporation. Any such resignation shall take effect at the time specified therein, or if the time be not specified, upon its acceptance by the corporation.

**4.07 Removal.** An elected or appointed Director may be removed from office prior to expiration of the term of office by the vote of at least two-thirds (2/3) of the Directors other than the Director voted upon, at any regular or special meeting of Directors. Unexcused absences from two (2) consecutive meetings of the Directors shall be cause for consideration of removal of a Director. The Designated Director is not subject to removal.

**4.08 Vacancies.** A vacancy among the Directors shall be deemed to exist upon death, resignation or removal of a Director. The vacancy of a Director shall be filled by his or her successor in office at the time the office is assumed. The vacancy of a Designated Director shall be filled by appointment of the Executive Committee. A Director appointed or elected to fill a vacancy shall serve the unexpired term of his predecessor in office.

**4.09 Place of Meetings.** All meetings of the Directors shall be held at the principal office of the corporation or at such other place, either within or without the State of Idaho, as the Directors may, from time to time, direct.

**4.10 Organization of Meeting.** The president of the corporation shall act as chairman of meetings of Directors. In the absence of the president, the next Officer shall act as chairman: vice president, then secretary, respectively.

**4.11 Annual Meetings.** The annual meetings of the Directors shall be held in the spring each year. In the event that such annual meeting is omitted by oversight or otherwise, it may be held at a subsequent special meeting called in accordance with the provisions of these Bylaws and the laws of the State of Idaho, and any business transacted or elections held at such meetings shall be valid as if transacted or held at the annual meeting.

**4.12 Special Meetings.** A special meeting of the Directors may be called at any time by the president, and shall be called by the president upon the written request of a majority of the Directors.

**4.13 Notice of Meetings.** Written notice of each meeting of Directors stating the place, day or hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than two (2) days before the date of the meeting. Exceptions may occur with extenuating circumstances. If mailed, such notice shall be deemed to be delivered three (3) days after they are deposited in the United States Mail addressed to the Director at his or her address as it appears on the records of the corporation, with postage paid thereon.

Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. The Directors may waive notice of any meeting, and written waiver of notice executed either before or after the meeting shall be sufficient.

Any adjournment or adjournments of an annual or special meeting to another time and place may be held without new notice being given.

**4.14 Quorum.** A simple majority (defined as 51% or more) of the voting Directors shall constitute a quorum for the transaction of business. The act of a majority (defined as 51% or more) of the Directors present at a meeting at which a quorum is present shall be the act of the Directors.

Foundation Members and Designated Members shall not be considered to constitute a quorum and do not have voting rights.

If, at any meeting of the Directors, there shall be less than a quorum present, those present may adjourn the meeting without notice other than by announcement at the meeting. If, subsequently additional directors arrive and a quorum is present, such meeting can be re-convened and any business may be transacted which might have been transacted at the meeting as originally notified.

**4.15 Action Without a Meeting.** Any action required to be taken at a meeting of the Board of Directors, or any action that may be taken at a meeting of the Directors or of a committee, may be taken without a meeting if a consent in writing, setting forth the actions so taken, shall be signed by a simple majority of the Directors, or by a simple majority of the members of the committee, as the case may be. Such consent shall have the same effect as a unanimous vote.

**4.16 Powers and Duties.** The Directors shall establish policies and have the general management, control and direction of all the business and affairs of the corporation and of all its undertakings to the fullest extent permitted by law. In addition to all powers granted by law, Directors shall have power and authority:

- a. To call meetings of the Directors whenever deemed proper or necessary.
- b. To elect officers of the corporation, to appoint such employees or agents as they deem necessary or proper, to confer upon any officer the power to appoint, remove and suspend officers, employees and agents, and to similarly remove any officer, employee or agent with or without cause.
- c. To determine the policies of the corporation and to make such rules and regulations as may be deemed necessary or proper for the government and guidance of the officers, employees and Directors of the corporation, not inconsistent with the laws of the State of Idaho, the Articles of Incorporation, these Bylaws or the Operating Agreement.
- d. To oversee the security and safekeeping of endowment funds to insure that the same are invested in accordance with the Uniform Prudent Management of Institutional Funds Act as adopted by the State of Idaho and in a manner consistent with the objectives of the corporation. These duties include cooperation with any investment committee or external investment advisors that may be designated by the Directors.
- e. To purchase or otherwise acquire, and to sell, convey, and otherwise dispose of assets on behalf of the corporation at such prices and upon which terms as the Directors may deem appropriate.
- f. To approve payment for such property, rights or privileges, in whole or in part, with money or other securities of the corporation, or by delivery of other property of the corporation.
- g. To approve an action to borrow money and incur indebtedness; to create, make and issue mortgages, deeds of trust, trust and annuity agreements and negotiable or transferable instruments and securities; to do every other act necessary to effectuate the same.
- h. To hold, operate, leave, invest, reinvest and otherwise manage real and personal property of every kind and description.
- i. To fix the compensation, fringe benefits and emoluments of officers and other employees in accordance with noted Article VI.
- j. To select one or more financial institutions to act as depositor of the funds of the corporation and to determine the manner of receiving, depositing and disbursing the funds of the corporation.
- k. To determine by whom and in what manner the corporation bills, notes, receipts, acceptances, endorsements, checks, releases, contracts or other documents shall be signed, and to confer and delegate such power.
- l. To do everything necessary or proper for the carrying out of the objects and purposes of the corporation as set forth in the Articles of Incorporation.

Notwithstanding the general delegation of authority granted, the Directors shall support and assist the College in fundraising and donor relations. In carrying out its purposes the Foundation Directors shall not engage in activities that conflict with federal or state laws, rules and regulations (including but not limited to all applicable provisions of the Internal Revenue Code and corresponding Federal Treasury Regulations), applicable policies of the Idaho State Board of Education or the role and mission of the College.

**4.17 Executive Committee.** There shall be an executive Committee which shall have and may exercise all of the authority of the Directors other than in reference to amendment of the Articles of Incorporation, adoption of a plan of merger or consolidation of the corporation, the sale, lease, exchange or other disposition of all or substantially all the assets of the corporation otherwise than in the usual and regular course of its activities, a voluntary dissolution of the corporation or a revocation thereof, or amendment of the Bylaws of the corporation. The members of this committee shall be: The officers of the Board, the Immediate Past President, all chairs of approved committees or task forces and other members as designated.

All action of the executive committee shall be reported to the Directors at its next meeting succeeding such action, and shall be subject to revision or alteration by the Directors, provided that no rights or acts of third parties shall be affected by any such revision or alteration.

A quorum at any meeting of the executive committee shall consist of a simple majority of the Executive Committee Members.

**4.18 Scholarship Committee.** The Directors may designate two or more members as a scholarship committee. These committees, to the extent provided in the resolution below, shall have and exercise the authority of the Directors in the management of the corporation.

To promote the Foundation Scholars Program:

- a. Establish and maintain scholarship criteria and policies including approval/disapproval of any exceptions to policy
- b. Select scholarship recipients on an annual basis
- c. Provide to the Finance & Investment Committee any information that could impact the amount of the annual scholarship award and/or the number of new scholarships to be given
- d. Provide support, encouragement and develop rapport with individual Foundation Scholars through attendance at social functions such as the orientation at the beginning of the academic year, a winter holiday party, a reception at the LCSC President's home, and/or through a graduation recognition event
- e. Maintain long-term contact with Foundation Scholars, at the minimum annually, in recognition that these scholars are the future ambassadors for the Foundation

To meet as often as required to review other scholarship applications as requested and select recipients in accordance with established individual scholarship criteria

To participate in the annual Scholarship Luncheon to honor LCSC Foundation and Alumni Association scholarship recipients and donors.

**4.19 Finance & Investment Committee.** The Directors may designate two more members as the Finance & Investment Committee. These committees, to the extent provided in the resolution below, shall have and exercise the authority of the Directors in the management of the corporation.

Finance & Investment Committee of the Foundation shall have the following responsibilities:

- a. Oversight of endowment investments. Allocate investments among assets classes according to the investment policy statement. Review the performance of investment portfolio and advisor at least annually.
- b. Approve annual distribution of endowments according to the foundation spending policy. For underwater endowments determine if distribution will be paid. If underwater endowment distributions are made, determine the source of funding, including General Unrestricted Funds, Bryden Canyon Quasi-Endowment or other funding sources.
- c. Select the number of Foundation scholar scholarships awarded to freshman each year. For scholarships awarded in excess of funds available in the Foundation Scholars Program, determine if distribution will be paid from General Unrestricted Funds, Bryden Canyon Quasi-Endowment or other funding sources.
- d. Review financial reports and examine fund balances. Develop the annual operating budget two months before the start of each fiscal year.
- e. Approve charitable gift annuities established with gifts of more than \$100,000 per beneficiary. For annuities established with gifts of more than \$200,000 per beneficiary, submit recommendation for full board approval.
- f. Approve acceptance of gifts of assets other than cash. For noncash gifts in excess of \$200,000, submit recommendation for full board approval. Acceptance of marketable securities does not require approval by the committee. Marketable securities will be liquidated immediately upon receipt.

**4.20 Other Committees or Task Forces.** The Directors may designate and appoint one or more standing committees or task forces, each of which shall consist of two (2) or more Directors. These committees, to the extent provided in such resolution, shall have and exercise the authority of the Directors in the management of the corporation.

**ARTICLE V.**  
**Officers**

**5.01 Qualification.** An Officer must be a Director of the corporation with the exception of the Treasurer, who may be a Designated Member as described in Section 3.05.

**5.02 Offices.** The offices of the corporation shall consist of president, vice president, secretary, and treasurer and such other offices as the Directors may choose to appoint.

**5.03 Election.** The officers of the corporation, with the exception of the Treasurer, shall be elected by the Directors at the organizational meeting of Directors and at such annual meeting of Directors thereafter. Officers shall be elected or appointed for a term extending for two years until the next annual meeting of the Directors and shall serve until their successors shall have been duly elected and qualified.

**5.04 Duties of President.** The president shall be the chief executive officer of the corporation and shall attend and preside at all meetings of the Directors and any executive committee of the Directors. The president shall have responsibility for the planning and implementation of the corporation's activities and the appointment of employees of the corporation, subject to the advisement and approval of the Directors. The president or vice-president, unless some other person is specifically authorized by vote of the Directors, shall sign all bonds, deeds, mortgages, contracts and other documents of the corporation. The president shall perform all the duties commonly incident to such office and shall perform such other duties as the Directors shall designate.

**5.05 Duties of a Vice President.** The vice president shall perform the duties and have the powers of the president during his or her absence or disability. A vice president shall perform such other duties and have such others powers as the Directors may designate.

**5.06 Duties of the Secretary.** The secretary shall ensure accurate minutes of all meetings of the foundation members and the Directors are maintained. The secretary shall attend to the giving and serving of all notices of the corporation, shall have custody of all the original records, papers, files and books of the corporation (except books of accounts and valuable papers properly in the custody of the treasurer); shall attest all instruments in writing executed in the name of the corporation and requiring his or her signature; and shall, in general, perform all the duties incident to the office of secretary and such other duties as the Directors shall designate. In the absence of the secretary, an assistant secretary or a secretary pro tempore shall perform such duties.

**5.07 Duties of Treasurer.** The treasurer, subject to the order of the Directors, shall have the care and custody of the funds and valuable papers of the corporation in such bank or banks as the Directors shall designate. The treasurer shall have and exercise, under the supervision of the Directors, all the powers and duties commonly incident to such office and give bond in such form and with such sureties as may be required by the Directors. The treasurer shall keep accurate books of account of the corporation's transactions, which shall be the property of the corporation, and, together with all its property in his or her possession, shall be subject at all times to the inspection and control of the Directors.

**5.08 Duties of Executive Director.** The executive director shall be given the necessary authority and responsibility to operate the affairs of the corporation and all its activities subject to such policies as may be adopted and such orders as may be issued by the Directors or by any committee or task force to whom they have delegated power for such action. He or she shall act as the duly authorized representative of the Directors in all matters in which the Directors have not formally designated some other person to act.

The authorities and duties of the executive director shall include the responsibility for:

- a. Carrying out all policies established by the Directors.
- b. Developing and submitting to the Directors for approval of plans and strategies for the corporation's affairs, including public relations, soliciting donations, and other matters intended to carry out the objectives of the corporation.

- c. Preparing an annual budget showing the expected receipts and expenditures as required by the Directors.
- d. Selecting and managing staff and developing and maintaining personnel policies and practices.
- e. Presenting to the Directors, or their authorized committee, periodic reports reflecting the operating and financial activities of the corporation and the preparation and submission of such special reports as may be required by the Directors.
- f. Attending all meetings of the Directors and committees.
- g. Performing such other duties as may be necessary and in the best interest of the corporation.

**5.09 Other Officers.** The duties of the additional officers, other than as defined in the Bylaws of the corporation, shall be prescribed and defined by the Directors.

**5.10 Authority to Sign Checks.** All checks, drafts or other orders for payment of money, note or other evidence of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers, agent or agents of the Corporation as provided in these Bylaws or in such manner as shall be determined by the Board of Directors.

**5.11 Resignation.** Any officer may resign at any time by giving written notice to the corporation, to the Directors, to the president, or to the secretary of the corporation. Any such resignation shall take effect at the time specified therein, or if the time be not specified, upon its acceptance.

**5.12 Removal.** Any officer or agent may be removed at any time by action of the Directors.

**5.13 Vacancies.** Any vacancy among the officers of the corporation shall be selected by the executive committee subject to the authority of the Directors to approve, disapprove or fill the vacancy themselves.

## **ARTICLE VI. Compensation and Indemnification**

**6.01 Compensation of Directors.** Directors shall not be compensated.

**6.02 Compensation of Officers.** The president, vice president, secretary and treasurer shall receive no compensation.

**6.03 Repayment.** Any payments made to an employee of the corporation for compensation, salary, bonus, interest, rent or expense incurred by him or her, which shall be determined to be unreasonable in whole or in part by the Internal Revenue Service pursuant to Section 4941(d) (2) (E) of the Internal Revenue Code shall be reimbursed by such employee to the corporation to the full extent of such determination of unreasonableness. It shall be the duty of the Directors to enforce repayment of each such amount. In lieu of repayment by the employee, subject to the determination of the Directors, amounts may be withheld from the employee's future compensation or expense reimbursement payments until the amount owed to the corporation shall have been recovered.

**6.04 Indemnification.** Any person who serves on behalf of the Foundation as a director, employee, chairperson or member of any committee, or as a director, trustee or officer of another corporation, shall be deemed to be the Foundation's agent for purposes of this Article and shall be indemnified by the Foundation against expenses (including attorney's fees), judgments, fines, excise taxes and amounts paid in settlement actually or reasonably incurred by such person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or a derivative action, by reason of such service, provided such person acted in good faith and in a manner that he or she reasonably believe to be in the best interest of the foundation and, with respect to any criminal action proceeding, had no reasonable cause to believe his or her conduct was unlawful.

## **ARTICLE VII. Gifts to Corporation**

**7.01 In General.** Donors may make gifts to the corporation by naming or otherwise identifying the corporation. Gifts shall vest in the corporation upon receipt and acceptance by it, whether signified by a Director, officer, employee or agent of the corporation.

**7.02 Acceptance of Governing Documents.** Each donor, by making a gift to the corporation, accepts and agrees to all of the provisions of the Articles of Incorporation and these Bylaws.

## **ARTICLE VIII. Miscellaneous**

**8.01 Books and Records.** The corporation shall keep accurate and complete books and records of account and shall keep minutes of the proceedings of its Directors and committees having any authority of the Directors. All books and records of the corporation may be inspected by any Director for any proper purpose at any reasonable time.

**8.02 Parliamentary Procedure.** Parliamentary Procedure shall be the code that governs the procedures of the Foundation Board of Directors' meetings.

**8.03 Corporate Seal.** There shall be no seal of the corporation, and all contracts and other papers of the corporation shall be authenticated without any corporate seal.

**8.04 Waiver of Notice.** Whenever any notice whatsoever is required to be given by these Bylaws, or the Articles of Incorporation, or any of the nonprofit corporation laws of the State of Idaho, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice for all purposes.

**8.05 Contracts and Conveyances.** All contracts, deeds, conveyances, negotiable instruments and other instruments of like character which have first been approved by the Directors shall be signed by the president or vice president and the secretary or an assistant secretary, or otherwise as directed by the Directors. No contract of any officer of the corporation shall be valid without previous authorization or subsequent ratification of the Directors.

**8.06 Fiscal Year.** The Foundation shall operate on a fiscal year beginning July 1st and ending June 30th.

**8.07 Dissolution.** The corporation exists for the sole purpose of providing support to Lewis-Clark State College (the "College"). Given the significant administrative contribution provided to the corporation by the College, in the event that the corporation ceases to provide such support, the corporation may be dissolved and all assets and records will be distributed exclusively to the College or its successor in interest pursuant to the Articles of Incorporation.

**8.08 Amendment.** These bylaws may be altered, amended or repealed at any regular or special meeting of the Directors, provided a quorum is present and provided further that notice of the substance of the proposed amendment shall be submitted to each Director within the same time and in the same manner prescribed for notice of the meeting.

## **CERTIFICATION**

We, the undersigned President, Vice President and Secretary of the Lewis-Clark State College Foundation, Inc. an Idaho Corporation, do hereby certify that the foregoing Bylaws supersede all prior Bylaws, amended or restated, were duly adopted as the restated Bylaws of said corporation at a duly constituted meeting of the members of the corporation at which a quorum was present, in person or by proxy, said meeting, held March 17, 2015, and that the same do now constitute the Bylaws of said corporation.

**EXHIBIT "F"**

**Conflict of Interest Policy**

**Lewis-Clark State College Foundation Policy on Conflict of Interest  
CONFLICTS OF INTEREST POLICY**

No board member shall use his or her position, or the knowledge gained therefrom, in such a manner that conflict between the interest of the organization or any of its affiliates and his or her personal interests arises.

Each board member has a duty to place the interest of the organization foremost in any dealings with the organization and has a continuing responsibility to comply with the requirements of this policy.

Board or committee members may not obtain for themselves, their relatives, or their friends a material interest of any kind from their association with the organization.

It is, nevertheless, recognized that transactions between Lewis-Clark State College Foundation ("Foundation") and a business or other organization with whom a board member is affiliated may be beneficial to the Foundation and that the Foundation should not be precluded from entering into that beneficial transaction so long as the board member does not participate in or otherwise influence the Foundation's decision regarding the transaction.

It shall be the policy of the Foundation to require that all new Board members, prior to assuming their positions, and all present Board members, as soon as practicable after the adoption of this policy, submit in writing to the President a list of all businesses or other organizations (other than the Foundation) of which he or she is an officer, member, owner (either as a sole practitioner or partner), shareholder with a five percent (5%) or greater interest in all outstanding voting shares, employee or agent, with which the Foundation has, or may reasonably in the future have, a relationship or transaction in which the Board member or officer would have conflicting interests. Each written statement shall be resubmitted each year with any necessary changes.

The President shall become familiar with the statements of all Board members and officers in order to guide their conduct should a conflict arise. The Vice-President shall be familiar with the statement filed by the President.

At such time as any matter comes before the Board in such a way as to give rise to conflict of interest, the affected Board member or officer shall make known the potential conflict, whether disclosed by written statement or not. After answering any questions that might be asked, the affected Board member shall withdraw from the meeting until the matter has been voted upon. In the event that the affected Board member or officer fails to withdraw voluntarily, the President is empowered to require withdrawal from the room during both discussion and vote on the matter. In the event the conflict of interest affects the President, the Vice-President is empowered to require that the President withdraw in the same manner, and for the duration of discussion and action on the matter the Vice-President shall preside.

If the matter about which a conflict has arisen is the item of business for which a special meeting of the Board was called, the affected member may be counted to establish a quorum, but shall not participate in the discussion or vote on it.

ADOPTED, this 15<sup>th</sup> day of December, 1998.



**EXHIBIT "G"****Code of Ethical Conduct**

Directors and Officers of the LC State Foundation represent Lewis-Clark State College and its Foundation, and have a responsibility to conduct themselves in such a manner as to give a positive impression of Lewis-Clark State College to the public, students, and alumni. Directors and Officers of the LC State Foundation pledge to accept the following ethical guidelines:

1. Accountability: Faithfully abide by the Articles of Incorporation, Bylaws and policies of the LC state Foundation, and exercise reasonable care, faith and due diligence in organizational affairs.
2. Professional Excellence: Maintain a professional level of courtesy, respect and objectivity in all Foundation activities.
3. Professional Gain: Exercise the powers invested for the good of all members of the organization rather than his/her personal benefit. Transactions involving the Foundation and the personal or business affairs of a trustee, director, officer, or staff member should be approved in advance by the Foundation's governing board. In addition, directors, officers, and staff members of a foundation disqualify themselves from making, participating, or influencing a decision in which they have or would have a financial interest.
4. Confidential Information: Respect the confidentiality of sensitive information known due to service.
5. Collaboration and Cooperation: Respect the diversity of opinions as expressed or acted upon by the Foundation board, committees and membership, and promote collaboration, cooperation and partnership among Foundation Members.
6. Gifts: No director, trustee, officer, or staff member of a foundation shall accept from any source any material gift or gratuity in excess of fifty dollars (\$50.00) that is offered, or reasonably appears to be offered, because of the position held with the foundation; nor should an offer of a prohibited gift or gratuity be extended by such an individual on a similar basis.

**EXHIBIT "H"**

**Gift Acceptance Policy**

**Lewis-Clark State College Foundation  
Gift Acceptance Policy  
(Article VII of the Bylaws)**

**Gifts to Corporation:**

**In General**

Donors may make gifts to the corporation by naming or otherwise identifying the corporation. Gifts shall vest in the corporation upon receipt and acceptance by it, whether signified by a Director, officer, employee or agent of the corporation.

**Acceptance of Governing Documents**

Each donor, by making a gift to the corporation, accepts and agrees to all the provisions of the Articles of Incorporation and (the) Bylaws.

**Split Interest Gifts**

The corporation shall have the power and authority to arrange and administer deferred and other split-interest gifts, including, but not limited to, charitable lead and remainder unitrusts and annuity trusts, and charitable gift annuities, but only as permitted by the laws of the State of Idaho. If a gift is made to the corporation or a third party (in trust or otherwise) to make income or other payments for a period of a life or lives or other periods to any individuals or for noncharitable purposes, followed by payments to the corporation, or to make income or other payments to the corporation, followed by payments to any individuals or for noncharitable purposes, only the payments to the corporation shall be regarded as subject to the corporation's Articles of Incorporation and (the) Bylaws and then only when the corporation becomes entitled to their use. The Directors may take such actions as it, from time to time, deems necessary to protect the corporation's rights to receive such payments.

**Restricted Gifts, Acceptance**

Any donor may, with respect to a gift made by such donor to the corporation, provide at the time of the gifts restrictions or conditions which are not inconsistent with the charitable purposes of the corporation, as to (i) the manner of distribution, including amounts, times and conditions of payment and whether from principal or income, and (ii) the name, as a memorial or otherwise, for a fund given, or addition to a fund previously held, or anonymity for the gift. Restrictions involving the naming of a fund as a memorial or otherwise may be satisfied by keeping such name appropriate accounts reflecting the interest of such funds in a common investment. Nothing in the foregoing shall obligate the corporation to accept any gift or to perform any act, which, in the opinion of the Directors, will not be in the best interests of the corporation or which may jeopardize or cause it to lose its status as an exempt organization described in Section 501 (c) (3) of the Internal Revenue Code.

**EXHIBIT "I"****Policy for Accounting for Gift Revenue****Lewis-Clark State College Foundation  
Policy for Accounting of Gift Revenue**

1. **Fiduciary Responsibility.** Each gift, regardless of value, form, or designated use, shall be accounted for at the time of receipt until used as directed by the donors in support of the mission of the Foundation and/or the College. During such time as funds are retained, they shall be invested in accordance with procedures of the Finance and Investment Committee. The development office shall be responsible for any reports to donors on the use of their funds, to be accomplished in concert with operating managers and the accounting department.
2. **Allocation to Restricted Funds.** Gifts received for restricted purposes (either temporarily restricted or permanently restricted) shall be separately accounted for in order to maintain stewardship of these funds as donors direct. The segregation of these funds is to be performed by the accounting department, who shall report to donors on their disposition and use through the development office.
3. **Expenditure Controls.** The uses of gift revenue, especially restricted gifts shall be fully accounted for, beginning with their deposit to temporarily restricted fund accounts, stewardship, disposition reports, and with expenditures only as directed by the donor in keeping with the mission of the College and/or the Foundation.
4. **Allocation to Endowment.** Funds restricted to endowment or so restricted by the Foundation Board shall be invested and accounted for in accord with policies of the Finance and Investment Committee.
5. **Investment of Funds.** All gifts received shall be invested until used in accord with donor wishes, using short-term or long-term investment plans as defined by the Finance and Investment Committee. Funds restricted to endowment or so restricted by the Foundation Board shall be invested and accounted for as directed by the Finance and Investment Committee. Investment earnings shall be used only for the purposes board, with amounts as resolved by the Finance and Investment Committee.
6. **Accounting Reports.** Regular accounting reports will summarize the disposition of all money, illustrating their present disposition by source, purpose or use, and fundraising program, which shall be prepared for each Foundation Board meeting and distributed to the Board members.

**EXHIBIT "J"****Foundation Insurance**

PI-NPD-1 (01-02)



**PHILADELPHIA**  
INSURANCE COMPANIES

A Member of the Tokio Marine Group

One Bala Plaza, Suite 100  
Bala Cynwyd, Pennsylvania 19004  
610.617.7900 Fax 610.617.7940  
PHLY.com

**FLEXIPLUS FIVE**  
NOT-FOR-PROFIT ORGANIZATION DIRECTORS & OFFICERS LIABILITY INSURANCE  
EMPLOYMENT PRACTICES LIABILITY INSURANCE  
FIDUCIARY LIABILITY INSURANCE  
WORKPLACE VIOLENCE INSURANCE  
INTERNET LIABILITY INSURANCE

**Philadelphia Indemnity Insurance Company**

Policy Number: PHSD1562701

**DECLARATIONS**

**NOTICE: EXCEPT TO SUCH EXTENT AS MAY OTHERWISE BE PROVIDED HEREIN, THIS POLICY IS WRITTEN ON A CLAIMS MADE BASIS AND COVERS ONLY THOSE CLAIMS FIRST MADE DURING THE POLICY PERIOD AND REPORTED IN WRITING TO THE INSURER PURSUANT TO THE TERMS HEREIN. THE AMOUNTS INCURRED FOR DEFENSE COST SHALL BE APPLIED AGAINST THE RETENTION.**

- Item 1. Parent Organization and Address:  
LEWIS-CLARK STATE COLLEGE  
FOUNDATION  
500 8th Ave  
Lewiston, ID 83501-2691  
  
Internet Address: [www. icsc.edu](http://www.icsc.edu)
- Item 2. Policy Period: From: 09/11/2020 To: 09/11/2021  
(12:01 A.M. local time at the address shown in Item 1.)
- Item 3. Limits of Liability:
- |     |                               |    |           |                     |
|-----|-------------------------------|----|-----------|---------------------|
| (A) | Part 1, D&O Liability:        | \$ | 1,000,000 | each Policy Period. |
| (B) | Part 2, Employment Practices: | \$ |           | each Policy Period. |
| (C) | Part 3, Fiduciary Liability:  | \$ |           | each Policy Period. |
| (D) | Part 4, Workplace Violence:   | \$ |           | each Policy Period. |
| (E) | Part 5, Internet Liability:   | \$ |           | each Policy Period. |
| (F) | Aggregate, All Parts:         | \$ | 1,000,000 | each Policy Period. |

**NBP1557971**  
 Renewal of Number  
 POLICY DECLARATIONS  
**No. NBP1557971A**

**\*\*\* RENEWAL CERTIFICATE \*\*\***  
**United States Liability Insurance Company**  
**1190 Devon Park Drive, Wayne, Pennsylvania 19087**  
 A Member Company of United States Liability Insurance Group

Direct Bill Policy

NAMED INSURED AND ADDRESS:  
**LEWIS-CLARK STATE COLLEGE FOUNDATION**  
**500 8TH AVE**  
**LEWISTON, ID 83501**

POLICY PERIOD: (MO. DAY YR.) From: 03/26/2020 To: 03/26/2021

12:01 A.M. STANDARD TIME AT YOUR  
 MAILING ADDRESS SHOWN ABOVE

FORM OF BUSINESS: Non-Profit Corporation

BUSINESS DESCRIPTION: Foundation

**IN CONSIDERATION OF THE RENEWAL PREMIUM STATED BELOW, EXPIRING POLICY NUMBER NBP1557971 IS RENEWED  
 FOR THE POLICY PERIOD STATED ABOVE. PLEASE ATTACH THIS RENEWAL CERTIFICATE TO YOUR EXPIRING POLICY.**

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED.  
 THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

	PREMIUM
Businessowners Liability Coverage Part	\$611.00
Businessowners Property Coverage Part	\$50.00


**TOTAL: \$661.00**

Coverage Form(s) and Endorsement(s) made a part of this policy at time of issue

**See Endorsement EOD (1/95)**

Agent: **STONEBRAKER MCQUARY AGENCY GROUP, INC. (2141)**  
**P.O. Box 9**  
**Clarkson, WA 99403**

Issued: 03/10/2020 10:46 AM

By:   
 Authorized Representative

THESE DECLARATIONS TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART DECLARATIONS,  
 COVERAGE PART COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF.

**EXHIBIT "K"**

Committee Descriptions  
**Committee or Task Force Descriptions**

**Executive Committee**

The Executive Committee is chaired by the President of the Foundation Board.

The members of the Executive Committee shall be: The officers of the Board, the Immediate Past President, all chairs of approved committees or task forces and other members as designated.

Responsibilities include:

- \* making interim decisions for the Board (to be ratified by the full Board at its subsequent meeting);
- \* overseeing the long-range and strategic planning of the organization;
- \* serving as a sounding board for new programs or policies that should come before the full Board eventually;
- \* enforcing membership responsibilities, including attendance policies and committee appointments;
- \* monitoring progress of Board and staff in achieving the current year goals;
- \* scrutinizing budget performance;
- \* maintaining a close and candid relationship with the leadership of the College;
- \* following and evaluating the performance of the Foundation's Executive Director;
- \* evaluating Board performance by recognizing superior results or levels of service and by arranging for the departure of unproductive Board members;
- \* acting on behalf of the Board in times of emergency or necessary expediency.

The actions of the Executive Committee are subject to revision or alteration by the Board. Minutes of Executive Committee meetings are sent to each Board member. Membership in the Executive Committee will not exceed a quorum of the full Board. A quorum at any meeting of the Executive Committee shall consist of a simple majority of the members.

**Lewis-Clark State College Foundation**  
**Other Committee or Task Force Descriptions**

**Finance and Investment Committee**

The Finance and Investment Committee shall oversee the Foundation's budget activities and expenses; monitor the flow of funds to determine consistency between expenditures and generated revenue; manage the investment portfolio; establish financial policies; oversee the buildings and grounds owned by the Foundation.

**Scholarship Committee**

The Scholarship Committee shall oversee the awarding of specific scholarships; establish scholarship policies and review the process; assist in the planning of three scholarship events annually.

**Other Committees or Task Forces**

The Directors may designate and appoint one or more standing committees or task forces, each of which shall consist of two (2) or more Directors. These committees, to the extent provided in such resolution, shall have and exercise the authority of the Directors in the management of the corporation.

**EXHIBIT "L"**

**Endowment Fund Fee Policy**

**Notice of Endowment Fund Fee Policy  
LCSC Foundation**

Effective January 1, 2020, the LCSC Foundation Board will implement the following policy regarding administrative fees on endowment and accounts.

**2% Fee on Donations Received**

In general, a 2% administrative fee will apply to all donations received by the Foundation to offset the costs of accounting, fundraising and other administration costs. However, the fee will not apply in the following circumstances:

1. Additional donations to an endowment or annual fund in existence as of January 1, 2020.
2. Funding to athletic or academic programs solicited by coaches or academic staff that simply passes through the Foundation to the respective department.
3. Funding designated to the Center for Arts and History solicited by department staff that simply passes through the Foundation to the department.
4. In-kind donations.
5. Other donations solicited by faculty or others where the donated funds simply pass through the Foundation.

The 2% fee will apply at the time of the donation and will be a one-time fee. The 2% fee for gift annuities will apply at the end of the annuity when the funds become available to the Foundation, subject to the above restrictions.

**½ of 1% (.5%) Annual Fee on Average Endowment Fund Balance**

The .5% fee will be charged to Endowment Funds, Alumni Endowments, and Other Endowments. The .5% fee will not apply to the following fund classifications:

1. Gift annuities
2. General Unrestricted Funds
3. Annual Funds
4. Funds designated as Other Funds
5. LCSC Designated Funds

The .5% fee will be based on the average endowment fund balances and not on the amount of profit or loss earned or allocated for any time period. The fee will be calculated twice during



each year using .25% times the fund market values at December 31 and June 30, and will be included with the December and June six months' market allocation postings.

# OPERATING AGREEMENT

## BETWEEN

LEWIS-CLARK STATE COLLEGE FOUNDATION, INC.

## AND

LEWIS-CLARK STATE COLLEGE~~INSTITUTION/AGENCY~~

This Operating Agreement ("Operating Agreement") between Lewis-Clark State College Foundation, Inc. ("Foundation") and ~~Institution/Agency~~Lewis-Clark State College ("College") ("~~Operating Agreement~~") is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, ~~by and between Institution, herein known as "Institution/Agency" and the Foundation, Inc., herein known as "Foundation".~~

WHEREAS, the Foundation was organized and incorporated ~~in~~ April 4, 1984 for the purpose of generating voluntary private support from ~~alumni~~, ~~employees~~, friends, corporations, foundations, and others for the benefit of the ~~Institution/Agency~~College.

WHEREAS, the Foundation exists to receive contributions, raise, and manage private resources supporting the mission and priorities of the ~~Institution/Agency~~College, and provide opportunities for students and employees (e.g. ~~students~~) and a degree of institutional excellence unavailable with state funding levels.

WHEREAS, the Foundation promotes access, excellence and relevance in higher education through financial support of the College. The Foundation is dedicated to assisting the ~~Institution/Agency~~College in the building of the endowment to address, through financial support, the long-term academic and other priorities of the College~~Institution/Agency~~.

WHEREAS, as stated in its articles of incorporation, the Foundation is a separately incorporated 501(c)(3) organization and is responsible for identifying and nurturing relationships with potential donors and other friends of the ~~Institution/Agency~~College, soliciting cash, securities, real and intellectual property, and other private resources for the support of the ~~Institution/Agency~~College, and acknowledging and stewarding such gifts in accordance with donor intent and its fiduciary responsibilities.

WHEREAS, in connection with its fund-raising and asset-management activities, the Foundation utilizes, in accordance with this Operating Agreement, personnel experienced in planning for and managing private support.

WHEREAS, the mission of the Foundation is to secure, manage and distribute private contributions and support the growth and development of the ~~Institution/Agency~~College.

WHEREAS, the Institution/AgencyCollege and Foundation desire to set forth in writing various aspects of their relationship with respect to matters such as the solicitation, receipt, management, transfer and expenditure of funds.

WHEREAS, the Parties hereby acknowledge that they will at all times conform to and abide by the Idaho State Board of Education's Governing Policies and Procedures, Gifts and Affiliated Foundations Policy V.E., and that they will submit this Operating Agreement for initial State Board of Education ("State Board") approval, and thereafter every three (3) years, or as otherwise requested by the State Board, for review and re-approval.

WHEREAS, the Foundation and the Institution/AgencyCollege intend for this Operating Agreement to be the written operating agreement required by State Board Policy V.E.2.b.

NOW THEREFORE, in consideration of the mutual commitments herein contained, and other good and valuable consideration, receipt of which is hereby acknowledged, the Parties agree as follows:

## ARTICLE I Foundation's Purposes

The Foundation is the primary affiliated foundation responsible for securing, managing and distributing private support for the Institution/AgencyCollege. Accordingly, to the extent consistent with the Foundation's Articles of Incorporation and Bylaws, and the State Board's Policies and Procedures, the Foundation shall: (1) solicit, receive and accept gifts, devises, bequests and other direct or indirect contributions of money and other property made for the benefit of the Institution/AgencyCollege from the general public (including individuals, corporations, other entities and other sources); (2) manage and invest the money and property it receives for the benefit of the Institution/AgencyCollege; and (3) support and assist the Institution/AgencyCollege in fundraising and donor relations.

In carrying out its purposes, the Foundation shall not engage in activities that: (1) conflict with federal or state laws, rules and regulations (including all applicable provisions of the Internal Revenue Code and corresponding Federal Treasury Regulations); (2) cause the InstitutionCollege to be in violation of applicable policies of the State Board; or (3) conflict with the role and mission of the Institution/AgencyCollege.

## ARTICLE II Foundation's Organizational Documents

The Foundation shall provide copies of its current Articles of Incorporation and Bylaws to the Institution/AgencyCollege. The Foundation, to the extent practicable, also shall provide the Institution/AgencyCollege with an advance copy of any proposed amendments to the Foundation's Articles of Incorporation and Bylaws. The Institution/AgencyCollege shall provide all such documents to the State Board.

## ARTICLE III

**Institution/AgencyCollege Resources and Services**1. Institution/AgencyCollege Employees.

a. Institution/AgencyCollege/Foundation Liaison: The Institution/AgencyCollege's Director of Vice President for Institution/Agency College Advancement shall serve as the Institution/AgencyCollege's Liaison to the Foundation and as the Foundation Executive Director.

i. ~~The~~ Institution/AgencyCollege's ~~Vice President for~~ Institution/AgencyDirector of College Advancement shall be responsible for coordinating the Institution/AgencyCollege's and the Foundation's fundraising efforts and for supervising and coordinating the administrative support provided by the Institution/AgencyCollege to the Foundation.

i.

ii. The ~~Vice President for Institution/AgencyCollege's~~ Director of College Advancement or designee shall attend each meeting of the Foundation's Board of Directors and shall report on behalf of the Institution/AgencyCollege to the Foundation's Board of Directors regarding the Institution/AgencyCollege's coordination with the Foundation's fundraising efforts.

~~b. Managing Director: The Managing Director of the Foundation is an employee of the Institution/Agency loaned to the Foundation. All of the Managing Director's services shall be provided directly to the Foundation as follows:~~

i. ~~The~~ Managing College's Director of College Advancement shall be responsible for the supervision and control of the day-to-day operations of the Foundation. More specific duties of the Director of College Advancement ~~Managing Director may be set forth in a written job description prepared by the Foundation and attached to the Loaned Employee Agreement described in paragraph (iii) below. The Managing Director shall be subject to the control and direction of the Foundation.~~ is set forth in the Service Agreement attached hereto as Exhibit "B" ("Service Agreement").

ii. ~~The Managing Director shall be entitled to Institution/Agency benefits to the same extent and on the same terms as other full-time Institution/Agency employees of the same classification as the~~

~~*Managing Director.* The Foundation shall reimburse the Institution/Agency for all costs incurred by the Institution/Agency in connection with the Institution/Agency's employment of the *Managing Director* including such expenses as salary, payroll taxes, and benefits.~~

~~iii. The Foundation and the Institution/Agency shall enter into a written agreement, in the form of Exhibit "A" hereto, establishing that the *Managing Director* is an employee of the Institution/Agency but subject to the direction and control of the Foundation (generally a "Loaned Employee Agreement"). The Loaned Employee Agreement shall also set forth the relative rights and responsibilities of the Foundation and the Institution/Agency with respect to the *Managing Director*, including the following:~~

~~1. The Foundation shall have the right to choose to terminate the Loaned Employee Agreement in accordance with Foundation Procedures and applicable law, such termination may include election by the Foundation for non-renewal of the Loaned Employee Agreement.~~

~~— Termination of the Loaned Employee Agreement in accordance with the Foundation procedures and applicable law shall constitute grounds for a termination proceeding by the Institution/Agency or for non-renewal of any obligation of the Institution/Agency to employ the Loaned Employee, subject to applicable legal and procedural requirements of the State of Idaho and the Institution/Agency.~~

~~2. The Loaned Employee shall be subject to the supervision, direction and control of the Foundation Board of Directors and shall report directly to the Foundation president or designee.~~

~~b. *Other Loaned Employees.* Other loaned employees providing services pursuant to this Operating Agreement shall also serve pursuant to a Loaned Employee Agreement which shall set forth their particular responsibilities and duties.~~

iii.

d. *Other Institution/AgencyCollege Employees Holding Key Foundation or Administrative or Policy Positions:* In the event the Institution/AgencyCollege and the Foundation determine it is appropriate for one or more additional Institution/AgencyCollege employees who function in a key administrative or policy making capacity for the Institution/AgencyCollege (including, but not limited to, any Institution/AgencyCollege Vice-President or equivalent position) to serve both the Institution/AgencyCollege and the Foundation, then, pursuant to State Board Policy V.E., this Operating Agreement shall be amended to clearly set forth the authority and responsibilities of the position of any such Institution/AgencyCollege employee.

e. *Limited Authority of Institution/AgencyCollege Employees.* Notwithstanding the foregoing provisions, no Institution/AgencyCollege employee who functions in a key administrative or policy making capacity for the Institution/AgencyCollege (including, but not limited to, any Institution/AgencyCollege Vice-President or equivalent position) shall be permitted to have responsibility or authority for Foundation policy making, financial oversight, spending authority, and investment decisions, ~~or the supervision of Foundation employees.~~

2. Support Services. The ~~Institution/Agency~~College shall provide administrative, financial, accounting, investment, and development services to the Foundation, as set forth in the Service Agreement attached hereto as Exhibit "B" ("Service Agreement"). All ~~Institution/Agency~~College employees who provide support services to the Foundation shall remain ~~Institution/Agency~~College employees under the direction and control of the ~~Institution/Agency~~College, unless agreed that the direction and control of any such employee will be vested with the Foundation in a written Loaned Employee Agreement. The Foundation will pay directly to the ~~Institution/Agency~~College the portion of the overhead costs associated with the services provided to the Foundation pursuant to the Service Agreement. The portion of such costs shall be determined by the agreement of the Parties.

3. ~~Institution/Agency~~College Facilities and Equipment. The ~~Institution/Agency~~College shall provide the use of the ~~Institution/Agency~~College's office space and equipment to the Foundation upon the terms agreed to by the ~~Institution/Agency~~College and the Foundation. The terms of use (including amount of rent) of the ~~Institution/Agency~~College's office space and equipment shall be as set forth in the Service Agreement.

4. No Foundation Payments to ~~Institution/Agency~~College Employees. Notwithstanding any provision of this Operating Agreement to the contrary, the Foundation shall not make any payments directly to an ~~Institution/Agency~~College employee in connection with any resources or services provided to the Foundation pursuant to this Operating Agreement.

#### ARTICLE IV Management and Operation of Foundation

The management and control of the Foundation shall rest with its Board of Directors.

##### 1. Gift Solicitation.

*Authority of ~~Vice President for Institution/Agency~~College's Director of College Advancement.* All Foundation gift solicitations shall be subject to the direction and control of the ~~Director~~~~Vice President~~ for ~~Institution/Agency~~College Advancement.

a. *Form of Solicitation.* Any and all Foundation gift solicitations shall make clear to prospective donors that (1) the Foundation is a separate legal and tax entity organized for the purpose of encouraging voluntary, private gifts, trusts, and bequests for the benefit of the ~~Institution/Agency~~College; and (2) responsibility for the governance of the Foundation, including the investment of gifts and endowments, resides in the Foundation's Board of Directors.

b. *Foundation is Primary Donee.* Absent unique circumstances, prospective donors shall be requested to make gifts directly to the Foundation rather than to the ~~Institution/Agency~~College.

## 2. Acceptance of Gifts.

a. *Approval Required Before Acceptance of Certain Gifts.* Before accepting contributions or grants for restricted or designated purposes that may require administration or direct expenditure by the Institution/AgencyCollege, the Foundation shall obtain the prior written approval of the Institution/AgencyCollege. Similarly, the Foundation shall also obtain the prior written approval of the Institution/AgencyCollege of the acceptance of any gift or grant that would impose a binding financial or contractual obligation on the Institution/AgencyCollege.

b. *Acceptance of Gifts of Real Property.* The Foundation shall conduct adequate due diligence on all gifts of real property that it receives. All gifts of real property intended to be held and used by the Institution/AgencyCollege shall be approved by the State Board before acceptance by the Institution/AgencyCollege and the Foundation. In cases where the real property is intended to be used by the Institution/AgencyCollege in connection with carrying out its proper functions, the real property may be conveyed directly to the Institution/AgencyCollege, in which case the Institution/AgencyCollege and not the Foundation shall be responsible for the due diligence obligations for such property.

c. *Processing of Accepted Gifts.* All gifts received by the Institution/AgencyCollege or the Foundation shall be delivered (if cash) or reported (if any other type of property) to the Foundation's designated gift administration office (a unit of the Foundation) in accordance with the Service Agreement.

3. Fund Transfers. The Foundation agrees to transfer funds, both current gifts and income from endowments, to the Institution/AgencyCollege on a regular basis as agreed to by the Parties. The Foundation's Treasurer or other individual to whom such authority has been delegated by the Foundation's Board of Directors shall be responsible for transferring funds as authorized by the Foundation's Board of Directors.

a. *Restricted Gift Transfers.* The Foundation shall inform the Institution/AgencyCollege officials into whose program or department funds are transferred of any restrictions on the use of such funds and provide such officials with access to any relevant documentation concerning such restrictions. Such Institution/AgencyCollege officials shall account for such restricted funds separate from other program and department funds in accordance with applicable Institution/AgencyCollege policies and shall notify the Foundation on a timely basis regarding the uses expenditure of such restricted funds.

b. *Unrestricted Gift Transfers.* The Foundation may utilize any unrestricted gifts it receives for any use consistent with the Foundation's purposes as generally summarized in Article I of this Operating Agreement. If the Foundation elects to use unrestricted gifts to make grants to the Institution/AgencyCollege, such grants shall be made at such times and in such amounts as the Foundation's Board of Directors may determine in the Board's sole discretion.

## 4. Foundation Expenditures and Financial Transactions.



a. *Signature Authority.* The Foundation designates the Foundation Board President and Vice President~~Treasurer~~ as the individual(s) with signature authority for the Foundation in all financial transactions. The Foundation may supplement or change this designation with written notice to the Institution/AgencyCollege; provided, however, in no event may the person(s) with Foundation signature authority for financial transactions be an Institution/AgencyCollege employee.

b. *Expenditures.* All expenditures of the Foundation shall be (1) consistent with the charitable purposes of the Foundation, and (2) not violate restrictions imposed by the donor or the Foundation as to the use or purpose of the specific funds.

5. Institution/AgencyCollege Report on Distributed Funds. On a regular basis, which shall not be less than annually, the Institution/AgencyCollege shall report to the Foundation on the use of restricted and unrestricted funds transferred to the Institution/AgencyCollege. This report shall specify the restrictions on any restricted funds. The Foundation shall approve expenditures prior to fund transfers to the College and the Foundation will retain details of the~~and the~~ uses of such funds.

6. Transfer of Institution/AgencyCollege Assets to the Foundation. No Institution/AgencyCollege funds, assets, or liabilities may be transferred directly or indirectly to the Foundation without the prior approval of the State Board except when:

- a. A donor inadvertently directs a contribution to the Institution/AgencyCollege that is intended for the Foundation in which case such funds may be transferred to the Foundation so long as the documents associated with the gift indicate the Foundation was the intended recipient of the gift. In the absence of any such indication of donor intent, such funds shall be deposited in an institutional account, and State Board approval will be required prior to the Institution/AgencyCollege's transfer of such funds to the Foundation.
- b. The Institution/AgencyCollege has gift funds that were originally transferred to the Institution/AgencyCollege from the Foundation and the Institution/AgencyCollege wishes to return a portion of those funds to the Foundation for reinvestment consistent with the original intent of the gift.
- c. Transfers of a *de minimis* amount not to exceed \$10,000 from the InstitutionCollege to the Foundation provided such funds are for investment by the Foundation for scholarship or other general Institution/AgencyCollege support purposes. This exception shall not apply to payments by the InstitutionCollege to the Foundation for obligations of the InstitutionCollege to the Foundation, operating expenses of the Foundation or other costs of the Foundation.



- d. The transfer is of funds raised by the ~~Institution~~College for scholarship or program support and the funds are deposited with the affiliated foundation for investment and distribution in accordance with the purpose for which the funds were raised.

7. Separation of Funds. All Foundation assets (including bank and investment accounts) shall be held in separate accounts in the name of the Foundation using Foundation's Federal Employer Identification Number. The financial records of the Foundation shall be kept using a separate chart of accounts. For convenience purposes, some Foundation expenses may be paid through the ~~Institution/Agency~~College such as payroll and campus charges. These expenses will be paid through accounts clearly titled as belonging to the Foundation and shall be reimbursed by the Foundation on a regular basis.

8. Insurance. The Foundation shall maintain insurance to cover the operations and activities of its directors, officers and employees. The Foundation shall also maintain general liability coverage.

9. Investment Policies. All funds held by the Foundation, except those intended for short term expenditures, shall be invested in accordance with the Uniform Prudent Management of Institutional Funds Act, Idaho Code Sections 33-5001 to 33-5010, and the Foundation's investment policy which is attached hereto as Exhibit "C"; provided, however, the Foundation shall not invest any funds in a manner that would violate the applicable terms of any restricted gifts. The Foundation shall provide to the ~~Institution/Agency~~College any updates to such investment policy which updates shall also be attached hereto as Exhibit "C".

10. Organization Structure of the Foundation. The organizational structure of the Foundation is set forth in the Foundation's Articles of Incorporation and the Bylaws. The Foundation agrees to provide copies of such Articles and Bylaws as well as any subsequent amendments to such documents to both the ~~Institution/Agency~~College and the State Board. Any such amendments to the Articles and Bylaws shall be attached hereto as additions to Exhibit "D" and "E", respectively.

## ARTICLE V

### Foundation Relationships with the ~~Institution/Agency~~College

At all times and for all purposes of this Operating Agreement, the ~~Institution~~College and the Foundation shall act in an independent capacity and not as an agent or representative of the other Party, provided, however, the ~~Institution~~College and the Foundation acknowledge that the ~~Association~~Foundation carries out functions for the benefit of the ~~Institution~~College. As such, the Parties shall share certain information as provided below.

1. Access to Records. Subject to recognized legal privileges and any third-party obligations of confidentiality and protection of proprietary information, each Party shall have the right to access the other Party's financial, audit, donor and related books and records as needed to properly conduct its operations.

2. Record Management.

a. The Parties recognize that the records of the Foundation relating to actual or potential donors contain confidential information. Such records shall be kept by the Foundation in such a manner as to protect donor confidentiality to the fullest extent allowed by law. Notwithstanding the access to records permitted above, access to such confidential information by the Institution/AgencyCollege shall be limited to the Institution/AgencyCollege's President and any designee of the Institution/AgencyCollege's President.

b. The Foundation shall be responsible for maintaining all permanent records of the Foundation including but not limited to the Foundation's Articles, Bylaws and other governing documents, all necessary documents for compliance with IRS regulations, all gift instruments, and all other Foundation records as required by applicable laws.

c. Although the Foundation is a private entity and is not subject to the Idaho Public Records Law, the Foundation, while protecting personal and private information related to private individuals, is encouraged, to the extent reasonable, to be open to public inquiries related to revenue, expenditure policies, investment performance and/or similar non-personal and non-confidential financial or policy information.

3. Name and Marks. Consistent with its mission to help to advance the plans and objectives of the InstitutionCollege, the InstitutionCollege grants the FoundationAssociation the limited, non-exclusive right to use ~~of the the~~ name of the InstitutionCollege, for use in its support of the InstitutionCollege. The FoundationAssociation shall operate under the Institution's College's logotype in support of its organizational business and activities. Any use by the FoundationAssociation of the CollegeInstitution's logotypes or other trademarks must be with prior approval of the InstitutionCollege through the Communications and Marketing DepartmentOffice of Trademark Licensing and Enforcement.

4. Identification of Source. The Foundation shall be clearly identified as the source of any correspondence, activities and advertisements emanating from the Foundation.

5. Establishing the Foundation's Annual Budget. The Foundation shall provide the Institution/AgencyCollege with the Foundation's proposed annual operating budget and capital expenditure plan (if any) prior to the date the Foundation's Board of Directors meeting at which the Foundation's Board will vote to accept such operating budget. Any of the Institution/AgencyCollege's funding requests to the Foundation shall be communicated in writing to the Foundation's PresidentTreasurer and Assistant-Treasurer-Executive Director by April-March 1 of each year.

6. Attendance of Institution/AgencyCollege's President at Foundation's Board of Director Meetings. —The Institution/AgencyCollege's President shall be invited to attend all

meetings of the Foundation's Board of Directors and may act in an advisory capacity in such meetings.

7. Supplemental Compensation of Institution/AgencyCollege Employees. Any supplemental compensation of Institution/AgencyCollege employees by the Foundation must be preapproved by the State Board. Any such supplemental payment or benefits must be paid by the Foundation to the Institution/AgencyCollege, and the Institution/AgencyCollege shall then pay compensation to the employee in accordance with the Institution/AgencyCollege's normal practice. No Institution/AgencyCollege employee shall receive any payments or other benefits directly from the Foundation. The Foundation Board of Directors may provide funds to the College annually for Faculty and Staff Achievement Awards, in an amount not to exceed \$25,000. Such awards will be made primarily with funds donated to the Foundation for that purpose and any additional Foundation funds used will be approved by the Board of Directors in the Foundation's annual budget. The College identifies the faculty and staff who will be recipients of these awards and disburses the funds to the recipients.

## ARTICLE VI

### Audits and Reporting Requirements

1. Fiscal Year. The Foundation and the Institution/AgencyCollege shall have the same fiscal year.

2. Annual Audit. On an annual basis, the Foundation shall have an audit conducted by a qualified, independent certified public accountant who is not a director or officer of the Foundation. The annual audit will be provided on a timely basis to the Institution/AgencyCollege's President and the State Board, in accordance with the State Board's schedule for receipt of said annual audit. The Foundation's annual statements will be presented in accordance with standards promulgated by the Financial Accounting Standards Board (FASB). The Foundation is a component unit of the Institution/AgencyCollege as defined by the Government Accounting Standards Board (GASB). Accordingly, the Institution/AgencyCollege is required to include the Foundation in its financial statements which follow a GASB format. Therefore, the Foundation will include in its audited financial statement, schedules reconciling the FASB Statements to GASB standards in the detail required by GASB Standards. The annual audited financial statements, including the auditor's independent opinion regarding such financial statements, and schedules shall be submitted to the Institution/AgencyCollege Controller's Office ~~Office of Finance and Administration~~ in sufficient time to incorporate the same into the Institution/AgencyCollege's statements. All such reports and any accompanying documentation shall protect donor privacy to the extent allowable by law.

3. Separate Audit Rights. The Institution/AgencyCollege agrees that the Foundation, at its own expense, may at any time during normal business hours conduct or request additional audits or reviews of the Institution/AgencyCollege's books and records pertinent to the expenditure of donated funds. The Foundation agrees that the Institution/AgencyCollege and the State Board,

at its own expense, may, at reasonable times, inspect and audit the Foundation's books and accounting records.

4. Annual Reports to Institution/AgencyCollege President. On a regular basis, which shall not be less than annually, the Foundation shall provide a written report to the Institution/AgencyCollege President setting forth the following items:

- a. the annual financial audit report;
- b. an annual report of Foundation transfers made to the Institution/AgencyCollege, summarized by Institution/AgencyCollege department;
- c. an annual report of unrestricted funds received by the Foundation;
- d. an annual report of unrestricted funds available for use during the current fiscal year;
- e. a list of all of the Foundation's officers, directors, and employees;
- f. a list of Institution/AgencyCollege employees for whom the Foundation made payments to the Institution/AgencyCollege for supplemental compensation or any other approved purpose during the fiscal year, and the amount and nature of that payment;
- g. a list of all state and federal contracts and grants managed by the Foundation;
- h. an annual report of the Foundation's major activities;
- i. an annual report of each real estate purchase or material capital lease, investment, or financing arrangement entered into during the preceding Foundation fiscal year for the benefit of the Institution/AgencyCollege; and
- j. an annual report of (1) any actual litigation involving the Foundation during its fiscal year; (2) identification of legal counsel used by the Foundation for any purpose during such year; and (3) identification of any potential or threatened litigation involving the Foundation.

## ARTICLE VII

### Conflict of Interest and Code of Ethics and Conduct

1. Conflicts of Interest Policy and Code of Ethics and Conduct. The Foundation's Conflict of Interest Policy is attached as Exhibit "F", and its Code of Ethical Conduct is set forth as Exhibit "G".

2. Dual Representation. Under no circumstances may an Institution/AgencyCollege employee represent both the Institution/AgencyCollege and the Foundation in any negotiation, sign for both entities in transactions, or direct any other institutionCollege employee under their immediate supervision to sign for the related Party in a transaction between the Institution/AgencyCollege and the Foundation. This shall not prohibit Institution/AgencyCollege employees from drafting transactional documents that are subsequently provided to the Foundation for its independent review, approval and use.

3. Contractual Obligation of Institution/AgencyCollege. The Foundation shall not enter into any contract that would impose a financial or contractual obligation on the Institution/AgencyCollege without first obtaining the prior written approval of the Institution/AgencyCollege. Institution/AgencyCollege approval of any such contract shall comply with policies of the State Board with respect to State Board approval of Institution/AgencyCollege contracts.

4. Acquisition or Development of Real Estate. The Foundation shall not acquire or develop real estate or otherwise build facilities for the Institution/AgencyCollege's use without first obtaining approval of the State Board. In the event of a proposed purchase of real estate by the Foundation for the Institution/AgencyCollege, the Institution/AgencyCollege shall notify the State Board at the earliest possible date. Any such proposed purchase for the Institution/AgencyCollege's use shall be a coordinated effort of the Institution/AgencyCollege and the Foundation. Any notification to the State Board required pursuant to this paragraph may be made through the State Board's chief executive officer in executive session pursuant to the open meeting law, set forth in Idaho Code, Title 74, Chapter 2.

## ARTICLE VIII General Terms

1. Effective Date. This Operating Agreement shall be effective on the date set forth above.

2. Right to Terminate. This Operating Agreement shall terminate upon the mutual written agreement of both Parties. In addition, either Party may, upon 90 days prior written notice to the other, terminate this Operating Agreement, and either Party may terminate this Operating Agreement in the event the other Party defaults in the performance of its obligations and fails to cure the default within 30 days after receiving written notice from the non-defaulting Party specifying the nature of the default. Should the Institution/AgencyCollege choose to terminate this Operating Agreement by providing 90 days written notice or in the event of a default by the Foundation that is not cured within the time frame set forth above, the Foundation may require the Institution/AgencyCollege to pay, within 180 days of written notice, all debt incurred by the Foundation on the Institution/AgencyCollege's behalf including, but not limited to, lease payments, advanced funds, and funds borrowed for specific initiatives. Should the Foundation choose to terminate this Operating Agreement by providing 90 days written notice or in the event of a default by the Institution/AgencyCollege that is not cured within the time frame set forth

above, the ~~Institution/Agency~~College may require the Foundation to pay any debt it holds on behalf of the Foundation in like manner. The Parties agree that in the event this Operating Agreement shall terminate, they shall cooperate with one another in good faith to negotiate a new agreement within six (6) months. In the event negotiations fail, the Parties will initiate the dispute resolution mechanism described below (through reference to the Foundation ~~President~~Chair and the State Board) to further attempt to negotiate a new agreement within the time period specified herein, they will refer the matter to the State Board for resolution. Termination of this Operating Agreement shall not constitute or cause dissolution of the Foundation.

3. Dispute Resolution. The Parties agree that in the event of any dispute arising from this Operating Agreement, they shall first attempt to resolve the dispute by working together with the appropriate staff members of each of the Parties. If the staff cannot resolve the dispute, then the dispute will be referred to the ~~Chair~~President of the Board of the Foundation and the ~~Institution/Agency~~College President. If the Foundation Board ~~President~~Chair and ~~Institution/Agency~~College President cannot resolve the dispute, then the dispute will be referred to the Foundation ~~President~~Chair and the State Board for resolution. If they are unable to resolve the dispute, the Parties shall submit the dispute to mediation by an impartial third Party or professional mediator mutually acceptable to the Parties. If and only if all the above mandatory steps are followed in sequence and the dispute remains unresolved, then, in such case, either Party shall have the right to initiate litigation arising from this Operating Agreement. In the event of litigation, the prevailing Party shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses, including court costs, attorney fees, and other professional expenses.

4. Dissolution of Foundation. Consistent with provisions appearing in the Foundation's Bylaws and Articles of Incorporation, should the Foundation cease to exist or cease to be an Internal Revenue Code §501(c)(3) organization, the Foundation shall transfer to the State Board (or ~~Institution~~College, as applicable) the balance of all property and assets of the Foundation from any source, after the payment of all debts and obligations of the Foundation, and such property shall be vested in the State Board in trust for the continued support~~use~~ and benefit of the ~~Institution/Agency~~College.

5. Board Approval of Operating Agreement. Prior to the Parties' execution of this Operating Agreement, an unexecuted copy of this Operating Agreement must be approved by the State Board. Furthermore, this Operating Agreement, including any subsequent modifications and restatements of this Operating Agreement, shall be submitted to the State Board for review and approval no less frequently than once every three (3) years or more frequently if otherwise requested by the State Board.

6. Modification. Any modification to the Operating Agreement or Exhibits hereto shall be in writing and signed by both Parties.

7. Providing Document to and Obtaining Approval from the ~~Institution/Agency~~College. Unless otherwise indicated herein, any time documents are to be



provided to the Institution/AgencyCollege or any time the Institution/AgencyCollege's approval of any action is required, such documents shall be provided to, or such approval shall be obtained from, the Institution/AgencyCollege's President or an individual to whom such authority has been properly delegated by the Institution/AgencyCollege's President.

8. Providing Documents to and Obtaining Approval from the Foundation. Unless otherwise indicated herein, any time documents are to be provided to the Foundation or any time the Foundation's approval of any action is required, such document shall be provided to, or such approval shall be obtained from, the Foundation's Board of Directors or an individual to whom such authority has been properly delegated by the Foundation's Board of Directors.

9. Notices. Any notices required under this Operating Agreement may be mailed or delivered as follows:

To the Institution/AgencyCollege:

President  
Lewis-Clark State CollegeInstitution/Agency  
500 8<sup>th</sup> AvenueStreet Address  
Lewiston, ID 83501City, State and Zip

To the Foundation:

ExecutiveManaging Director  
Lewis-Clark State College Foundation, Inc.  
500 8<sup>th</sup> AvenueStreet Address  
Lewiston, ID 83501City, State and Zip

10. No Joint Venture. At all times and for all purposes of this Memorandum of Understanding, the Institution/AgencyCollege and the Foundation shall act in an independent capacity and not as an agent or representative of the other Party.

11. Liability. The Institution/AgencyCollege and Foundation are independent entities and neither shall be liable for any of the other's contracts, torts, or other acts or omissions, or those of the other's trustees, directors, officers, members or employees.

12. Indemnification. To the extent allowed by law, the Institution/AgencyCollege and the Foundation each agree to indemnify, defend and hold the other Party, their officers, directors, agents and employees harmless from and against any and all losses, liabilities, and claims, including reasonable attorney's fees arising out of or resulting from the willful act, fault, omission, or negligence of the Party, its employees, contractors, or agents in performing its obligations under this Operating Agreement. This indemnification shall include, but not be limited to, any and all claims arising from an employee of one Party who is working for the benefit of the other Party. Nothing in this Operating Agreement shall be construed to extend to the

~~Institution/Agency~~College's liability beyond the limits of the Idaho Tort Claims Act, Idaho Code §6-901 et seq.

13. Assignment. This Operating Agreement is not assignable by either Party, in whole or in part.

14. Governing Law. This Operating Agreement shall be governed by the laws of the State of Idaho.

15. Severability. If any provision of this Operating Agreement is held invalid or unenforceable to any extent, the remainder of this Operating Agreement is not affected thereby and that provision shall be enforced to the greatest extent permitted by law.

16. Entire Agreement. This Operating Agreement constitutes the entire agreement among the Parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings pertaining thereto.

17. List of Attachments

- a. Exhibit A – Loaned Employee Agreement
- b. Exhibit B - Service Agreement
- c. Exhibit C – Investment Policy
- d. Exhibit D - Articles of Incorporation
- e. Exhibit E – Bylaws
- f. Exhibit F – Conflict of Interest Policy
- g. Exhibit G – Code of Ethical Conduct
- h. Exhibit H – Gift Acceptance Policy
- i. Exhibit I - Policy for Accounting for Gift Revenue
- j. Exhibit J – Foundation Insurance
- k. Exhibit K - Committee Descriptions
- ~~16.~~l. Exhibit L – Endowment Fund Fee Policy



IN WITNESS WHEREOF, the ~~Institution/Agency~~College and the Foundation have executed this Operating Agreement on the above specified date.

Lewis-Clark State College~~Institution/Agency~~

By: \_\_\_\_\_  
Its: President

Foundation, Inc.

Lewis-Clark State College~~Institution/Agency~~

By: \_\_\_\_\_  
Its: President~~Chairman~~

**EXHIBIT "A"**

Loaned Employee Agreement

Not applicable at this time

**EXHIBIT "B"**

## Service Agreement

1. Staff

- a. The Director of College Advancement, an employee of the College, shall serve as Executive Director of the Foundation and shall supervise the College Advancement staff who are likewise employees of the College and who will provide administrative services to the Foundation. The College is responsible for the employment and compensation of College Advancement Staff providing services to the Foundation, including the Director of College Advancement in his or her capacity as Executive Director of the Foundation. Subject to approval by the President of the College, the Foundation may appoint an employee of the College to serve as Treasurer. The Treasurer shall provide and/or supervise the provision of financial and accounting services for the Foundation. While providing services to the Foundation, College employees are subject to the oversight and direction of the Board of Directors of the Foundation. Executive officers of the College (President and Vice Presidents) shall not serve as Foundation Board officers or staff members.

2. Additional services the College provides to the Foundation

- a. Access to the College's financial system to receive, disburse and account for funds of the Foundation. Except for funds transferred into Foundation's brokerage accounts, all funds received by the Foundation shall be deposited with the College and credited to one or more agency accounts established in the name of the Foundation within the College's financial system. In using the College's financial services, the Foundation shall comply with the College's financial and administrative policies and procedures.
- b. Accounting services, to include cash receipts and disbursements, accounts receivable and payable, bank reconciliation, reporting and analysis, and internal auditing.
- c. Investment, insurance, and similar services.
- d. Development services, including research, information systems, donor records, communications and special events.

3. Facilities, Furnishings and Office Equipment

- a. The business office of the Foundation shall be located in the College Advancement Office at 500 8th Avenue, Lewiston, Idaho. The College will provide office space to the Foundation including providing all maintenance and utilities, and local and long-distance telephone service for use in the business of the Foundation. The furnishings, computers, copiers and other items of office equipment used in the Foundation's office are owned by the College but shall be made available for use in the business of the Foundation. The cost of repairing, maintaining and replacing such furnishings and equipment shall be paid by the College.

4. Reimbursement

- a. Except as otherwise provided in the Agreement and Exhibit “L” (“Endowment Fund Fee Policy”), the Foundation shall have no obligation to reimburse the College for costs incurred by the College for personnel, use of facilities or equipment or for other services provided to the Foundation by the College. The Foundation established a fee as referenced in Exhibit L to assist with offsetting general operating costs such as accounting, fundraising, and other administration costs in support of the mission and vision of LC State. Neither the Foundation nor the College require the fee revenue to be transferred to the College though, as mutually agreed upon, all or part of the fee revenue may be transferred to offset the cost of services provided under this agreement. No payments shall be made directly from the Foundation to College employees in connection with resources or services provided to the Foundation under this Agreement.

## EXHIBIT "C"

### Investment Policy

#### **PURPOSE**

The purpose of this Investment Policy Statement (IPS) is to establish a clear understanding between the Lewis-Clark State College Foundation ("Foundation") and the Foundation's professional "Advisor" as to the investment objectives and policies applicable to the Foundation's investment portfolio. This Investment Policy Statement will:

- Establish reasonable expectations, objectives and guidelines in the investment of the portfolio's assets
- Set forth an investment structure detailing permitted asset classes and expected allocation among asset classes
- Encourage effective communication between the Advisor and the Foundation.
- Create the framework for a well-diversified asset mix that can be expected to generate acceptable long term returns at a level of risk suitable to the Foundation.

This IPS is not a contract. This IPS is intended to be a summary of an investment philosophy that provides guidance for the Advisor.

#### **ADVISOR CONTRACT**

The Advisor Contract will typically be awarded for an initial three (3) year period with an option for one additional two (2) year renewal. The decision to enter a new contract or engage in an RFP process or other process shall be at the sole discretion of the Foundation Board. The Board may, at its discretion, choose to forego an RFP process or other process in favor of entering into a new contract with the existing advisor. All fees shall be firm for the term of the contract and will be included in any contract agreement. A performance review will be conducted annually by the Foundation Finance & Investment Committee, or by any of its designated subcommittees.

If, for any reason, the Foundation should wish to discontinue the professional's services, the Foundation, with thirty (30) days' written notice, may terminate the contract.

#### **INVESTMENT OBJECTIVES**

The primary investment objective for the Foundation's assets is to seek long term growth. However, the Foundation does intend to withdraw 4% annually to provide for required distribution. The cash flow intentions of the Foundation are detailed in the Foundation's Spending Policy.

#### **TIME HORIZON**

For the purposes of planning, the time horizon for investments is perpetuity. The Foundation recognizes that capital values fluctuate over shorter periods and the possibility of capital loss does exist. However, historical asset class return data suggest that the risk of principal loss over a holding period of at least ten years can be minimized with the long-term investment mix employed under this IPS.

#### **RISK TOLERANCE**

The Foundation is a moderate risk taker with regard to these investment assets. The portfolio will be managed in a manner that seeks to minimize principal fluctuations over the established horizon and is consistent with the stated objectives. Financial research has demonstrated that risk is best minimized through diversification of assets.

#### **ASSET ALLOCATION**

Academic research suggests that the decision to allocate total assets among various asset classes will far outweigh security selection and other decisions that impact portfolio performance. After reviewing the long-term performance and risk characteristics of various asset classes and balancing the risks and rewards of market behavior, the following asset classes were selected to achieve the objectives of the Foundation's Portfolio.

Table 1-1

<b><u>Asset Category</u></b>	<b><u>Target Allocation</u></b>	<b><u>Acceptable Range</u></b>
<b><u>CASH</u></b>	<b><u>2%</u></b>	<b><u>1% - 10%</u></b>

<b><u>FIXED INCOME</u></b>	<b><u>28%</u></b>	<b><u>20% - 40%</u></b>
<b><u>STOCKS</u></b>	<b><u>70%</u></b>	<b><u>60%-80%</u></b>
<b><u>TOTAL</u></b>	<b><u>100%</u></b>	

\*International stocks not to exceed 17.5% of the total portfolio.

### **Updated Allocations**

From time to time, it may be desirable to amend the basic allocation policy or calculations. When such changes are made, updates will be attached to this Investment Policy Statement as Appendix A and will be considered part of this Investment Policy Statement. The Advisor will provide to the Foundation the recommended or desired targeted allocation percentages. The recommendation will fall within the acceptable range as indicated in table 1-1.

### **Portfolio Rebalancing**

From time to time, market conditions may cause the portfolio's investment in various asset classes to vary from the targeted allocation. To remain consistent with the asset allocation guidelines established by this IPS, each asset class in which the portfolio invests shall be reviewed annually by the Advisor and rebalanced back to the recommended weighting if the actual weighting varies by 3% or more from the recommended weighting (e.g., if the targeted allocation for a particular asset class is 10% and the actual is less than 7% or more than 13%, that asset class will be adjusted back to the targeted 10% allocation by either adding assets or distributing assets to or from the other asset classes.)

### **DIVERSIFICATION**

Investment of the Foundation's funds shall be limited to the following categories:

#### Permitted Investment Categories

1. Cash and cash equivalents, including money market funds
2. Fixed income assets
  - a) Bonds (corporate, U.S. government, or government agency)
  - b) Bank certificates of deposit
3. Stocks (Large and Small U.S. -based and Foreign companies)

#### Excluded Categories for Investment

1. Derivatives
2. Natural resources
3. Precious metals
4. Venture capital

#### Investment Concentration

At all times there must be a minimum of three investment categories represented among the Foundation's assets. There shall be no maximum limit to the number of categories. No individual security held shall represent more than 14% of the total portfolio. (The Foundation considers mutual funds and ETFs to be a security).

### **INVESTMENT MONITORING AND CONTROL PROCEDURES**

#### Reports

1. Advisor shall provide the Foundation with a monthly report that lists all assets held by the Foundation, values for each asset and all transactions affecting assets within the portfolio, including additions and withdraws.
2. Advisor shall provide the Foundation on a quarterly basis and within 30 days of the end of each calendar quarter, the following reports:
  - a) Portfolio performance results over the last quarter, year, 3 years and 5 years
  - b) Performance results of comparative benchmarks for the same periods; performance shall be reported on a time-weighted basis.
3. Advisor shall assist in the development of investment policies, objectives and guidelines.

4. Advisor shall prepare asset allocation analyses as necessary and recommend asset allocation strategies with respect to the Foundation's objectives.
5. Advisor shall provide research on specific issues and opportunities and assist the Foundation finance & Investment Committee in special tasks.
6. Advisor shall make tactical implementation decisions, including rebalancing, within the asset allocations ranges set by the Foundation and among investment managers with communication of such decisions and the rationale at the next Foundation meeting. Such decisions will be tracked by the Advisor who will report the results of each of those decisions in its Investment Review provided to the Foundation for its quarterly meetings.
7. Advisor shall notify the Foundation Finance & Investment Committee of any significant changes in portfolio managers, personnel or ownership of any investment management firm hired by the Foundation.
8. Advisor shall, overall, be proactive with the Administration of the Foundation in the management of the Foundation's investments.

#### Meeting

Advisor shall meet with the Foundation's Finance and Investment Committee at least annually (or semi-annually if the Foundation chooses) in order to give a detailed report as to activity in the investment account, manager selection, tactical changes in the asset allocation weightings or other information the Foundation shall require.

Advisor shall also meet annually with the Foundation Board in September of each year to give a detailed report on the Foundation's investments.

#### ADOPTION

Adopted and Revised by the Foundation on this 16<sup>th</sup> day of June, 2015.

**EXHIBIT "D"**

## Articles of Incorporation

**FILED/EFFECTIVE**

01 MAR -9 AM 8:57  
 SECRETARY OF STATE  
 STATE OF IDAHO  
**ARTICLES OF AMENDMENT**  
**LEWIS-CLARK STATE COLLEGE**  
**EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION**  
 (now, LEWIS-CLARK STATE COLLEGE FOUNDATION, INC.)

CLARK SECRETARY OF STATE  
 03/01/14/2001 09:57  
 3841 CI: 28457 BH: 3846  
 38.00 = 38.00 NON PROF

C 75476

WHEREAS, the members of Lewis-Clark State College Educational Assistance and Development Foundation, Inc., at a duly called meeting, after proper notice, adopted the following resolution amending and restating the Articles of Incorporation to change the name of the corporation and to conform those Articles to the provisions of the Idaho Non-Profit Corporations Act by the affirmative vote of all members present at such meeting, constituting a majority of the voting power of the members of the corporation entitled to vote, to wit:

BE IT RESOLVED that the Articles of Incorporation of Lewis-Clark State College Educational Assistance and Development Foundation, Inc., be, and the same are hereby, amended and restated in their entirety as follows:

**AMENDED AND RESTATED ARTICLES****ARTICLE I****Preliminary Matters**

- 1.01 **Name.** The name of this corporation is LEWIS-CLARK STATE COLLEGE FOUNDATION, INC.
- 1.02 **Nonprofit Status.** This corporation is a nonprofit corporation.
- 1.03 **Duration.** The duration of this corporation shall be perpetual.

**ARTICLE II****Purposes**

- 2.01 **Charitable Scope of Purposes.** This corporation is organized and shall be operated exclusively for charitable, scientific, literary, and educational purposes, within the meaning of §501(c)(3) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws (hereinafter called Internal Revenue Code"), and Treasury Regulations issued thereunder. This corporation shall serve the public interest, and no part of its assets or the income therefrom shall inure to the benefit of any private individual, except for payment of



reasonable compensation for services rendered to the corporation. No substantial part of the activities of this corporation shall directly or indirectly consist of attempting to influence legislation by propaganda or otherwise, and the corporation shall not directly or indirectly participate in, or intervene (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles of incorporation, this corporation shall not conduct or carry on any activities not permitted to be conducted or carried on (a) by a corporation exempt from federal tax under § 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under § 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

- 2.02 Higher Education.** In further limitation of the general charitable purposes set forth above, this corporation is organized and shall be operated for the purpose of advancing the goals of higher education. The goals of higher education shall be broadly construed to encompass the charitable, scientific, literary, artistic, educational, social and athletic objectives normally associated with nonsectarian institutions of higher education.
- 2.03 Lewis-Clark State College.** The purposes of this corporation shall be accomplished primarily by encouraging, promoting, supporting, performing and carrying out the functions, programs, operations and purposes of Lewis-Clark State College, an institution of higher education and an agency of the State of Idaho with its principal campus located in Lewiston, Idaho, so long as it is an institution of higher education and an agency of the State of Idaho or an organization described in § 501(c)(3) of the Internal Revenue Code, contributions to which are deductible under § 170(c)(2) of the Internal Revenue Code. By way of illustration and not limitation, it shall be within the purposes of this corporation to:
- a. Funds.** Coordinate fund raising activities on behalf of Lewis-Clark State College and receive, hold, invest and administer donations of every kind on its behalf.
  - b. Programs.** Promote, support, develop, perform, carry out and extend the educational undertakings of Lewis-Clark State College, and in furtherance thereof, to support and conduct any and all charitable, scientific, literary, artistic, educational, social and athletic activities relating thereto.

- c. **Facilities.** Support, conduct and operate such activities as may be designed or intended to facilitate or enhance the educational, cultural, living and operational conditions at Lewis-Clark State College; to provide support for, maintain, enlarge, and extend the curricula, services, faculty, staff, and real or personal properties of Lewis-Clark State College.
- d. **Financial Assistance.** To provide financial or other assistance to the students, faculty and staff of Lewis-Clark State College in their efforts to acquire new knowledge and to extend the educational endeavors of Lewis-Clark State College.
- e. **Cooperation.** Promote cooperation, coordination with, and assistance to other charities in the area of Lewiston, Idaho, particularly schools and hospitals.

### ARTICLE III Powers

- 3.01 **Statutory Powers.** This corporation shall have all rights and powers now given to nonprofit corporations generally under the laws of the State of Idaho, including those powers now set forth in § 30-3-23 of the Idaho Code, and all further and broader rights and powers which may in the future be given to nonprofit corporations generally under any subsequent laws of this state. No subsequent repeal or amendment of any such laws shall diminish or restrict those corporation's rights and powers.
- 3.02 **Activities.** In addition to raising funds and making grants, the corporation may, itself, actively conduct programs designed to accomplish the purposes set forth in Article II, above. Such activities may be engaged in for or on behalf of Lewis-Clark State College in order to assist it in performing its functions or carrying out its purposes.
- 3.03 **Limitations.** No part of the net earnings or assets of the corporation shall inure to the benefit of, or be distributable to, its members, directors, officers or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article II hereof. No substantial part of the activities of the corporation shall be for the purpose of carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in, (including the publishing and distribution of statements) any political campaign on behalf of any candidate for

public office. Notwithstanding any other provisions of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under § 501(c)(3) of the Internal Revenue Code or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under § 170(c)(2) of the Internal Revenue Code or the corresponding section of any future federal tax code.

**ARTICLE IV**  
**No Members**

The corporation shall not have any members.

**ARTICLE V**  
**Board of Directors**

The affairs of the corporation shall be managed by a Board of Directors. The number of directors serving on the Board of Directors shall be fixed in accordance with the corporation's Bylaws. Other than the directors constituting the initial board of directors, who are designated in these articles, the Directors shall be elected, appointed or designated in the manner and for the term or terms provided in the Bylaws of the corporation.

The names and street addresses of the persons constituting the initial board of directors are:

Name	Address
Niel Zimmerman President - LCSC	500 Eighth Street Lewiston, ID 83501
Rita Morris Provost and Academic Vice-President - LCSC	500 Eighth Avenue Lewiston, ID 83501
Dean Froehlich Vice-President of Administrative Services - LCSC	500 Eighth Avenue Lewiston, ID 83501
Richard Meier Vice-President of Student Affairs - LCSC	500 Eighth Avenue Lewiston, ID 83501
Barbara Bowen President LCSC Alumni Association	601 Burrell Drive Lewiston, ID 83501

Gene Straughan Faculty Senate Chair Elect- LCSC	P. O. Box 189 Colton, WA 99113
Eugene Baldeck Appointed Director	2214 Vineyard Lewiston, ID 83501
Scott Arnone Appointed Director	1445 G Street, Suite 101 Lewiston, ID 83501
Charles Brown Appointed Director	322 Main Street Lewiston, ID 83501
Bob DeVleming Appointed Director	P.O. Box 57 Lewiston, ID 83501
Donna Doyle Appointed Director	566 Crestline Circle Drive Lewiston, ID 83501
Joe Hall Appointed Director	1617 21 <sup>st</sup> Street Lewiston, ID 83501
Harriet Husemann Appointed Director	523 Cedar Lewiston, ID 83501
Jackie McIver Appointed Director	835 Main Street Lewiston, ID 83501
Sam Penney Appointed Director	P.O. Box 305 Lapwai, ID 83540
Joe Stegner Appointed Director	216 Prospect Lewiston, ID 83501
A. L. Alford, Jr. Elected Director	505 C Street Lewiston, ID 83501
Howard Hayes Elected Director	P.O. Box 816 Lewiston, ID 83501



Darrel Inman Elected Director	P.O. Box 856 Lewiston, ID 83501
Terry Kolb Elected Director	P.O. Box 937 Lewiston, ID 83501
William Mannschreck Elected Director	2956 Mayfair Ridge Lewiston, ID 83501
Eadie Saxton Elected Director	1035 29 <sup>th</sup> Street Lewiston, ID 83501
Marilyn Stonebraker Elected Director	1224 Third Street Lewiston, ID 83501
Charles F. Woods Elected Director	308 Main Street Lewiston, ID 83501
John Young Elected Director	P.O. Box 917 Lewiston, ID 83501

#### **ARTICLE VI Registered Agent**

- 6.01 Registered Office.** The street address of the initial registered office of this corporation is the office of the Vice-President for Administrative Services, Lewis-Clark State College, Eighth Avenue and Sixth Street, Lewiston, ID 83501.
- 6.02 Registered Agent.** The name and initial registered agent of the corporation at such street address is Dean A. Froehlich.

#### **ARTICLE VII. Distribution on Dissolution**

Upon dissolution or winding up of the corporation, its assets remaining after payment, or provision for payment of all debts and liabilities of this corporation shall be to the Idaho State Board of Education, as the Board of Trustees of Lewis-Clark State College; provided, however, that if at such time Lewis-Clark State College or its successor in interest is not an agency of the State of Idaho or an exempt organization described in § 501(c)(3) of the Internal Revenue Code or has substantially failed or abandoned its operations or been

dissolved, then the remaining assets of the corporation shall be distributed to such other agencies of the State of Idaho or non-profit fund foundation or corporation involved in higher education which is organized and operated exclusively for charitable purposes and which has established its tax exempt status under § 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, as the Board of Directors may direct. Any such assets not distributed shall be distributed by the district court of the county in which the principal office of the corporation is then located, excluding for any purposes or to such organizations as the court shall determine to be consistent with the purposes of the corporation.

#### ARTICLE VIII.

##### Bylaws

Provisions for the regulation of the internal affairs of the corporation shall be set forth in the Bylaws. The Board of Directors of the corporation shall be authorized to amend the corporation's Bylaws at a properly noticed special or regular meeting of the Board of Directors.

#### ARTICLE VIX.

##### Amendment of Articles

This corporation reserves the right to amend, alter, change or repeal any provisions contained in these articles of incorporation in any manner now or hereafter prescribed or permitted by statute.

IN WITNESS WHEREOF, the duly undersigned officers have signed and attested these Articles of Amendment.

DATED this 20<sup>th</sup> day of February 2001.

LEWIS-CLARK STATE COLLEGE  
EDUCATIONAL ASSISTANCE AND  
DEVELOPMENT FOUNDATION

BY Edith K. Saxon  
President

Attest:

John Young  
Secretary

**State of Idaho**

**Department of State.**

**CERTIFICATE OF INCORPORATION  
OF**

LEWIS-CLARK STATE COLLEGE EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, hereby certify that duplicate originals of Articles of Incorporation for the incorporation of LEWIS-CLARK STATE COLLEGE EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION, duly signed pursuant to the provisions of the Idaho Nonprofit Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I issue this Certificate of Incorporation and attach hereto a duplicate original of the Articles of Incorporation.

Dated April 4, 19 84.



**GREAT SEAL OF  
THE STATE OF IDAHO**

*Pete T. Cenarrusa*

SECRETARY OF STATE

*Dorise Deuer*

Corporation Clerk

CINP 779

APR 4 8 29 AM '84

LEWIS-CLARK STATE COLLEGE  
EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION  
ARTICLES OF INCORPORATION

APRIL 1984



LEWIS-CLARK STATE COLLEGE  
EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION  
ARTICLES OF INCORPORATION

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LEWIS-CLARK STATE COLLEGE  
EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION, Inc.  
ARTICLES OF INCORPORATION

ROBERT P. BROWN, Esquire, being over the age of twenty-one (21) years, for the purpose of forming a corporation under the provisions of the Idaho Nonprofit Corporation Act, Title 30, Chapter 3 of the Idaho Code, hereby adopts these articles of incorporation:

ARTICLE I  
Preliminary Matters

- 1.01 Name. The name of this corporation is LEWIS-CLARK STATE COLLEGE EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION, Inc.
- 1.02 Nonprofit status. This corporation is a nonprofit corporation.
- 1.03 Duration. The duration of this corporation shall be perpetual.

ARTICLE II  
Purposes

- 2.01 Charitable scope of purposes. This corporation is organized and shall be operated exclusively for charitable, scientific, literary, or educational purposes, within the meaning of §501(c)(3) of the Internal Revenue Code of 1954, as amended, or corresponding provisions of any subsequent Federal tax laws (hereinafter called Internal Revenue Code"), and Treasury Regulations issued thereunder. This corporation shall serve the public interest, and no part of its assets or the income therefrom shall inure to the benefit of any private individual, except for payment of reasonable compensation for services rendered to the corporation. No substantial part of the activities of this corporation shall directly or indirectly consist of attempting to influence legislation by propaganda or otherwise, and the corporation shall not directly or indirectly participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles of incorporation, this corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an exempt organization described in §501(c)(3) of the Internal Revenue Code, contributions to which are deductible under §170(c)(2) of the Internal Revenue Code.

- 2.02 Higher education. In further limitation of the general charitable purposes set forth above, this corporation is organized and shall be operated for the purpose of advancing the goals of higher education. The goals of higher education shall be broadly construed to encompass the charitable, scientific, literary, artistic, educational, social and athletic objectives normally associated with nonsectarian institutions of higher education.
- 2.03 Lewis-Clark State College. The purposes of this corporation shall be accomplished primarily by encouraging, promoting, supporting, performing and carrying out the functions, programs, operations and purposes of Lewis-Clark State College, an institution of higher education and an agency of the State of Idaho with its principal campus located in Lewiston, Idaho, so long as it is an institution of higher education and an agency of the State of Idaho or an organization described in §501(c)(3) of the Internal Revenue Code, contributions to which are deductible under §170(c)(2) of the Internal Revenue Code. By way of illustration and not limitation, it shall be within the purposes of this corporation to:
- a. Funds. Coordinate fund raising activities on behalf of Lewis-Clark State College and receive, hold, invest and administer donations of every kind on its behalf.
  - b. Programs. Promote, support, develop, perform, carry out and extend the educational undertakings of Lewis-Clark State College, and in furtherance thereof, to support and conduct any and all charitable, scientific, literary, artistic, educational, social and athletic activities relating thereto.
  - c. Facilities. Support, conduct and operate such activities as may be designed or intended to facilitate or enhance the educational, cultural, living and operational conditions at Lewis-Clark State College; to provide support for, maintain, enlarge, and extend the curricula, services, faculty, staff, and real or personal properties of Lewis-Clark State College.
  - d. Financial assistance. To provide financial or other assistance to the students, faculty and staff of Lewis-Clark State College in their efforts to acquire new knowledge and to extend the educational endeavors of Lewis-Clark State College.
  - e. Cooperation. Promote cooperation, coordination with, and assistance to other charities in the area of Lewiston, Idaho, particularly schools and hospitals.



ARTICLE III  
Powers

- 3.01 Statutory powers. This corporation shall have all rights and powers now given to nonprofit corporations generally under the laws of the State of Idaho, including those powers now set forth in §30-307 of the Idaho Code, and all further and broader rights and powers which may in the future be given to nonprofit corporations generally under any subsequent laws of this state. No subsequent repeal or amendment of any such laws shall diminish or restrict this corporation's rights and powers.
- 3.02 Activities. In addition to raising funds and making grants, the corporation may, itself, actively conduct programs designed to accomplish the purposes set forth in Article II, above. Such activities may be engaged in for or on behalf of Lewis-Clark State College in order to assist it in performing its functions or carrying out its purposes.
- 3.03 Limitations. No power or authority shall be exercised by this corporation in any manner or for any purpose which is not permitted for an exempt organization described in §501(c)(3) of the Internal Revenue Code, contributions to which are deductible under §170(c)(2) of the Internal Revenue Code.

ARTICLE IV  
Members

- 4.01 Management authority. The management of the affairs of this corporation shall be vested in its members pursuant to Section 30-314(c) of the Idaho Code.
- 4.02 Apportionment of voting rights among classes. All voting rights shall be exercised by a single class of membership designated "trustee members", with each trustee member entitled to one (1) vote on each matter submitted to a vote at a meeting of such members. The bylaws of the corporation may provide for the designation of any one or more classes of nonvoting members. Except as set forth in these Articles of Incorporation, the designation, number, qualifications, terms of office, manner of selection, time and place of meetings, rights, powers, and duties of the members of each class shall be prescribed in the bylaws of the corporation.
- 4.03 Compensation. No member of the corporation shall receive any compensation for his or her services as a member of the corporation, but the corporation may pay reasonable compensation to any person, including a member of the corporation, for other services actually rendered to the corporation.

- 4.04 Notice of organization meeting. Actual personal notice of the organization meeting of the members of the corporation shall be sufficient notice pursuant to Section 30-324(b) of the Idaho Code.

ARTICLE V  
Directors

There shall be no directors of the corporation, the management of the affairs of the corporation being vested in the trustee members pursuant to Section 30-314 of the Idaho Code.

ARTICLE VI  
Principal Organizer

- 6.01 Name. The name of the principal organizer of this corporation is LEE A. VICKERS, who is over the age of twenty-one (21) years.
- 6.02 Address. The street address of the principal organizer is Office of the President, 8th Avenue and 6th Street, Lewiston, Idaho 83501.

ARTICLE VII  
Registered Office and Registered Agent

- 7.01 Registered office. The street address of the initial registered office of this corporation is Office of the President, Lewis-Clark State College, 8th Avenue and 6th Street, Lewiston, Idaho 83501.
- 7.02 Registered agent. The name of the initial registered agent at such street address is LEE A. VICKERS.

ARTICLE VIII  
Amendment of Articles

This corporation reserves the right to amend, alter, change or repeal any provisions contained in these articles of incorporation in any manner now or hereafter prescribed or permitted by statute.

ARTICLE IX  
Dissolution

In the event of termination, dissolution or liquidation of this corporation, the net assets remaining after payment of all debts and obligations of the corporation shall be transferred and conveyed exclusively to Lewis-Clark State College or its successors-in-interest; provided, however, that if at such time Lewis-Clark State College or its successor-in-interest is not an agency of the State of Idaho or an exempt organization described in §501(c)(3) of the Internal Revenue Code, or has substantially failed or abandoned its operations or been dissolved, then the

remaining assets of this corporation shall be distributed to such other agencies of the State of Idaho and exempt organizations described in §501(c)(3) of the Internal Revenue Code involved in higher education as the board of directors may direct.

## ARTICLE X

### Incorporator

- 10.01 Name. The name of the incorporator of this corporation is ROBERT P. BROWN, Esquire, who is over the age of twenty-one (21) years.
- 10.02 Address. The street address of the incorporator is 13th and Idaho Streets, Lewiston, Idaho 83501.

IN WITNESS WHEREOF, the incorporator has signed these Articles of Incorporation in duplicate this 2nd day of April, 1984.

Robert P. Brown (SEAL)  
ROBERT P. BROWN, Incorporator

STATE OF I D A H O )  
 : ss.  
County of NEZ PERCE )

On this 2nd day of April, 1984, before me the undersigned, a notary public in and for the State of Idaho, personally appeared ROBERT P. BROWN, known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

( S E A L )

Betty E. Knight  
Notary Public in and for the State of  
Idaho, Residing at Lewiston, therein.

**EXHIBIT "E"****Bylaws**

**AMENDED AND RESTATED BYLAWS**  
**OF**  
**LEWIS-CLARK STATE COLLEGE FOUNDATION, INC.**

**ARTICLE I.**  
**In General**

**1.01 Nature of Bylaws.** The following paragraphs contain provisions for the regulation and management of LEWIS-CLARK STATE COLLEGE FOUNDATION, INC., a nonprofit corporation organized and operating under the laws of the State of Idaho.

**1.02 Conflicts.** In the event that there is a conflict between a provision of these Bylaws and a mandatory provision of the laws of the State of Idaho, or the Articles of Incorporation of the corporation, then the mandatory provision of the laws of the State of Idaho, or the Articles of Incorporation shall control.

**ARTICLE II.**  
**Principal Office**

**2.01 Principal Office.** The principal office of the corporation in the State of Idaho shall be located at Lewis-Clark State College, 500 8th Avenue Lewiston, ID 83501. The corporation may have such other offices, either within or without the State of Idaho, as the Directors may designate from time to time.

**ARTICLE III.**  
**Non-Director Members**

**3.01 Foundation Members.** In addition to the Directors as defined in Article IV below, the corporation may recognize a class of benefactors and supporters designated as "Foundation Members", which class may be further subdivided into any number of subclasses as may be determined by the Directors.

**3.02 No Management Authority or Voting Rights.** Foundation Members, as described in 3.01 above, shall have no authority to manage the affairs of the corporation, and shall not be entitled to vote on any matter relating to the corporation. Foundation Members shall have the right to attend and participate in meetings of the Directors.

**3.03 Rights and Privileges.** Except as may be otherwise provided in these Bylaws or the Articles of Incorporation, Foundation Members shall have such recognition, rights, privileges as may be determined by the Board of Directors. Foundation Members are invited to attend meetings of the Board of Directors.

**3.04 Selection.** Individuals or organizations who are interested in the objectives and purposes of the corporation may be admitted as Foundation Members by majority vote of the Directors upon meeting such qualifications as may be determined by the Directors.

**3.05 Designated Members.** The following individuals shall serve as Designated Members by virtue of their offices, to serve for the term of their respective offices. Designated Members do not have voting rights.

- a. The President of Lewis-Clark State College.
- b. The Provost and Vice President for Academic Affairs of Lewis-Clark State College.
- c. The Vice President for Finance and Administration of Lewis-Clark State College.

- d. The Foundation Treasurer as appointed by Lewis-Clark State College with the consent of the Foundation.
- e. The Faculty Senate Chair Elect of the Lewis-Clark State College Faculty Association.
- f. The Lewis-Clark State College Alumni Association Board Representative.
- g. The Vice President of Student Affairs of Lewis-Clark State College.

**3.06 Membership Roster and Certificates.** The corporation shall maintain a roster of Foundation Members, and may issue certificates, cards, or other evidence of association.

**3.07 Personal Status of Association.** Association as a Foundation Member shall be personal to the associate admitted, and shall not survive the death of any individual associate nor be transferred by any means whatsoever.

**3.08 Resignation.** A Foundation Member may resign at any time by written notice to the corporation.

**3.09 Removal.** Association as a Foundation Member may be reviewed for any action which is detrimental to the best interests of the corporation, or for failure to actively support corporate purposes, or to actively participate in corporate activities. Removal shall require the affirmative vote of a majority of the Directors.

#### **ARTICLE IV.** **Directors**

**4.01 General Powers.** All corporate powers shall be exercised by or under the authority of the Board of Directors. The business and affairs of the corporation shall also be managed under the direction of the Board of Directors, except as otherwise provided in the Idaho Non-Profit Corporation Act or the Articles of Incorporation.

**4.02 Presumption of Assent.** A Director of the corporation who is present at a meeting of its Board of Directors at which any action on any corporate matter is taken shall be presumed to have assented to the action unless such Director's dissent shall be entered in the minutes of the meeting or unless such Director shall file such Director's written dissent to such action with the secretary of the meeting before the adjournment thereof or shall forward such dissent by certified or registered mail to the secretary of the corporation within three days after the adjournment of the meeting. Such right of dissent shall not apply to a Director who voted in favor of such action.

**4.03 Qualification.** Directors need not be officers of the corporation nor residents of the State of Idaho.

**4.04 Elected Directors.** The corporation shall have such Directors as may be elected by majority vote of the Directors, as then constituted, at the annual meeting of Directors. The number of such elected Directors serving at any time shall, in no event, exceed thirty (30). Each Director, including the Director whose terms are expiring, shall have the right to vote for as many persons as there are Directors to be elected, but no Director shall be entitled to cumulate his or her votes.

**4.05 Terms of Elected Directors.** The terms of the Elected Directors pursuant to Article 4.04 shall serve for a period of three (3) years until the annual meeting in the year in which their respective terms expire and until their successors are duly appointed or elected and qualified.

**4.06 Resignation.** Any Director may resign at any time giving written notice to the corporation. Any such resignation shall take effect at the time specified therein, or if the time be not specified, upon its acceptance by the corporation.

**4.07 Removal.** An elected or appointed Director may be removed from office prior to expiration of the term of office by the vote of at least two-thirds (2/3) of the Directors other than the Director voted upon, at any regular or special meeting of Directors. Unexcused absences from two (2) consecutive meetings of the Directors shall be cause for consideration of removal of a Director. The Designated Director is not subject to removal.



**4.08 Vacancies.** A vacancy among the Directors shall be deemed to exist upon death, resignation or removal of a Director. The vacancy of a Director shall be filled by his or her successor in office at the time the office is assumed. The vacancy of a Designated Director shall be filled by appointment of the Executive Committee. A Director appointed or elected to fill a vacancy shall serve the unexpired term of his predecessor in office.

**4.09 Place of Meetings.** All meetings of the Directors shall be held at the principal office of the corporation or at such other place, either within or without the State of Idaho, as the Directors may, from time to time, direct.

**4.10 Organization of Meeting.** The president of the corporation shall act as chairman of meetings of Directors. In the absence of the president, the next Officer shall act as chairman: vice president, then secretary, respectively.

**4.11 Annual Meetings.** The annual meetings of the Directors shall be held in the spring each year. In the event that such annual meeting is omitted by oversight or otherwise, it may be held at a subsequent special meeting called in accordance with the provisions of these Bylaws and the laws of the State of Idaho, and any business transacted or elections held at such meetings shall be valid as if transacted or held at the annual meeting.

**4.12 Special Meetings.** A special meeting of the Directors may be called at any time by the president, and shall be called by the president upon the written request of a majority of the Directors.

**4.13 Notice of Meetings.** Written notice of each meeting of Directors stating the place, day or hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than two (2) days before the date of the meeting. Exceptions may occur with extenuating circumstances. If mailed, such notice shall be deemed to be delivered three (3) days after they are deposited in the United States Mail addressed to the Director at his or her address as it appears on the records of the corporation, with postage paid thereon.

Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. The Directors may waive notice of any meeting, and written waiver of notice executed either before or after the meeting shall be sufficient.

Any adjournment or adjournments of an annual or special meeting to another time and place may be held without new notice being given.

**4.14 Quorum.** A simple majority (defined as 51% or more) of the voting Directors shall constitute a quorum for the transaction of business. The act of a majority (defined as 51% or more) of the Directors present at a meeting at which a quorum is present shall be the act of the Directors.

Foundation Members and Designated Members shall not be considered to constitute a quorum and do not have voting rights.

If, at any meeting of the Directors, there shall be less than a quorum present, those present may adjourn the meeting without notice other than by announcement at the meeting. If, subsequently additional directors arrive and a quorum is present, such meeting can be re-convened and any business may be transacted which might have been transacted at the meeting as originally notified.

**4.15 Action Without a Meeting.** Any action required to be taken at a meeting of the Board of Directors, or any action that may be taken at a meeting of the Directors or of a committee, may be taken without a meeting if a consent in writing, setting forth the actions so taken, shall be signed by a simple majority of the Directors, or by a simple majority of the members of the committee, as the case may be. Such consent shall have the same effect as a unanimous vote.

**4.16 Powers and Duties.** The Directors shall establish policies and have the general management, control and direction of all the business and affairs of the corporation and of all its undertakings to the fullest extent permitted by law. In addition to all powers granted by law, Directors shall have power and authority:

- a. To call meetings of the Directors whenever deemed proper or necessary.
- b. To elect officers of the corporation, to appoint such employees or agents as they deem necessary or proper, to confer upon any officer the power to appoint, remove and suspend officers, employees and agents, and to similarly remove any officer, employee or agent with or without cause.
- c. To determine the policies of the corporation and to make such rules and regulations as may be deemed necessary or proper for the government and guidance of the officers, employees and Directors of the corporation, not inconsistent with the laws of the State of Idaho, the Articles of Incorporation, these Bylaws or the Operating Agreement.
- d. To oversee the security and safekeeping of endowment funds to insure that the same are invested in accordance with the Uniform Prudent Management of Institutional Funds Act as adopted by the State of Idaho and in a manner consistent with the objectives of the corporation. These duties include cooperation with any investment committee or external investment advisors that may be designated by the Directors.
- e. To purchase or otherwise acquire, and to sell, convey, and otherwise dispose of assets on behalf of the corporation at such prices and upon which terms as the Directors may deem appropriate.
- f. To approve payment for such property, rights or privileges, in whole or in part, with money or other securities of the corporation, or by delivery of other property of the corporation.
- g. To approve an action to borrow money and incur indebtedness; to create, make and issue mortgages, deeds of trust, trust and annuity agreements and negotiable or transferable instruments and securities; to do every other act necessary to effectuate the same.
- h. To hold, operate, leave, invest, reinvest and otherwise manage real and personal property of every kind and description.
- i. To fix the compensation, fringe benefits and emoluments of officers and other employees in accordance with noted Article VI.
- j. To select one or more financial institutions to act as depositor of the funds of the corporation and to determine the manner of receiving, depositing and disbursing the funds of the corporation.
- k. To determine by whom and in what manner the corporation bills, notes, receipts, acceptances, endorsements, checks, releases, contracts or other documents shall be signed, and to confer and delegate such power.
- l. To do everything necessary or proper for the carrying out of the objects and purposes of the corporation as set forth in the Articles of Incorporation.

Notwithstanding the general delegation of authority granted, the Directors shall support and assist the College in fundraising and donor relations. In carrying out its purposes the Foundation Directors shall not engage in activities that conflict with federal or state laws, rules and regulations (including but not limited to all applicable provisions of the Internal Revenue Code and corresponding Federal Treasury Regulations), applicable policies of the Idaho State Board of Education or the role and mission of the College.

**4.17 Executive Committee.** There shall be an executive Committee which shall have and may exercise all of the authority of the Directors other than in reference to amendment of the Articles of Incorporation, adoption of a plan of merger or consolidation of the corporation, the sale, lease, exchange or other disposition of all or substantially all the assets of the corporation otherwise than in the usual and regular course of its activities, a voluntary dissolution of the corporation or a revocation thereof, or amendment of the Bylaws of the corporation. The members of this committee shall be: The officers of the Board, the Immediate Past President, all chairs of approved committees or task forces and other members as designated.

All action of the executive committee shall be reported to the Directors at its next meeting succeeding such action, and shall be subject to revision or alteration by the Directors, provided that no rights or acts of third parties shall be affected by any such revision or alteration.

A quorum at any meeting of the executive committee shall consist of a simple majority of the Executive Committee Members.

**4.18 Scholarship Committee.** The Directors may designate two or more members as a scholarship committee. These committees, to the extent provided in the resolution below, shall have and exercise the authority of the Directors in the management of the corporation.

To promote the Foundation Scholars Program:

- a. Establish and maintain scholarship criteria and policies including approval/disapproval of any exceptions to policy
- b. Select scholarship recipients on an annual basis
- c. Provide to the Finance & Investment Committee any information that could impact the amount of the annual scholarship award and/or the number of new scholarships to be given
- d. Provide support, encouragement and develop rapport with individual Foundation Scholars through attendance at social functions such as the orientation at the beginning of the academic year, a winter holiday party, a reception at the LCSC President's home, and/or through a graduation recognition event
- e. Maintain long-term contact with Foundation Scholars, at the minimum annually, in recognition that these scholars are the future ambassadors for the Foundation

To meet as often as required to review other scholarship applications as requested and select recipients in accordance with established individual scholarship criteria

To participate in the annual Scholarship Luncheon to honor LCSC Foundation and Alumni Association scholarship recipients and donors.

**4.19 Finance & Investment Committee.** The Directors may designate two more members as the Finance & Investment Committee. These committees, to the extent provided in the resolution below, shall have and exercise the authority of the Directors in the management of the corporation.

Finance & Investment Committee of the Foundation shall have the following responsibilities:

- a. Oversight of endowment investments. Allocate investments among assets classes according to the investment policy statement. Review the performance of investment portfolio and advisor at least annually.
- b. Approve annual distribution of endowments according to the foundation spending policy. For underwater endowments determine if distribution will be paid. If underwater endowment distributions are made, determine the source of funding, including General Unrestricted Funds, Bryden Canyon Quasi-Endowment or other funding sources.
- c. Select the number of Foundation scholar scholarships awarded to freshman each year. For scholarships awarded in excess of funds available in the Foundation Scholars Program, determine if distribution will be paid from General Unrestricted Funds, Bryden Canyon Quasi-Endowment or other funding sources.
- d. Review financial reports and examine fund balances. Develop the annual operating budget two months before the start of each fiscal year.
- e. Approve charitable gift annuities established with gifts of more than \$100,000 per beneficiary. For annuities established with gifts of more than \$200,000 per beneficiary, submit recommendation for full board approval.
- f. Approve acceptance of gifts of assets other than cash. For noncash gifts in excess of \$200,000, submit recommendation for full board approval. Acceptance of marketable securities does not require approval by the committee. Marketable securities will be liquidated immediately upon receipt.

**4.20 Other Committees or Task Forces.** The Directors may designate and appoint one or more standing committees or task forces, each of which shall consist of two (2) or more Directors. These committees, to the extent provided in such resolution, shall have and exercise the authority of the Directors in the management of the corporation.

**ARTICLE V.**  
**Officers**

**5.01 Qualification.** An Officer must be a Director of the corporation with the exception of the Treasurer, who may be a Designated Member as described in Section 3.05.

**5.02 Offices.** The offices of the corporation shall consist of president, vice president, secretary, and treasurer and such other offices as the Directors may choose to appoint.

**5.03 Election.** The officers of the corporation, with the exception of the Treasurer, shall be elected by the Directors at the organizational meeting of Directors and at such annual meeting of Directors thereafter. Officers shall be elected or appointed for a term extending for two years until the next annual meeting of the Directors and shall serve until their successors shall have been duly elected and qualified.

**5.04 Duties of President.** The president shall be the chief executive officer of the corporation and shall attend and preside at all meetings of the Directors and any executive committee of the Directors. The president shall have responsibility for the planning and implementation of the corporation's activities and the appointment of employees of the corporation, subject to the advisement and approval of the Directors. The president or vice-president, unless some other person is specifically authorized by vote of the Directors, shall sign all bonds, deeds, mortgages, contracts and other documents of the corporation. The president shall perform all the duties commonly incident to such office and shall perform such other duties as the Directors shall designate.

**5.05 Duties of a Vice President.** The vice president shall perform the duties and have the powers of the president during his or her absence or disability. A vice president shall perform such other duties and have such others powers as the Directors may designate.

**5.06 Duties of the Secretary.** The secretary shall ensure accurate minutes of all meetings of the foundation members and the Directors are maintained. The secretary shall attend to the giving and serving of all notices of the corporation, shall have custody of all the original records, papers, files and books of the corporation (except books of accounts and valuable papers properly in the custody of the treasurer); shall attest all instruments in writing executed in the name of the corporation and requiring his or her signature; and shall, in general, perform all the duties incident to the office of secretary and such other duties as the Directors shall designate. In the absence of the secretary, an assistant secretary or a secretary pro tempore shall perform such duties.

**5.07 Duties of Treasurer.** The treasurer, subject to the order of the Directors, shall have the care and custody of the funds and valuable papers of the corporation in such bank or banks as the Directors shall designate. The treasurer shall have and exercise, under the supervision of the Directors, all the powers and duties commonly incident to such office and give bond in such form and with such sureties as may be required by the Directors. The treasurer shall keep accurate books of account of the corporation's transactions, which shall be the property of the corporation, and, together with all its property in his or her possession, shall be subject at all times to the inspection and control of the Directors.

**5.08 Duties of Executive Director.** The executive director shall be given the necessary authority and responsibility to operate the affairs of the corporation and all its activities subject to such policies as may be adopted and such orders as may be issued by the Directors or by any committee or task force to whom they have delegated power for such action. He or she shall act as the duly authorized representative of the Directors in all matters in which the Directors have not formally designated some other person to act.

The authorities and duties of the executive director shall include the responsibility for:

- a. Carrying out all policies established by the Directors.
- b. Developing and submitting to the Directors for approval of plans and strategies for the corporation's affairs, including public relations, soliciting donations, and other matters intended to carry out the objectives of the corporation.

- c. Preparing an annual budget showing the expected receipts and expenditures as required by the Directors.
- d. Selecting and managing staff and developing and maintaining personnel policies and practices.
- e. Presenting to the Directors, or their authorized committee, periodic reports reflecting the operating and financial activities of the corporation and the preparation and submission of such special reports as may be required by the Directors.
- f. Attending all meetings of the Directors and committees.
- g. Performing such other duties as may be necessary and in the best interest of the corporation.

**5.09 Other Officers.** The duties of the additional officers, other than as defined in the Bylaws of the corporation, shall be prescribed and defined by the Directors.

**5.10 Authority to Sign Checks.** All checks, drafts or other orders for payment of money, note or other evidence of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers, agent or agents of the Corporation as provided in these Bylaws or in such manner as shall be determined by the Board of Directors.

**5.11 Resignation.** Any officer may resign at any time by giving written notice to the corporation, to the Directors, to the president, or to the secretary of the corporation. Any such resignation shall take effect at the time specified therein, or if the time be not specified, upon its acceptance.

**5.12 Removal.** Any officer or agent may be removed at any time by action of the Directors.

**5.13 Vacancies.** Any vacancy among the officers of the corporation shall be selected by the executive committee subject to the authority of the Directors to approve, disapprove or fill the vacancy themselves.

## **ARTICLE VI.**

### **Compensation and Indemnification**

**6.01 Compensation of Directors.** Directors shall not be compensated.

**6.02 Compensation of Officers.** The president, vice president, secretary and treasurer shall receive no compensation.

**6.03 Repayment.** Any payments made to an employee of the corporation for compensation, salary, bonus, interest, rent or expense incurred by him or her, which shall be determined to be unreasonable in whole or in part by the Internal Revenue Service pursuant to Section 4941(d) (2) (E) of the Internal Revenue Code shall be reimbursed by such employee to the corporation to the full extent of such determination of unreasonableness. It shall be the duty of the Directors to enforce repayment of each such amount. In lieu of repayment by the employee, subject to the determination of the Directors, amounts may be withheld from the employee's future compensation or expense reimbursement payments until the amount owed to the corporation shall have been recovered.

**6.04 Indemnification.** Any person who serves on behalf of the Foundation as a director, employee, chairperson or member of any committee, or as a director, trustee or officer of another corporation, shall be deemed to be the Foundation's agent for purposes of this Article and shall be indemnified by the Foundation against expenses (including attorney's fees), judgments, fines, excise taxes and amounts paid in settlement actually or reasonably incurred by such person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or a derivative action, by reason of such service, provided such person acted in good faith and in a manner that he or she reasonably believe to be in the best interest of the foundation and, with respect to any criminal action proceeding, had no reasonable cause to believe his or her conduct was unlawful.

## **ARTICLE VII.**

### **Gifts to Corporation**

**7.01 In General.** Donors may make gifts to the corporation by naming or otherwise identifying the corporation. Gifts shall vest in the corporation upon receipt and acceptance by it, whether signified by a Director, officer, employee or agent of the corporation.

**7.02 Acceptance of Governing Documents.** Each donor, by making a gift to the corporation, accepts and agrees to all of the provisions of the Articles of Incorporation and these Bylaws.

## **ARTICLE VIII.** **Miscellaneous**

**8.01 Books and Records.** The corporation shall keep accurate and complete books and records of account and shall keep minutes of the proceedings of its Directors and committees having any authority of the Directors. All books and records of the corporation may be inspected by any Director for any proper purpose at any reasonable time.

**8.02 Parliamentary Procedure.** Parliamentary Procedure shall be the code that governs the procedures of the Foundation Board of Directors' meetings.

**8.03 Corporate Seal.** There shall be no seal of the corporation, and all contracts and other papers of the corporation shall be authenticated without any corporate seal.

**8.04 Waiver of Notice.** Whenever any notice whatsoever is required to be given by these Bylaws, or the Articles of Incorporation, or any of the nonprofit corporation laws of the State of Idaho, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice for all purposes.

**8.05 Contracts and Conveyances.** All contracts, deeds, conveyances, negotiable instruments and other instruments of like character which have first been approved by the Directors shall be signed by the president or vice president and the secretary or an assistant secretary, or otherwise as directed by the Directors. No contract of any officer of the corporation shall be valid without previous authorization or subsequent ratification of the Directors.

**8.06 Fiscal Year.** The Foundation shall operate on a fiscal year beginning July 1st and ending June 30th.

**8.07 Dissolution.** The corporation exists for the sole purpose of providing support to Lewis-Clark State College (the "College"). Given the significant administrative contribution provided to the corporation by the College, in the event that the corporation ceases to provide such support, the corporation may be dissolved and all assets and records will be distributed exclusively to the College or its successor in interest pursuant to the Articles of Incorporation.

**8.08 Amendment.** These bylaws may be altered, amended or repealed at any regular or special meeting of the Directors, provided a quorum is present and provided further that notice of the substance of the proposed amendment shall be submitted to each Director within the same time and in the same manner prescribed for notice of the meeting.

## **CERTIFICATION**

We, the undersigned President, Vice President and Secretary of the Lewis-Clark State College Foundation, Inc. an Idaho Corporation, do hereby certify that the foregoing Bylaws supersede all prior Bylaws, amended or restated, were duly adopted as the restated Bylaws of said corporation at a duly constituted meeting of the members of the corporation at which a quorum was present, in person or by proxy, said meeting, held March 17, 2015, and that the same do now constitute the Bylaws of said corporation.



**EXHIBIT "F"****Conflict of Interest Policy****Lewis-Clark State College Foundation Policy on Conflict of Interest**  
**CONFLICTS OF INTEREST POLICY**

No board member shall use his or her position, or the knowledge gained therefrom, in such a manner that conflict between the interest of the organization or any of its affiliates and his or her personal interests arises.

Each board member has a duty to place the interest of the organization foremost in any dealings with the organization and has a continuing responsibility to comply with the requirements of this policy.

Board or committee members may not obtain for themselves, their relatives, or their friends a material interest of any kind from their association with the organization.

It is, nevertheless, recognized that transactions between Lewis-Clark State College Foundation ("Foundation") and a business or other organization with whom a board member is affiliated may be beneficial to the Foundation and that the Foundation should not be precluded from entering into that beneficial transaction so long as the board member does not participate in or otherwise influence the Foundation's decision regarding the transaction.

It shall be the policy of the Foundation to require that all new Board members, prior to assuming their positions, and all present Board members, as soon as practicable after the adoption of this policy, submit in writing to the President a list of all businesses or other organizations (other than the Foundation) of which he or she is an officer, member, owner (either as a sole practitioner or partner), shareholder with a five percent (5%) or greater interest in all outstanding voting shares, employee or agent, with which the Foundation has, or may reasonably in the future have, a relationship or transaction in which the Board member or officer would have conflicting interests. Each written statement shall be resubmitted each year with any necessary changes.

The President shall become familiar with the statements of all Board members and officers in order to guide their conduct should a conflict arise. The Vice-President shall be familiar with the statement filed by the President.

At such time as any matter comes before the Board in such a way as to give rise to conflict of interest, the affected Board member or officer shall make known the potential conflict, whether disclosed by written statement or not. After answering any questions that might be asked, the affected Board member shall withdraw from the meeting until the matter has been voted upon. In the event that the affected Board member or officer fails to withdraw voluntarily, the President is empowered to require withdrawal from the room during both discussion and vote on the matter. In the event the conflict of interest affects the President, the Vice-President is empowered to require that the President withdraw in the same manner, and for the duration of discussion and action on the matter the Vice-President shall preside.

If the matter about which a conflict has arisen is the item of business for which a special meeting of the Board was called, the affected member may be counted to establish a quorum, but shall not participate in the discussion or vote on it.

ADOPTED, this 15<sup>th</sup> day of December, 1998.

**EXHIBIT "G"**Code of Ethical Conduct

Directors and Officers of the LC State Foundation represent Lewis-Clark State College and its Foundation, and have a responsibility to conduct themselves in such a manner as to give a positive impression of Lewis-Clark State College to the public, students, and alumni. Directors and Officers of the LC State Foundation pledge to accept the following ethical guidelines:

1. Accountability: Faithfully abide by the Articles of Incorporation, Bylaws and policies of the LC state Foundation, and exercise reasonable care, faith and due diligence in organizational affairs.
2. Professional Excellence: Maintain a professional level of courtesy, respect and objectivity in all Foundation activities.
3. Professional Gain: Exercise the powers invested for the good of all members of the organization rather than his/her personal benefit. Transactions involving the Foundation and the personal or business affairs of a trustee, director, officer, or staff member should be approved in advance by the Foundation's governing board. In addition, directors, officers, and staff members of a foundation disqualify themselves from making, participating, or influencing a decision in which they have or would have a financial interest.
4. Confidential Information: Respect the confidentiality of sensitive information known due to service.
5. Collaboration and Cooperation: Respect the diversity of opinions as expressed or acted upon by the Foundation board, committees and membership, and promote collaboration, cooperation and partnership among Foundation Members.
6. Gifts: No director, trustee, officer, or staff member of a foundation shall accept from any source any material gift or gratuity in excess of fifty dollars (\$50.00) that is offered, or reasonably appears to be offered, because of the position held with the foundation; nor should an offer of a prohibited gift or gratuity be extended by such an individual on a similar basis.



**EXHIBIT "H"****Gift Acceptance Policy****Lewis-Clark State College Foundation  
Gift Acceptance Policy  
(Article VII of the Bylaws)****Gifts to Corporation:****In General**

Donors may make gifts to the corporation by naming or otherwise identifying the corporation. Gifts shall vest in the corporation upon receipt and acceptance by it, whether signified by a Director, officer, employee or agent of the corporation.

**Acceptance of Governing Documents**

Each donor, by making a gift to the corporation, accepts and agrees to all the provisions of the Articles of Incorporation and (the) Bylaws.

**Split Interest Gifts**

The corporation shall have the power and authority to arrange and administer deferred and other split-interest gifts, including, but not limited to, charitable lead and remainder unitrusts and annuity trusts, and charitable gift annuities, but only as permitted by the laws of the State of Idaho. If a gift is made to the corporation or a third party (in trust or otherwise) to make income or other payments for a period of a life or lives or other periods to any individuals or for noncharitable purposes, followed by payments to the corporation, or to make income or other payments to the corporation, followed by payments to any individuals or for noncharitable purposes, only the payments to the corporation shall be regarded as subject to the corporation's Articles of Incorporation and (the) Bylaws and then only when the corporation becomes entitled to their use. The Directors may take such actions as it, from time to time, deems necessary to protect the corporation's rights to receive such payments.

**Restricted Gifts, Acceptance**

Any donor may, with respect to a gift made by such donor to the corporation, provide at the time of the gifts restrictions or conditions which are not inconsistent with the charitable purposes of the corporation, as to (i) the manner of distribution, including amounts, times and conditions of payment and whether from principal or income, and (ii) the name, as a memorial or otherwise, for a fund given, or addition to a fund previously held, or anonymity for the gift. Restrictions involving the naming of a fund as a memorial or otherwise may be satisfied by keeping such name appropriate accounts reflecting the interest of such funds in a common investment. Nothing in the foregoing shall obligate the corporation to accept any gift or to perform any act, which, in the opinion of the Directors, will not be in the best interests of the corporation or which may jeopardize or cause it to lose its status as an exempt organization described in Section 501 (c) (3) of the Internal Revenue Code.

**EXHIBIT "I"****Policy for Accounting for Gift Revenue****Lewis-Clark State College Foundation**  
**Policy for Accounting of Gift Revenue**

1. **Fiduciary Responsibility.** Each gift, regardless of value, form, or designated use, shall be accounted for at the time of receipt until used as directed by the donors in support of the mission of the Foundation and/or the College. During such time as funds are retained, they shall be invested in accordance with procedures of the Finance and Investment Committee. The development office shall be responsible for any reports to donors on the use of their funds, to be accomplished in concert with operating managers and the accounting department.
2. **Allocation to Restricted Funds.** Gifts received for restricted purposes (either temporarily restricted or permanently restricted) shall be separately accounted for in order to maintain stewardship of these funds as donors direct. The segregation of these funds is to be performed by the accounting department, who shall report to donors on their disposition and use through the development office.
3. **Expenditure Controls.** The uses of gift revenue, especially restricted gifts shall be fully accounted for, beginning with their deposit to temporarily restricted fund accounts, stewardship, disposition reports, and with expenditures only as directed by the donor in keeping with the mission of the College and/or the Foundation.
4. **Allocation to Endowment.** Funds restricted to endowment or so restricted by the Foundation Board shall be invested and accounted for in accord with policies of the Finance and Investment Committee.
5. **Investment of Funds.** All gifts received shall be invested until used in accord with donor wishes, using short-term or long-term investment plans as defined by the Finance and Investment Committee. Funds restricted to endowment or so restricted by the Foundation Board shall be invested and accounted for as directed by the Finance and Investment Committee. Investment earnings shall be used only for the purposes board, with amounts as resolved by the Finance and Investment Committee.
6. **Accounting Reports.** Regular accounting reports will summarize the disposition of all money, illustrating their present disposition by source, purpose or use, and fundraising program, which shall be prepared for each Foundation Board meeting and distributed to the Board members.

**EXHIBIT "J"****Foundation Insurance**

PI-NPD-1 (01-02)

**PHILADELPHIA  
INSURANCE COMPANIES**

A Member of the Tokio Marine Group

One Bala Plaza, Suite 100  
Bala Cynwyd, Pennsylvania 19004  
610.617.7900 Fax 610.617.7940  
PHLY.com

**FLEXIPLUS FIVE**  
**NOT-FOR-PROFIT ORGANIZATION DIRECTORS & OFFICERS LIABILITY INSURANCE**  
**EMPLOYMENT PRACTICES LIABILITY INSURANCE**  
**FIDUCIARY LIABILITY INSURANCE**  
**WORKPLACE VIOLENCE INSURANCE**  
**INTERNET LIABILITY INSURANCE**

**Philadelphia Indemnity Insurance Company**

Policy Number: PHSD1562701

**DECLARATIONS**

**NOTICE: EXCEPT TO SUCH EXTENT AS MAY OTHERWISE BE PROVIDED HEREIN, THIS POLICY IS WRITTEN ON A CLAIMS MADE BASIS AND COVERS ONLY THOSE CLAIMS FIRST MADE DURING THE POLICY PERIOD AND REPORTED IN WRITING TO THE INSURER PURSUANT TO THE TERMS HEREIN. THE AMOUNTS INCURRED FOR DEFENSE COST SHALL BE APPLIED AGAINST THE RETENTION.**

- Item 1. Parent Organization and Address:  
 LEWIS-CLARK STATE COLLEGE  
 FOUNDATION  
 500 8th Ave  
 Lewiston, ID 83501-2691  
  
 Internet Address: [www. icsc.edu](http://www.icsc.edu)
- Item 2. Policy Period: From: 09/11/2020 To: 09/11/2021  
 (12:01 A.M. local time at the address shown in Item 1.)
- Item 3. Limits of Liability:
- |     |                               |    |           |                     |
|-----|-------------------------------|----|-----------|---------------------|
| (A) | Part 1, D&O Liability:        | \$ | 1,000,000 | each Policy Period. |
| (B) | Part 2, Employment Practices: | \$ |           | each Policy Period. |
| (C) | Part 3, Fiduciary Liability:  | \$ |           | each Policy Period. |
| (D) | Part 4, Workplace Violence:   | \$ |           | each Policy Period. |
| (E) | Part 5, Internet Liability:   | \$ |           | each Policy Period. |
| (F) | Aggregate, All Parts:         | \$ | 1,000,000 | each Policy Period. |

**NBP1557971**  
 Renewal of Number  
 POLICY DECLARATIONS  
**No. NBP1557971A**

**\*\*\* RENEWAL CERTIFICATE \*\*\***  
**United States Liability Insurance Company**  
 1190 Devon Park Drive, Wayne, Pennsylvania 19087  
 A Member Company of United States Liability Insurance Group

Direct Bill Policy

NAMED INSURED AND ADDRESS:  
**LEWIS-CLARK STATE COLLEGE FOUNDATION**  
**500 8TH AVE**  
**LEWISTON, ID 83501**

POLICY PERIOD: (MO. DAY YR.) From: 03/26/2020 To: 03/26/2021

12:01 A.M. STANDARD TIME AT YOUR  
 MAILING ADDRESS SHOWN ABOVE

FORM OF BUSINESS: Non-Profit Corporation

BUSINESS DESCRIPTION: Foundation

**IN CONSIDERATION OF THE RENEWAL PREMIUM STATED BELOW, EXPIRING POLICY NUMBER NBP1557971 IS RENEWED  
 FOR THE POLICY PERIOD STATED ABOVE. PLEASE ATTACH THIS RENEWAL CERTIFICATE TO YOUR EXPIRING POLICY.**

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED.  
 THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

	PREMIUM
Businessowners Liability Coverage Part	\$611.00
Businessowners Property Coverage Part	\$50.00


**TOTAL: \$661.00**

Coverage Form(s) and Endorsement(s) made a part of this policy at time of issue

**See Endorsement EOD (1/95)**

Agent: **STONEBRAKER MCQUARY AGENCY GROUP, INC. (2141)**  
 P.O. Box 9  
 Clarkson, WA 99403

Issued: 03/10/2020 10:46 AM

By:   
 Authorized Representative

THESE DECLARATIONS TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART DECLARATIONS,  
 COVERAGE PART COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF.

## EXHIBIT "K"

### Committee Descriptions Committee or Task Force Descriptions

#### Executive Committee

The Executive Committee is chaired by the President of the Foundation Board.

The members of the Executive Committee shall be: The officers of the Board, the Immediate Past President, all chairs of approved committees or task forces and other members as designated.

Responsibilities include:

- \* making interim decisions for the Board (to be ratified by the full Board at its subsequent meeting);
- \* overseeing the long-range and strategic planning of the organization;
- \* serving as a sounding board for new programs or policies that should come before the full Board eventually;
- \* enforcing membership responsibilities, including attendance policies and committee appointments;
- \* monitoring progress of Board and staff in achieving the current year goals;
- \* scrutinizing budget performance;
- \* maintaining a close and candid relationship with the leadership of the College;
- \* following and evaluating the performance of the Foundation's Executive Director;
- \* evaluating Board performance by recognizing superior results or levels of service and by arranging for the departure of unproductive Board members;
- \* acting on behalf of the Board in times of emergency or necessary expediency.

The actions of the Executive Committee are subject to revision or alteration by the Board. Minutes of Executive Committee meetings are sent to each Board member. Membership in the Executive Committee will not exceed a quorum of the full Board. A quorum at any meeting of the Executive Committee shall consist of a simple majority of the members.

### Lewis-Clark State College Foundation Other Committee or Task Force Descriptions

#### Finance and Investment Committee

The Finance and Investment Committee shall oversee the Foundation's budget activities and expenses; monitor the flow of funds to determine consistency between expenditures and generated revenue; manage the investment portfolio; establish financial policies; oversee the buildings and grounds owned by the Foundation.

**Scholarship Committee**

The Scholarship Committee shall oversee the awarding of specific scholarships; establish scholarship policies and review the process; assist in the planning of three scholarship events annually.

**Other Committees or Task Forces**

The Directors may designate and appoint one or more standing committees or task forces, each of which shall consist of two (2) or more Directors. These committees, to the extent provided in such resolution, shall have and exercise the authority of the Directors in the management of the corporation.

**EXHIBIT "L"****Endowment Fund Fee Policy****Notice of Endowment Fund Fee Policy**  
**LCSC Foundation**

Effective January 1, 2020, the LCSC Foundation Board will implement the following policy regarding administrative fees on endowment and accounts.

**2% Fee on Donations Received**

In general, a 2% administrative fee will apply to all donations received by the Foundation to offset the costs of accounting, fundraising and other administration costs. However, the fee will not apply in the following circumstances:

1. Additional donations to an endowment or annual fund in existence as of January 1, 2020.
2. Funding to athletic or academic programs solicited by coaches or academic staff that simply passes through the Foundation to the respective department.
3. Funding designated to the Center for Arts and History solicited by department staff that simply passes through the Foundation to the department.
4. In-kind donations.
5. Other donations solicited by faculty or others where the donated funds simply pass through the Foundation.

The 2% fee will apply at the time of the donation and will be a one-time fee. The 2% fee for gift annuities will apply at the end of the annuity when the funds become available to the Foundation, subject to the above restrictions.

**½ of 1% (.5%) Annual Fee on Average Endowment Fund Balance**

The .5% fee will be charged to Endowment Funds, Alumni Endowments, and Other Endowments. The .5% fee will not apply to the following fund classifications:

1. Gift annuities
2. General Unrestricted Funds
3. Annual Funds
4. Funds designated as Other Funds
5. LCSC Designated Funds

The .5% fee will be based on the average endowment fund balances and not on the amount of profit or loss earned or allocated for any time period. The fee will be calculated twice during

each year using .25% times the fund market values at December 31 and June 30, and will be included with the December and June six months' market allocation postings.



**~~FOUNDATION~~ OPERATING AGREEMENT**

~~THIS OPERATING AGREEMENT, made and entered into this 26th day of March, 2018,~~

~~by and between~~ BETWEEN

~~LEWIS-CLARK STATE COLLEGE, hereinafter referred to as "College", and LEWIS-CLARK STATE COLLEGE FOUNDATION, INC.,~~

AND

LEWIS-CLARK STATE COLLEGE, hereinafter referred to as "

This Operating Agreement ("Operating Agreement") between Lewis-Clark State College Foundation", Inc. ("Foundation") and Lewis-Clark State College ("College") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

WHEREAS, the Foundation ~~is a non-profit corporation~~ was organized and incorporated on April 4, 1984 pursuant to the Idaho Nonprofit Corporation Act for the purpose of supporting Lewis-Clark State generating voluntary private support from alumni, employees, friends, corporations, foundations, and others for the benefit of the College, its students, staff, faculty and programs;.

WHEREAS, the Foundation ~~has been recognized as a tax-exempt entity under Section 501(c)(3) of the Internal Revenue Code;~~

~~WHEREAS,~~ exists to receive contributions, raise, and manage private resources supporting the ~~parties~~ mission and priorities of the College, and provide opportunities for students and employees and a degree of institutional excellence unavailable with state funding levels.

WHEREAS, the Foundation promotes access, excellence and relevance in higher education through financial support of the College. The Foundation is dedicated to assisting the College in the building of the endowment to address, through financial support, the long-term academic and other priorities of the College.

WHEREAS, as stated in its articles of incorporation, the Foundation is a separately incorporated 501(c)(3) organization and is responsible for identifying and nurturing relationships with potential donors and other friends of the College, soliciting cash, securities, real and intellectual property, and other private resources for the support of the College, and acknowledging and stewarding such gifts in accordance with donor intent and its fiduciary responsibilities.

WHEREAS, in connection with its fund-raising and asset-management activities, the Foundation utilizes, in accordance with this Operating Agreement, personnel experienced in planning for and managing private support.

WHEREAS, the mission of the Foundation is to secure, manage and distribute private contributions and support the growth and development of the College.

WHEREAS, the College and Foundation desire to set forth in writing various aspects of their relationship with respect to matters such as the solicitation, receipt, management, transfer and expenditure of funds.

WHEREAS, the Parties hereby acknowledge that they will at all times conform to, and abide by, the Idaho State Board of Education's ("State Board") Education's Governing Policy Policies and Procedures, Gifts and Affiliated Foundations policy, Section Policy V.E.; and, and that they will submit this Operating Agreement for initial State Board of Education ("State Board") approval, and thereafter every three (3) years, or as otherwise requested by the State Board, for review and re-approval.

WHEREAS, the ~~parties enter into~~ Foundation and the College intend for this Operating Agreement to ~~establish~~ be the written operating agreement ~~between the parties, all as is required under Section~~ by State Board Policy V.E.2.e, ~~of the State Board's Policies and Procedures~~.

NOW, THEREFORE, in consideration of the ~~premises and the~~ mutual ~~covenants and agreements~~ commitments herein contained, ~~the parties~~ and other good and valuable consideration, receipt of which is hereby acknowledged, the Parties agree as follows:

#### ~~ARTICLE I~~ **ARTICLE I Foundation's Purposes**

The Foundation is the primary affiliated foundation responsible for securing, managing and distributing private support for the College. Accordingly, to the extent consistent with the Foundation's Articles of Incorporation and Bylaws, and the State Board's Policies and Procedures, the Foundation shall:

- ~~1.~~ (1) solicit, receive and accept gifts, devises, bequests and other direct or indirect contributions of money and other property made for the benefit of the College from the general public (including individuals, corporations, other entities and other sources); (2) manage and invest the money and property it receives for the benefit of the College; and (3) support and assist the College in fundraising and donor relations.
- ~~2. manage and invest the money and property it receives for the benefit of the College; and support and assist the College in fundraising and donor relations.~~
- ~~3.~~ In carrying out its purposes, the Foundation shall not engage in activities that: (1) conflict with:
  - ~~a.~~ federal or state laws, rules and regulations (including, ~~but not limited to~~ all applicable provisions of the Internal Revenue Code and corresponding Federal Treasury Regulations);
  - ~~b.~~ (2) cause the College to be in violation of applicable polices of the State Board; or
  - ~~c.~~ (3) conflict with the role and mission of the College.

~~ARTICLE II~~  
~~ARTICLE H~~  
**Foundation's Organizational Documents**

The Foundation shall provide copies of its current Articles of Incorporation and Bylaws to the College. ~~All amendments of such documents shall also be provided to the College and State Board. Furthermore, the~~ The Foundation shall, to the extent practicable, also shall provide the College with an advance copy of any proposed amendments to the Foundation's Articles of Incorporation and Bylaws. The College shall provide all such documents to the State Board.

**Article III**

**Institutional**

ARTICLE III  
College Resources and Services

~~4.a. Staff. The Director of College Advancement, an employee of the College, shall serve as Executive Director of the Foundation and shall supervise the College Advancement Staff who are likewise employees of the College and who will provide administrative services to the Foundation. The College is responsible for the employment and compensation of College Advancement Staff providing services to the Foundation, including the Director of College Advancement in his or her capacity as Executive Director of the Foundation. Subject to approval by the President of the College, the Foundation may appoint an employee of the College to serve as Treasurer. The Treasurer shall provide and/or supervise the provision of financial and accounting services for the Foundation. While providing services to the Foundation, College employees are subject to the oversight and direction of the Board of Directors of the Foundation. Executive officers of the College (President and Vice Presidents) shall not serve as Foundation Board officers or staff members.~~

1. ~~Other Services.~~ College Employees.

a. College/Foundation Liaison: The College's Director of College Advancement shall serve as the College's Liaison to the Foundation and as the Foundation Executive Director.

- i. The College's Director of College Advancement shall be responsible for coordinating the College's and the Foundation's fundraising efforts and for supervising and coordinating the administrative support provided by the College to the Foundation.
- ii. The College's Director of College Advancement or designee shall attend each meeting of the Foundation's Board of Directors and shall report on behalf of the College to the Foundation's Board of Directors regarding the College's coordination with the Foundation's fundraising efforts.

iii. The College's Director of College Advancement shall be responsible for the supervision and control of the day-to-day operations of the Foundation. More specific duties of the Director of College Advancement is set forth in the Service Agreement attached hereto as Exhibit "B" ("Service Agreement").

d. Other College Employees Holding Key Foundation or Administrative or Policy Positions: In the event the College and the Foundation determine it is appropriate for one or more additional College employees who function in a key administrative or policy making capacity for the College (including, but not limited to, any College Vice-President or equivalent position) to serve both the College and the Foundation, then, pursuant to State Board Policy V.E., this Operating Agreement shall be amended to clearly set forth the authority and responsibilities of the position of any such College employee.

e. Limited Authority of College Employees. Notwithstanding the foregoing provisions, no College employee who functions in a key administrative or policy making capacity for the College (including, but not limited to, any College Vice-President or equivalent position) shall be permitted to have responsibility or authority for Foundation policy making, financial oversight, spending authority, and investment decisions.

2. Support Services. The College shall provide administrative, financial, accounting, investment, and development services to the Foundation, as set forth in the Service Agreement attached hereto as Exhibit "B" ("Service Agreement"). All College employees who provide support services to the Foundation shall remain College employees under the direction and control of the College, unless agreed that the direction and control of any such employee will be vested with the Foundation in a written Loaned Employee Agreement. The Foundation will pay directly to the College the portion of the overhead costs associated with the services provided to the Foundation pursuant to the Service Agreement. The portion of such costs shall be determined by the agreement of the Parties.

**2. College Facilities and Equipment.** The College shall provide the ~~following additional services to the Foundation:~~

- ~~a. Access to the College's financial system to receive, disburse and account for funds of the Foundation. Except for funds transferred into Foundation's brokerage accounts, all funds received by the Foundation shall be deposited with the College and credited to one or more agency accounts established in the name of the Foundation within the~~
- ~~a. College's financial system. In using the College's financial services, the Foundation shall comply with the College's financial and administrative policies and procedures.~~
- ~~b.a. Accounting services, to include cash receipts and disbursements, accounts receivable and payable, bank reconciliation, reporting and analysis, and internal auditing.~~
- ~~c.a. Investment, insurance, and similar services.~~
- ~~d.a. Development services, including research, information systems, donor records, communications and special events.~~

~~3. use of the College's Facilities, Furnishings and Office Equipment. The business office of the Foundation shall be located in the College Advancement Office at 500 8<sup>th</sup> Avenue, Lewiston, Idaho. The College will provide office space to the Foundation including providing all maintenance and utilities, and local and long distance telephone service for use in the business of the Foundation. The furnishings, computers, copiers and other items of office equipment used in the Foundation's office are owned by the~~

3. ~~College but shall be made available for~~ space and equipment to the Foundation upon the terms agreed to by the College and the Foundation. The terms of use (including amount of rent) of the College's office space and equipment shall be as set forth in the ~~business of the~~ Service Agreement.

~~a. No Foundation Payments to College Employees. Notwithstanding any provision of this Operating Agreement to the contrary, the Foundation. The cost of repairing, maintaining and replacing such furnishings and equipment shall be paid by the College.~~

4. ~~shall not make any Reimbursement. Except as otherwise provided in this Agreement, the Foundation shall have no obligation to reimburse the College for costs incurred by the College for personnel, use of facilities or equipment or for other services provided to the Foundation by the College. No payments shall be made directly from the Foundation to an~~ College ~~employees~~employee in connection with any resources or services provided to the Foundation ~~under~~pursuant to this Operating Agreement.

#### **Article IV**

#### **ARTICLE IV**

#### **Management and Operation of Foundation**

The management and control of the Foundation shall rest with its Board of Directors.

##### 1. Gift Solicitation.

Authority of College's Director of College Advancement. All Foundation gift solicitations shall be subject to the direction and control of the Director for College Advancement.

~~4.~~

a. *Form of Solicitation.* Any and all Foundation gift solicitations shall make clear to prospective donors that (1) the Foundation is a separate legal and tax entity organized for the purpose of encouraging voluntary, private gifts, trusts, and bequests for the benefit of the College; and (2) responsibility for the governance of the Foundation, including the investment of gifts and endowments, resides ~~within~~ the Foundation's Board of Directors.

~~The~~

b. *Foundation is Primary Donee.* Absent unique circumstances, prospective donors shall be requested to make gifts directly to the Foundation rather than to the College.

##### 2. Acceptance of Gifts.

a. Approval Required Before Acceptance of Certain Gifts. Before accepting contributions or grants for restricted or designated purposes that may require administration or direct expenditure by the College, the Foundation shall obtain the prior written approval of the College. Similarly, the Foundation shall also obtain the prior written approval of the College of the acceptance of any gift or grant that would impose a binding financial or contractual obligation on the College.

~~c. Acceptance of Real Property. No gifts, grants or transfers of real or personal property will be accepted by the Foundation which do not comply with state law;~~

~~State Board and College policy.~~

- ~~d. The Foundation shall not accept gifts or grants containing a condition committing the College financially or contractually without prior written approval of the College President or VP for Finance and Administration.~~

## **~~2. Receiving, Depositing, Disbursing and Accounting for Funds.~~**

- ~~a. General. College Advancement staff on behalf of the Foundation shall receive, accept and administer gifts in accordance with the Foundation's Gift Acceptance Policy and Policy for Accounting of Gift Revenue, copies of which are attached hereto as Exhibits A and B. The College's financial systems and administrative policies and procedures will be utilized in receiving, depositing, disbursing and accounting for funds of the Foundation.~~

~~b. Institutional Funds Transferred to the Foundation. In compliance with the policies of the State Board, the College shall not transfer institutional funds~~Gifts of Real Property. The Foundation shall conduct adequate due diligence on all gifts of real property that it receives. All gifts of real property intended to be held and used by the College shall be approved by the State Board before acceptance by the College and the Foundation. In cases where the real property is intended to be used by the College in connection with carrying out its proper functions, the real property may be conveyed directly to the College, in which case the College and not the Foundation shall be responsible for the due diligence obligations for such property.

~~c. Processing of Accepted Gifts. All gifts received by the College or the Foundation shall be delivered (if cash) or reported (if any other type of property) to the Foundation's designated gift administration office (a unit of the Foundation) in accordance with the Service Agreement.~~

3. Fund Transfers. The Foundation agrees to transfer funds, both current gifts and income from endowments, to the College on a regular basis as agreed to by the Parties. The Foundation's Treasurer or other individual to whom such authority has been delegated by the Foundation's Board of Directors shall be responsible for transferring funds as authorized by the Foundation's Board of Directors.

a. Restricted Gift Transfers. The Foundation shall inform the College officials into whose program or department funds are transferred of any restrictions on the use of such funds and provide such officials with access to any relevant documentation concerning such restrictions. Such College officials shall account for such restricted funds separate from other program and department funds in accordance with applicable College policies and shall notify the Foundation on a timely basis regarding the expenditure of such restricted funds.

b. Unrestricted Gift Transfers. The Foundation may utilize any unrestricted gifts it receives for any use consistent with the Foundation's purposes as generally summarized in Article I of this Operating Agreement. If the Foundation elects to use unrestricted gifts to make grants to the College, such grants shall be made at such times and in such amounts as the Foundation's Board of Directors may determine in the Board's sole discretion.

## 4. Foundation Expenditures and Financial Transactions.



a. *Signature Authority.* The Foundation designates the Foundation Board President and Vice President as the individual(s) with signature authority for the Foundation in all financial transactions. The Foundation may supplement or change this designation with written notice to the College; provided, however, in no event may the person(s) with Foundation signature authority for financial transactions be an College employee.

b. *Expenditures.* All expenditures of the Foundation shall be (1) consistent with the charitable purposes of the Foundation, and (2) not violate restrictions imposed by the donor or the Foundation as to the use or purpose of the specific funds.

5. College Report on Distributed Funds. On a regular basis, which shall not be less than annually, the College shall report to the Foundation on the use of restricted and unrestricted funds transferred to the College. This report shall specify the restrictions on any restricted funds. The Foundation shall approve expenditures prior to fund transfers to the College and the Foundation will retain details of the uses of such funds.

~~**b.6. Transfer of College Assets to the Foundation. No College funds, assets, or liabilities may be transferred** directly or indirectly to the Foundation without the prior approval of the State Board ~~and the Foundation Board of Directors. Segregation of duties among College employees who provide accounting and reporting support to the Foundation will be maintained to prevent unauthorized access to or transfer of funds to or from the College and Foundation.~~except when:~~

~~**c. Funds Transferred to College.** Funds, including gifts designated by the donor to a specific College department or program, will not be transferred~~



~~from the Foundation to the College except as approved by the Foundation Board of Directors. The College official responsible for that department or program will be notified of the transfer and the purpose of the gift by the College Advancement Staff. The College official into whose department or program Foundation funds have been transferred shall be responsible to account for those funds in accordance with College policies and procedures, to use those funds for their designated purposes, and shall notify the Foundation of the use of those funds on a timely basis. Once funds have been transferred to the College, the transferred funds shall be the property of the College.~~

~~3. Signature Authority. Foundation expenditures, transfer of funds and financial transactions must be authorized and approved by the Board of Directors or officers designated by the Board. Signature authority on behalf of the Board shall be exercised only by the Foundation President and Vice President. No College employee (including, but not limited to, the College President or Vice Presidents) shall have the authority to sign on any transaction on behalf of the Foundation.~~

- ~~a. Investment Policies. A donor inadvertently directs a contribution to the College that is intended for the Foundation in which case such funds may be transferred to the Foundation so long as the documents associated with the gift indicate the Foundation was the intended recipient of the gift. In the absence of any such indication of donor intent, such funds shall be deposited in an institutional account, and State Board approval will be required prior to the College's transfer of such funds to the Foundation.~~
- ~~b. The College has gift funds that were originally transferred to the College from the Foundation and the College wishes to return a portion of those funds to the Foundation for reinvestment consistent with the original intent of the gift.~~
- ~~c. Transfers of a *de minimis* amount not to exceed \$10,000 from the College to the Foundation provided such funds are for investment by the Foundation for scholarship or other general College support purposes. This exception shall not apply to payments by the College to the Foundation for obligations of the College to the Foundation, operating expenses of the Foundation or other costs of the Foundation.~~
- ~~d. The transfer is of funds raised by the College for scholarship or program support and the funds are deposited with the affiliated foundation for investment and distribution in accordance with the purpose for which the funds were raised.~~

~~4. Separation of Gifts will be invested in accordance with the guidelines set out in the "Investment Policy Statement," a copy of which is attached hereto as Exhibit C. The responsibility for investment of gifted funds resides with the Foundation's Board of Directors who act upon the recommendations promulgated by the Foundation's Finance and Investment Committee. College employees may provide technical information and reports to the Committee but have no voting rights and are not part of the policy approval process.~~

7. Funds. All Foundation assets (including bank and investment accounts) shall be held in separate accounts in the name of the Foundation using Foundation's Federal Employer Identification Number. The financial records of the Foundation shall be kept using a separate chart of accounts. For convenience purposes, some Foundation expenses may be paid through the College such as payroll and campus charges. These expenses will be paid through accounts clearly titled as belonging to the Foundation and shall be reimbursed by the Foundation on a regular basis.

8. Insurance. ~~To the extent that the Foundation is not covered by the State of Idaho Risk Management insurance, the Foundation~~ The Foundation shall maintain insurance to cover the operations and activities of its directors, officers and employees. The Foundation shall also maintain general liability coverage.

9. Investment Policies. All funds held by the Foundation, except those intended for short term expenditures, shall be invested in accordance with the Uniform Prudent Management of Institutional Funds Act, Idaho Code Sections 33-5001 to 33-5010, and the Foundation's investment policy which is attached hereto as Exhibit "C"; provided, however, the Foundation shall not invest any funds in a manner that would violate the applicable terms of any restricted gifts. The Foundation shall provide to the College any updates to such investment policy which updates shall also be attached hereto as Exhibit "C".

10. Organization Structure of the Foundation. The organizational structure of the Foundation is set forth in the Foundation's Articles of Incorporation and the Bylaws. The Foundation agrees to provide copies of such Articles and Bylaws as well as any subsequent amendments to such documents to both the College and the State Board. Any such amendments to the Articles and Bylaws shall be attached hereto as additions to Exhibit "D" and "E", respectively.

## ARTICLE V Foundation Relationships with the College

At all times and for all purposes of this Operating Agreement, the College and the Foundation shall act in an independent capacity and not as an agent or representative of the other Party, provided, however, the College and the Foundation acknowledge that the Foundation carries out functions for the benefit of the College. As such, the Parties shall share certain information as provided below.

1. Access to Records. Subject to recognized legal privileges and any third-party obligations of confidentiality and protection of proprietary information, each Party shall have the right to access the other Party's financial, audit, donor and related books and records as needed to properly conduct its operations.

2. Record Management.

a. The Parties recognize that the records of the Foundation relating to actual or potential donors contain confidential information. Such records shall be kept by the Foundation in such a manner as to protect donor confidentiality to the fullest extent allowed by law. Notwithstanding the access to records permitted above, access to such confidential information by the College shall be limited to the College's President and any designee of the College's President.

b. The Foundation shall be responsible for maintaining all permanent records of the Foundation including but not limited to the Foundation's Articles, Bylaws and other governing documents, all necessary documents for compliance with IRS regulations, all gift instruments, and all other Foundation records as required by applicable laws.

c. Although the Foundation is a private entity and is not subject to the Idaho Public Records Law, the Foundation, while protecting personal and private information related to private individuals, is encouraged, to the extent reasonable, to be open to public inquiries related to revenue, expenditure policies, investment performance and/or similar non-personal and non-confidential financial or policy information.

3. Name and Marks. Consistent with its mission to help to advance the plans and objectives of the College, the College grants the Foundation the limited, non-exclusive right to use the name of the College, for use in its support of the College. The Foundation shall operate under the College's logotype in support of its organizational business and activities. Any use by the Foundation of the College's logotypes or other trademarks must be with prior approval of the College through the Communications and Marketing Department.

4. Identification of Source. The Foundation shall be clearly identified as the source of any correspondence, activities and advertisements emanating from the Foundation.

5. Establishing the Foundation's Annual Budget. The Foundation shall provide the College with the Foundation's proposed annual operating budget and capital expenditure plan (if any) prior to the date the Foundation's Board of Directors meeting at which the Foundation's Board will vote to accept such operating budget. Any of the College's funding requests to the Foundation shall be communicated in writing to the Foundation's President and Executive Director by March 1 of each year.

~~5.6.~~ Attendance of College's President at Foundation's Board of Director Meetings. The College's President shall be invited to attend all meetings of the Foundation's Board of Directors and may act in an advisory capacity in such meetings. ~~Officers, attached as Exhibit D.~~

#### Supplemental

~~6. Separation of Foundation and College Funds.~~ Foundation and College funds will not be co-mingled. Foundation funds will be deposited in the College's financial system and credited to the appropriate agency account in the Foundation name. It shall be the responsibility of the Foundation Treasurer to reconcile the Foundation's agency accounts on a monthly basis. The Foundation Treasurer shall make a monthly written financial report to the Foundation Board in accordance with generally accepted accounting principles.

#### ~~7. Description of Organizational Structure of Foundation.~~

~~a. Foundation Board of Directors.~~ The Foundation is a non-profit corporation organized under the laws of the State of Idaho. It is governed by a board of not more than thirty (30) directors. The directors are elected by the Foundation Board members. Foundation Directors serve staggered terms of up to three (3) years. The President, the Provost and Vice President for Academic Affairs, the Vice President for Finance and Administration, the Vice President for Student Affairs, the Treasurer

~~(if a College employee has been designated to fill this position), the Faculty Senate Chair Elect and the LCSC Alumni Association Board Representative are Designated Members of the~~

~~Foundation who are entitled to attend meetings of the Foundation Board of Directors but are not entitled to vote. Other College officials may serve as advisors to Foundation's Board and may be invited to attend meetings of the Foundation Board on a case-by-case basis.~~

- ~~b. **Board Committees.** The standing committees of the Foundation Board of Directors shall be the Executive Committee, the Scholarship Committee, and the Finance and Investment Committee. The composition, duties and authority of each of those committees is set out on Exhibit E.~~
- ~~c. **Executive Director.** The chief operating officer of the Foundation is its Executive Director who is employed by the College as Director of College Advancement. In the performance of his or her duties with the Foundation, the Executive Director shall report to and be subject to the direction of the Foundation Board of Directors. The Executive Committee of the Foundation Board may prepare and provide to the College President an annual written job performance evaluation of the Executive Director.~~
- ~~d. **Officers.** The Foundation President is elected by the Board of Directors. The Foundation Board of Directors also elects a Vice President, Secretary, and Treasurer. Subject to the mutual consent of the Foundation Board of Directors and the College President, an employee from the College staff may be appointed to serve as Treasurer. In the performance of his or her duties with the Foundation, the Treasurer shall report to and be subject to the direction of the Foundation Board of Directors.~~

## ~~Article V~~

### ~~Relationship between the Foundation and the College~~

#### ~~1. Access to Foundation Books and Records.~~

- ~~a. The financial records of the Foundation shall be available to the College, its officers and representatives in accordance with the policies and procedures of the College. Other financial records of the Foundation shall be made available to the College at reasonable times upon written request of the College President or his or her designee.~~
- ~~b. Donor records containing information with respect to gifts to the Foundation are the property of the Foundation and shall be maintained and secured by the College. The Foundation and the College shall take the steps necessary to monitor and control access to donor records and to protect the security of the donor database. The College shall not access such information except in compliance with the Foundation's donor confidentiality policies. The College shall enforce policies that support the Foundation's ability to respect the privacy and preserve the confidentiality of donor records. The Foundation will provide information contained in donor records to College officials upon request in accordance with applicable laws, Foundation policies and guidelines. Such information may also be provided to Foundation officers and Foundation Board members.~~

- ~~2. **Foundation Budget.** The Finance and Investment Committee of the Foundation Board shall, in consultation with the College President or his or her designee, develop a proposed annual operating budget and capital expenditure plan. After a final~~

~~review by College President, the budget and capital expenditure plan shall be presented to the full Foundation Board for approval.~~

~~3.7. Compensation to of College Employees. It is not anticipated that Foundation will provide supplementary~~ Any supplemental compensation ~~to of~~ College employees by the Foundation must be preapproved by the State Board. Any such supplemental payment or benefits must be paid by the Foundation to the College, and the College shall then pay compensation to the employee in accordance with the College's normal practice. No College employee shall receive any payments or other benefits directly from the Foundation. The Foundation Board of Directors may provide funds to the College annually for Faculty and Staff Achievement Awards, in an amount not to exceed \$25,000. Such awards will be made primarily with funds donated to the Foundation for that purpose and any additional Foundation funds used will be approved by the Board of Directors in the Foundation's annual budget. ~~The Foundation Board of Directors may provide funds to the College annually for Faculty and Staff Achievement Awards.~~ The College identifies the faculty and staff ~~members~~ who will be recipients of ~~those~~ these awards and disburses the funds to the recipients.

## ARTICLE VI Audits and Reporting Requirements

1. Fiscal Year. The Foundation and the College shall have the same fiscal year.

### ~~Article VI~~ ~~ARTICLE I~~ Audit and Reporting Requirements

~~1. Fiscal Year. The Foundation and the College shall have the same fiscal year.~~

~~2. Independent Audit. The business and affairs of the Foundation shall be audited annually as a component unit of the College by the independent certified public accountants who are the auditors for the College. Those accountants shall not be officers or directors of the Foundation. The audit shall be a full scope audit, performed in accordance with generally accepted auditing standards and prepared in accordance with Government Accounting Standards Board (GASS) principles or Financial Accounting Standards Board (FASB) principles, as appropriate. The cost of the audit shall be paid by the College. A written report of the audit shall be provided to the Idaho State Board of Education.~~

~~3. Foundation Reports to the College President. The Foundation shall provide the following reports to the President of the College. Except for the audit report prepared by College's independent auditor, these reports will be prepared by or under the direction of the Executive Director. Copies of each report shall be provided to the Foundation Board. The reports and their frequency are as follows:~~

2. Annual Audit. On an annual basis, the Foundation shall have an audit conducted by a qualified, independent certified public accountant who is not a director or officer of the Foundation. The annual audit will be provided on a timely basis to the College's President and the State Board, in accordance with the State Board's schedule for receipt of said annual audit. The Foundation's annual statements will be presented in accordance with standards promulgated by the Financial Accounting Standards Board (FASB). The Foundation is a

component unit of the College as defined by the Government Accounting Standards Board (GASB). Accordingly, the College is required to include the Foundation in its financial statements which follow a GASB format. Therefore, the Foundation will include in its audited financial statement, schedules reconciling the FASB Statements to GASB standards in the detail required by GASB Standards. The annual audited financial statements, including the auditor's independent opinion regarding such financial statements, and schedules shall be submitted to the College Controller's Office in sufficient time to incorporate the same into the College's statements. All such reports and any accompanying documentation shall protect donor privacy to the extent allowable by law.

3. Separate Audit Rights. The College agrees that the Foundation, at its own expense, may at any time during normal business hours conduct or request additional audits or reviews of the College's books and records pertinent to the expenditure of donated funds. The Foundation agrees that the College and the State Board, at its own expense, may, at reasonable times, inspect and audit the Foundation's books and accounting records.

4. Annual Reports to College President. On a regular basis, which shall not be less than annually, the Foundation shall provide a written report to the College President setting forth the following items:

- a. the annual financial audit report;  
~~Annual~~
- b. an annual report of Foundation transfers made to the College, summarized by ~~departments~~ College department;  
~~Annual~~
- c. an annual report of unrestricted funds received, ~~and~~ by the Foundation;
- ~~e.d.~~ an annual report of unrestricted funds available for use ~~in that~~ during the current fiscal year;  
~~A~~
- e. a list of ~~Foundation~~ all of the Foundation's officers ~~and~~ directors ~~shall be provided annually and the President shall be promptly notified of any changes in that~~, and employees;
- ~~d.~~ a list;
- ~~e.~~ A list of ~~any~~ College employees for whom the Foundation made
- f. payments to the College for supplemental compensation or any other approved purpose during the fiscal year, and the amount and nature of that payment;  
~~A~~
- ~~f.g.~~ a list of all state and federal contracts and grants managed by the Foundation;  
~~An~~
- ~~g.h.~~ an annual report of the Foundation's major activities;  
~~An~~
- ~~h.i.~~ an annual report of each real estate purchase or material capital lease, investment, or financing arrangement entered into during the preceding Foundation fiscal year for the benefit of the College; and  
~~An~~
- ~~i.~~ an annual report of (1) any actual litigation involving the

Foundation during its fiscal year, ~~as well as~~; (2) identification of  
legal counsel used by the Foundation for any



- j. purpose during such year. ~~This report should also discuss~~; and (3) identification of any potential or threatened litigation involving the Foundation.

## ~~Article VII~~

### ARTICLE VII ~~Conflicts~~

#### Conflict of Interest and Code of Ethics and Conduct

1. Conflicts of Interest Policy ~~Statements. The Foundation has adopted a written policy addressing the manner the Foundation will address conflict of interest situations; and Code of Ethics and Conduct.~~ The Foundation's Conflict of Interest Policy is attached as Exhibit "F", and its Code of Ethical Conduct is set forth as Exhibit "G".
2. Dual Representation. Under no circumstances may ~~aan~~ College employee represent both the College and the Foundation in any negotiation, sign for both entities in transactions, or direct any other ~~institution~~ College employee under their immediate supervision to sign for the related ~~party~~ Party in a transaction between the College and the Foundation. This shall not prohibit College employees from drafting transactional documents that are subsequently provided to the Foundation for its independent review, approval and use.
3. Contractual Obligation of College. The Foundation shall not enter into any contract that would impose a financial or contractual obligation on the College without first obtaining the prior written approval of the College. College approval of any such contract shall comply with policies of the State Board with respect to State Board approval of College contracts.
4. Acquisition or Development of Real Estate. The Foundation shall not acquire or develop real estate or otherwise build facilities for the College's use without first obtaining approval of the State Board. In the event of a proposed purchase of real estate ~~for such purposes~~ by the Foundation for the College, the College shall notify the State Board, at the earliest possible date, ~~of. Any~~ such proposed purchase ~~for such purposes. Furthermore, any such proposed purchase of real estate for~~ the College's use shall be a coordinated effort of the College and the Foundation. Any notification to the State Board required pursuant to this paragraph may be made through the State Board's chief executive officer in executive session pursuant to the open meeting law, set forth in Idaho Code Section 67-2345(1)(c), Title 74, Chapter 2.

## ARTICLE VIII ~~Article VIII~~

### General Terms

1. Effective Date. This Operating Agreement shall be effective on the date set forth above.
- ~~2.~~ Right to Terminate. This Operating Agreement shall terminate upon the mutual written agreement of both ~~parties.~~ Parties. In addition, either ~~party~~ Party may, upon 90 days prior written notice to the other, terminate this Operating Agreement, and either ~~party~~ Party may terminate this Operating Agreement in the event the other ~~party~~ Party defaults in the performance of its obligations and fails to cure the default within 30 days after receiving written notice from the non-defaulting ~~party~~ Party specifying the nature of the default.

\_Should the College choose to terminate this Operating Agreement by providing 90 days written notice or in the event of a default by the Foundation that is not cured within the time frame set forth above, the Foundation may require the College to pay,

within 180 days of written notice, all debt incurred by the Foundation on the ~~College's~~ College's behalf including, but not limited to, lease payments, advanced funds, and funds borrowed for specific initiatives.

Should the Foundation choose to terminate this Operating Agreement by providing 90 days written notice or in the event of a default by the College that is not cured within the time frame set forth above, the College may require the Foundation to pay any debt it holds on behalf of the Foundation in like manner.

2. ~~The parties~~ Parties agree that in the event this Operating Agreement shall terminate, they shall cooperate with one another in good faith to negotiate a new agreement within six (6) months. ~~In the event the parties are unable~~ In the event negotiations fail, the Parties will initiate the dispute resolution mechanism described below (through reference to the Foundation President and the State Board) to further attempt to negotiate a new agreement within the time period specified herein, they will refer the matter to the State Board for resolution. Termination of this Operating Agreement shall not constitute or cause dissolution of the Foundation.

~~3.— Board Approval of Operating Agreement. Prior to the Parties' execution of this Operating Agreement, an unexecuted copy of this Operating Agreement must be approved by the State Board. Furthermore, this Operating Agreement, including any subsequent modifications and restatements of this Operating Agreement, shall be submitted to the State Board for review and approval no less frequently than once every three (3) years or more frequently if otherwise requested by the State Board.~~

~~4.— Modification. Any modification to the Agreement or Exhibits hereto shall be in writing and signed by both Parties.~~

~~5.3.— Providing Document to and Obtaining Approval from the College. Unless otherwise indicated herein, any time documents are to be provided to the College or any time the College's approval of any action is required, such documents shall be provided to, or such approval shall be obtained from, the College's President or an individual to whom such authority has been properly delegated by the College's President.~~

~~6.3.— Providing Documents to and Obtaining Approval from the Foundation. Unless otherwise indicated herein, any time documents are to be provided to the Foundation or any time the Foundation's approval of any action is required, such document shall be provided to, or such approval shall be obtained from, the Foundation's Board of Directors or an individual to whom such authority has been properly delegated by the Foundation's Board of Directors.~~

~~7. Notices. Any notices required under this agreement may be mailed or delivered as follows:~~

~~President~~

~~Lewis Clark State College~~  
~~500 8<sup>th</sup> Avenue~~  
~~Lewiston, ID 83501~~

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~~8. No Joint Venture. At all times and for all purposes of this Operating Agreement, the College and the Foundation shall act in an independent capacity and not as an agent or representative of the other party.~~

~~9. Liability. The College and Foundation are independent entities and neither shall be liable for any of the other's contracts, torts, or other acts or omissions, or those of the other's trustees, directors, officers, members or employees.~~

~~10. Indemnification. The College and the Foundation each agree to indemnify, defend and hold the other party, their officers, directors, agents and employees harmless from and against any and all losses, liabilities, and claims, including reasonable attorney's fees arising out of or resulting from the willful act, fault, omission, or negligence of the party, its employees, contractors, or agents in performing its obligations under this Operating Agreement. This indemnification shall include, but not be limited to, any and all claims arising from an employee of one party who is working for the benefit of the other party. Nothing in this Operating Agreement shall be construed to extend to the College's liability beyond the limits of the Idaho Tort Claims Act, Idaho Code §6-901 et seq.~~

~~11.3. Dispute Resolution. The parties~~Parties agree that in the event of any dispute arising from this Operating Agreement, they shall first attempt to resolve the dispute by working together with the appropriate staff members of each of the ~~parties.~~Parties. If the staff cannot resolve the dispute, ~~then~~ the dispute will be referred to the President of the ~~Board of the~~ Foundation and the College President. If the Foundation ~~Board President~~ and the College President cannot resolve the dispute, then the dispute will be referred to the Foundation President and the State Board ~~of Education~~ for resolution. If they are unable to resolve the dispute, the ~~parties~~Parties shall submit the dispute to mediation by an impartial third ~~party~~Party or professional mediator mutually acceptable to the ~~parties~~Parties. If and only if all the above mandatory steps are followed in sequence and the dispute remains ~~unsolved~~unresolved, then, in such case, either ~~party~~Party shall have the right to initiate litigation arising from this Operating Agreement. In the event of litigation, the prevailing ~~party~~Party shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses, including court costs, attorney fees, and other professional expenses.

~~4. Dissolution of Foundation. Consistent with provisions appearing in the Foundation's~~Foundation's Bylaws and/or Articles of Incorporation, should the Foundation cease to exist or cease to ~~qualify as~~be an Internal Revenue Code §501(c)(3) organization, the Foundation ~~will~~shall transfer ~~its assets and property~~ to the ~~State Board (or College, to a reincorporated successor as applicable)~~ the balance of all property and assets of the Foundation ~~organized to~~from any source, after the payment of all debts and obligations of the Foundation, and such property shall be vested in the State Board in trust for the continued support and benefit of the College.

~~5. Board Approval of Operating Agreement. Prior to the Parties' execution of this Operating Agreement, an unexecuted copy of this Operating Agreement must be approved by the State Board. Furthermore, this Operating Agreement, including any subsequent modifications and~~

restatements of this Operating Agreement, shall be submitted to the State Board for review and approval no less frequently than once every three (3) years or more frequently if otherwise requested by the State Board.

6. Modification. Any modification to the Operating Agreement or Exhibits hereto shall be in writing and signed by both Parties.

7. Providing Document to and Obtaining Approval from the College. Unless otherwise indicated herein, any time documents are to be provided to the College or any time the College's approval of any action is required, such documents shall be provided to, or such approval shall be obtained from, the College's President or an individual to whom such authority has been properly delegated by the College's President.

8. Providing Documents to and Obtaining Approval from the Foundation. Unless otherwise indicated herein, any time documents are to be provided to the Foundation or any time the Foundation's approval of any action is required, such document shall be provided to, or such approval shall be obtained from, the Foundation's Board of Directors or an individual to whom such authority has been properly delegated by the Foundation's Board of Directors.

9. Notices. ~~to the~~ Any notices required under this Operating Agreement may be mailed or delivered as follows:

To the College:

\_\_\_\_\_  
President  
Lewis-Clark State College  
500 8<sup>th</sup> Avenue  
Lewiston, ID 83501

To the Foundation:

\_\_\_\_\_  
Executive Director  
Lewis-Clark State College Foundation, Inc.  
500 8<sup>th</sup> Avenue  
Lewiston, ID 83501

10. No Joint Venture. At all times and for all purposes of this Memorandum of Understanding, the College and the Foundation shall act in an independent capacity and not as an agent or representative of the other Party.

11. Liability. The College and Foundation are independent entities and neither shall be liable for any of the other's contracts, torts, or other acts or omissions, or those of the other's trustees, directors, officers, members or employees.

12. Indemnification. ~~of~~ To the extent allowed by law, the College and the Foundation each agree to indemnify, defend and hold the other Party, their officers, directors, agents and employees harmless from and against any and all losses, liabilities, and claims, including reasonable attorney's fees arising out of or resulting from the willful act, fault, omission, or

negligence of the Party, its employees, contractors, or agents in performing its obligations under this Operating Agreement. This indemnification shall include, but not be limited to, any and all claims arising from an employee of one Party who is working for the benefit of the other Party. Nothing in this Operating Agreement shall be construed to extend to the College's liability beyond the limits of the Idaho ~~for public purposes, in accordance with~~ Tort Claims Act, Idaho ~~law~~. Code §6-901 et seq.

13. Assignment. This Operating Agreement is not assignable by either ~~party~~Party, in whole or in part.

14. Governing Law. This Operating Agreement shall be governed by the laws of the State of Idaho.

15. Severability. If any provision of this Operating Agreement is held invalid or unenforceable to any extent, the remainder of this Operating Agreement is not affected thereby and that provision shall be enforced to the greatest extent permitted by law.

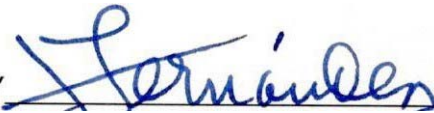
16. Entire ~~Operating~~ Agreement. This Operating Agreement constitutes the entire agreement among the Parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings pertaining thereto.

17. List of Attachments

- a. Exhibit A ~~--~~ Loaned Employee Agreement
- b. Exhibit B - Service Agreement
- c. Exhibit C – Investment Policy
- d. Exhibit D - Articles of Incorporation
- e. Exhibit E – Bylaws
- f. Exhibit F – Conflict of Interest Policy
- g. Exhibit G – Code of Ethical Conduct
- h. Exhibit H – Gift Acceptance Policy
- i. Exhibit ~~B~~I - Policy for Accounting for Gift Revenue ~~Exhibit C – Investment Policy Statement~~
- j. Exhibit ~~D – Directors and Officers Liability~~ J – Foundation Insurance
- k. Exhibit ~~E – K~~ - Committee Descriptions
- l. Exhibit ~~F – L~~ – Endowment Fund Fee Policy ~~on Conflict of Interest~~

IN WITNESS WHEREOF, the College and the Foundation have executed this ~~agreement~~ Operating Agreement on the above specified date.

~~LEWIS CLARK STATE COLLEGE~~

BY 

~~LEWIS CLARK STATE COLLEGE  
FOUNDATION INC.~~

BY 



FOUNDATION

Lewis-Clark State College

By: \_\_\_\_\_

Its: President

Lewis-Clark State College Foundation, Inc.

By: \_\_\_\_\_

Its: President

**EXHIBIT "A"**

Loaned Employee Agreement

Not applicable at this time

EXHIBIT "B"Service Agreement1. Staff

- a. The Director of College Advancement, an employee of the College, shall serve as Executive Director of the Foundation and shall supervise the College Advancement staff who are likewise employees of the College and who will provide administrative services to the Foundation. The College is responsible for the employment and compensation of College Advancement Staff providing services to the Foundation, including the Director of College Advancement in his or her capacity as Executive Director of the Foundation. Subject to approval by the President of the College, the Foundation may appoint an employee of the College to serve as Treasurer. The Treasurer shall provide and/or supervise the provision of financial and accounting services for the Foundation. While providing services to the Foundation, College employees are subject to the oversight and direction of the Board of Directors of the Foundation. Executive officers of the College (President and Vice Presidents) shall not serve as Foundation Board officers or staff members.

~~LEWIS-CLARK STATE COLLEGE FOUNDATION, INC.~~~~Gift Acceptance Policy~~~~Gifts~~ Additional services the College provides to ~~Corporation~~~~In General~~

2. ~~Donors may make gifts to the corporation by naming or otherwise identifying the corporation. Gifts shall vest in the corporation upon receipt and acceptance by it, whether signified by a Director, officer,~~ Foundation
- a. Access to the College's financial system to receive, disburse and account for funds of the Foundation. Except for funds transferred into Foundation's brokerage accounts, all funds received by the Foundation shall be deposited with the College and credited to one or more agency accounts established in the name of the Foundation within the College's financial system. In using the College's financial services, the Foundation shall comply with the College's financial and administrative policies and procedures.
- b. Accounting services, to include cash receipts and disbursements, accounts receivable and payable, bank reconciliation, reporting and analysis, and internal auditing.
- c. Investment, insurance, and similar services.
- d. Development services, including research, information systems, donor records, communications and special events.
3. Facilities, Furnishings and Office Equipment
- a. The business office of the Foundation shall be located in the College Advancement Office at 500 8th Avenue, Lewiston, Idaho. The College will provide office space to the Foundation including providing all maintenance and utilities, and local and long-distance telephone service for use in the business of the Foundation. The furnishings, computers, copiers and other items of office equipment used in the Foundation's office are owned by the College but shall be made available for use in the business of the Foundation. The cost of repairing, maintaining and replacing such furnishings and equipment shall be paid by the College.
- ~~a. employee or agent of the corporation~~

~~Acceptance of~~ **Governing Documents**

Each donor, by making a gift to the corporation, accepts and agrees to all the provisions of the Articles of Incorporation and (the) Bylaws.

### **Split Interest Gifts**

Reimbursement ~~The corporation shall have the power and authority to arrange and administer deferred and other split-~~

~~interest gifts, including, but not limited to, charitable lead and remainder unitrusts and annuity trusts, and charitable gift annuities, but only as permitted by the laws of the State of Idaho. If a gift is made to the corporation or a third party (in trust or otherwise) to make income or other payments for a period of a life or lives or other periods to any individuals or for non-charitable purposes, followed by payments to the corporation, or to make income or other payments to the corporation, followed by payments to any individuals or for non-charitable purposes, only the payments to the corporation shall be regarded as subject to the corporation's Articles of Incorporation and (the) Bylaws and then only when the corporation becomes entitled to the ir use. The Directors may take such actions as it, from time to time, deems necessary to protect the corporation's rights to receive such payments.~~

### **Restricted Gifts, Acceptance**

~~Any donor may, with respect to a gift made by such donor to the corporation, provide at the time of the gifts restrictions or conditions which are not inconsistent with the charitable purposes of the corporation, as to (i) the manner of distribution, including amounts, times and conditions of payment and whether from principal or income, and (ii) the name, as a memorial or otherwise, for a fund given, or addition to a fund previously held, or a nymity for the gift. Restrictions involving the naming of a fund as a memorial or otherwise may be satisfied by keeping such name appropriate accounts reflecting the interest of such funds in a common investment. Nothing in the foregoing shall obligate the corporation to accept any gift or to perform any act, which, in the opinion of the Directors, will not be in the best interests of the corporation or which may jeopardize or cause it to lose its status as an exempt organization described in Section 501(c)(3) of the Internal Revenue Code.~~

- 4.
- a. Except as otherwise provided in the Agreement and Exhibit “L” (“Endowment Fund Fee Policy”), the Foundation shall have no obligation to reimburse the College for costs incurred by the College for personnel, use of facilities or equipment or for other services provided to the Foundation by the College. The Foundation established a fee as referenced in Exhibit L to assist with offsetting general operating costs such as accounting, fundraising, and other administration costs in support of the mission and vision of LC State. Neither the Foundation nor the College require the fee revenue to be transferred to the College though, as mutually agreed upon, all or part of the fee revenue may be transferred to offset the cost of services provided under this agreement. No payments shall be made directly from the Foundation to College employees in connection with resources or services provided to the Foundation under this Agreement.

**EXHIBIT B "C"****~~LEWIS CLARK STATE COLLEGE FOUNDATION, INC.~~****Policy for Accounting of Gift Revenue**

- ~~1. **Fiduciary Responsibility.** Each gift, regardless of value, form, or designated use, shall be accounted for at the time of receipt until used as directed by the donors in support of the mission of the Foundation and/or the College. During such time as funds are retained, they shall be invested in accordance with procedures of the Finance and Investment Committee. The development office shall be responsible for any reports to donors on the use of their funds, to be accomplished in concert with operating managers and the accounting department.~~
- ~~2. **Allocation to Restricted Funds.** Gifts received for restricted purposes (either temporarily restricted or permanently restricted) shall be separately accounted for in order to maintain stewardship of these funds as donors direct. The segregation of these funds is to be performed by the accounting department, who shall report to donors on their disposition and use through the development office.~~
- ~~3. **Expenditure Controls.** The uses of gift revenue, especially restricted gifts shall be fully accounted for, beginning with their deposit to temporarily restricted fund accounts, stewardship, disposition reports, and with expenditures only as directed by the donor in keeping with the mission of the College and/or the Foundation.~~
- ~~4. **Allocation to Endowment.** Funds restricted to endowment or so restricted by the Foundation Board shall be invested and accounted for in accord with policies of the Finance and Investment Committee.~~
- ~~5. **Investment of Funds.** All gifts received shall be invested until used in accord with donor wishes, using short term or long term investment plans as defined by the Finance and Investment Committee. Funds restricted to endowment or so restricted by the Foundation Board shall be invested and accounted for as directed by the Finance and Investment Committee. Investment earnings shall be used only for the purposes specified by the donor or the Board, with amounts as resolved by the Finance and Investment Committee.~~
- ~~6. **Accounting Reports.** Regular accounting reports will summarize the disposition of all money, illustrating their present disposition by source, purpose or use, and fundraising program, which shall be prepared for each Foundation Board meeting and distributed to the Board members.~~

**EXHIBIT C****Lewis-Clark State College Foundation Investment Policy Statement****PURPOSE**

The ~~purpose of this Investment Policy Statement~~ purpose of this Investment Policy Statement (IPS) is to ~~establish~~ establish a clear ~~understanding between~~ understanding between the Lewis-Clark State College Foundation ("Foundation") and the Foundation's professional "Advisor" as to the investment objectives and policies applicable to the Foundation's investment portfolio. This ~~Investment Policy Statement~~ Investment Policy Statement will ~~Statement will~~:

- ~~Establish reasonable expectations, objectives~~ Establish reasonable expectations, objectives and guidelines in the investment of the portfolio's assets
- ~~Set forth an investment structure detailing permitted asset classes and expected allocation among asset classes~~ Set forth an investment structure detailing permitted asset classes and expected allocation among asset classes
- ~~Encourage effective communication between the Advisor and the Foundation.~~ Encourage effective communication between the Advisor and the Foundation.
- ~~Create the framework for a well-diversified asset mix that can be expected to generate acceptable long term returns at a level of risk suitable to the Foundation.~~ Create the framework for a well-diversified asset mix that can be expected to generate acceptable long term returns at a level of risk suitable to the Foundation.

This IPS is not a ~~contract~~ contract. This IPS is intended to be a summary of an investment philosophy that provides guidance for the ~~Advisor~~ Advisor.

**ADVISOR CONTRACT**

The ~~Advisor Contract~~ Contract will ~~typically~~ typically be awarded for an initial three (3) year ~~period~~ period with an ~~option for one additional two (2) year renewal~~ option for one additional two (2) year renewal. The ~~decision~~ decision to enter a new ~~contract~~ contract or engage in ~~an~~ an RFP ~~process or other process shall~~ process shall be at the ~~sole discretion~~ sole discretion of the ~~Foundation~~ Foundation Board. The Board may, at its ~~discretion~~ discretion, choose to forego an RFP ~~process~~ process or other process in favor of entering into a new contract ~~with~~ with the existing ~~advisor~~ advisor. All fees ~~shall~~ shall be firm for the term of the contract and will be included in any contract agreement. A performance review ~~will be conducted annually~~ conducted annually by the Foundation ~~Finance & Investment Committee~~ Finance & Investment Committee, or by any of its ~~designated subcommittees~~ designated subcommittees.

If, for any reason, the ~~Foundation should~~ Foundation should wish to ~~discontinue~~ discontinue the ~~professional's services~~ professional's services, the ~~Foundation~~ Foundation, with thirty (30) ~~days~~ days' written notice, may terminate the ~~contract~~ contract.

**INVESTMENT OBJECTIVES**

~~The~~ The primary investment objective for the Foundation's assets is to seek long term growth. However, the ~~Foundation~~ Foundation does intend to withdraw 4% annually to ~~provide~~ provide for ~~required distribution~~ required distribution. The cash flow intentions of the ~~Foundation~~ Foundation are detailed in the ~~Foundation's~~ Foundation's Spending ~~Policy~~ Policy.

**TIME HORIZON**

For the purposes of ~~planning~~ planning, the time horizon for ~~investment~~ investments is ~~perpetuity~~ perpetuity. The Foundation recognizes that capital values ~~fluctuate~~ fluctuate over shorter ~~periods~~ periods and the possibility of ~~capital~~ capital loss does exist. However, ~~historical~~ historical asset class return data ~~suggest~~ suggest that the risk of ~~principal~~ principal loss over a holding period of at least ten years can be minimized with the long-term investment mix employed under this IPS.



## RISK TOLERANCE

The Foundation is a moderate risk taker with regard to these investment ~~asse~~ts~~assets~~. The ~~p-ortfol~~io~~portfolio~~ will be managed in a manner that ~~see~~s~~seeks~~ to minimize principal ~~flue~~tua~~tions~~fluctuations over the ~~estab~~lished~~established~~ horizon and is consistent with the ~~sta~~ted~~object~~ives. ~~Fin~~an~~ci~~al~~stated~~ objectives. Financial research has demonstrated that risk is best minimized through diversification of ~~asse~~ts~~assets~~.

## ASSET ALLOCATION

Academic ~~rese~~ar~~ch~~research suggests that the decision to ~~alloca~~te~~total~~allocate total assets among various asset classes will far ~~outwe~~igh~~outweigh~~ security ~~se~~lect~~i~~on~~selection~~ and ~~o~~ther~~other~~ decisions that ~~impac~~t~~impact~~ portfolio performance. ~~After~~After reviewing the long-term ~~performa~~n~~ce~~performance and risk ~~chara~~c~~teris~~tic~~s~~characteristics of ~~var~~ious~~various~~ asset classes and ~~ba~~lan~~ce~~ing~~balancing~~ the risks ~~a~~nd~~and~~ rewards of market behavior, the ~~fo~~ll~~ow~~ing~~asse~~t~~following~~ asset classes were ~~selec~~ted~~selected~~ to achieve the ~~obje~~ctives~~objectives~~ of the ~~Founda~~tion's~~Foundation's~~ Portfolio.

~~Table~~Table 1-1

Asset Category	Target Allocation	Acceptable Range
CASH	2%	1% - 10%
FIXED INCOME	28%	20% - 40%
STOCKS	70%	60%-80%
<b>TOTAL</b>	<b>100%</b>	

\*International stocks not to exceed 17.5% of the total portfolio.

## Updated Allocations

From time to time, it may be desirable to amend the basic ~~alloc~~a~~tion~~allocation policy or ~~e~~aleu~~lations~~calculations. When such ~~change~~s~~changes~~ are made, updates will be attached to this ~~Inv~~est~~ment~~ment Policy ~~State~~ment~~Statement~~ as Appendix A and will be ~~consid~~e~~red~~considered part of this Investment Policy Statement. The Advisor will provide to the Foundation the ~~rec~~om~~men~~ded~~recommended~~ or desired targeted allocation percentages. The ~~rec~~omm~~endation~~recommendation~~ will ~~fall~~fall within the acceptable range as indicated in ~~tab~~le~~table~~ 1-1.~~

## Portfolio Rebalancing

From time to time, market conditions may cause the portfolio's ~~in~~ve~~stment~~investment~~ in various ~~a~~sse~~t~~asset classes to vary from the ~~targeted~~ allocationallocation. To ~~rema~~in~~consiste~~n~~t~~remain consistent with the ~~asse~~t~~asset~~ allocation guidelines ~~e~~stab~~lished~~established by this IPS, each asset class in which the portfolio invests ~~sha~~ll~~shall~~ be ~~review~~ed~~annua~~lly~~reviewed~~ annually by the Advisor and ~~reb~~a~~lance~~d~~rebalanced~~ back to the recommended weighting if ~~the~~ actualactual weighting varies by 3% or more ~~from~~ the recommended weighting (e.g., if the targeted allocation ~~fo~~r~~for~~ a particular asset class is 10% and the actualactual is less ~~than~~than 7% or more than 13%, that asset class will be ~~adu~~st~~edadjusted back to the targeted 10% allocationallocation by either adding assets or distributing assets to or from the other ~~asse~~t~~asset~~ classes.)~~~~

**DIVERSIFICATION**

~~Investment of the Foundation's funds shall be limited to~~ Investment of the Foundation's funds shall be limited to the following ~~categories~~ categories:

~~Permitted Investment Categories~~~~Permitted Investment Categories~~

1. Cash and cash ~~equivalents~~ equivalents, including ~~—~~ money market funds
2. ~~Fixed~~ Fixed income assets
  - a) ~~Bonds (corporate)~~ Bonds (corporate, U.S. ~~government~~ government, or government agency)
  - b) ~~Bank certificates of deposit~~ certificates of deposit
3. ~~Stocks (Large and Small)~~ Stocks (Large and Small U.S. ~~-based~~ based and Foreign companies)

~~Excluded Categories~~ Categories for ~~Investment~~ Investment

1. Derivatives
2. Natural resources
3. Precious metals
3. Precious metals
4. Venture ~~capital~~ capital

~~Investment Concentration~~Investment Concentration

At ~~all times~~ all times there must be a minimum ~~of three investment categories represented~~ among the Foundation's assets. There shall be no maximum limit to the number of categories. No individual security held shall represent more than 14% of the total portfolio. (The Foundation considers mutual funds and ETFs to be a security).

**INVESTMENT MONITORING AND CONTROL PROCEDURES**Reports

1. ~~Advisor shall provide the Foundation with a monthly report that lists all assets held by the Foundation, values for each asset and all transactions affecting assets within the portfolio, including additions and withdrawals.~~ 1. Advisor shall provide the Foundation with a monthly report that lists all assets held by the Foundation, values for each asset and all transactions affecting assets within the portfolio, including additions and withdrawals.

2. ~~Advisor shall provide the Foundation on a quarterly basis and within 30 days of the end of each calendar quarter, the following reports:~~ 2. Advisor shall provide the Foundation on a quarterly basis and within 30 days of the end of each calendar quarter, the following reports:

- a) ~~Portfolio performance results~~ Performance results over the last ~~quarter~~ quarter, year, 3 years and 5 years
- b) ~~Performance results~~ Performance results of comparative benchmarks for the same periods; ~~performance shall be reported on a time-weighted basis.~~

3. ~~Advisor shall assist in the development of investment policies, objectives and guidelines.~~ 3. Advisor shall assist in the development of investment policies, objectives and guidelines.

4. ~~Advisor shall prepare asset allocation analyses as necessary and recommend asset allocation strategies with respect to the Foundation's objectives.~~ 4. Advisor shall prepare asset allocation analyses as necessary and recommend asset allocation strategies with respect to the Foundation's objectives.

5. ~~Advisor~~5. Advisor shall provide ~~research~~research on specific issues and ~~opportunities and~~  
~~opportunities and~~ assist the ~~Foundatio-n~~Foundation finance & Investment Committee in ~~spee-ia-l~~special tasks.

6. ~~Advisor shall make tactical implementation decisions, including rebalancing, within the asset~~  
~~allocations ranges set~~6. Advisor shall make tactical implementation decisions, including rebalancing, within  
the asset allocations ranges set by the ~~Founda-tion and among investment ma-n-agers~~Foundation and among  
investment managers with communication ~~of such decisions and~~of such decisions and the rational at the next  
~~Foundation meeting. Such decis-ions will~~meeting. Such decisions will be  
~~tracked by~~tracked by the ~~Advisor who will~~Advisor who will report the results ~~of~~of each of ~~those decisions~~those  
~~decisions~~ in its ~~Invest-ment Review provided~~Investment Review provided to the ~~Foundation for~~Foundation for  
its ~~qua-rtly meet-ings~~quarterly meetings.

7. 7. Advisor ~~shall not ify~~shall notify the ~~Founda-tion~~Foundation Finance & Investment Committee of any ~~signifi-e an~~significant changes in portfolio managers, personnel or ownership of any investment management -firm hired by the ~~Found-a-tion~~Foundation.

8. 8. Advisor shall ~~overa ll~~, overall, be proactive with the ~~Admin-istration~~Administration of the ~~Founda-tion~~Foundation in the management -of the ~~Founda-tion's~~Foundation's investments.

#### Me-e-ting

~~Ad-visor-sha ll~~Meeting

Advisor shall meet with the ~~Founda-tion's~~Foundation's Finance and -Investment Committee at least ~~annua lly~~annually (or semi-~~annua lly~~annually if the ~~Founda-tio n choos-es~~Foundation chooses) in order to give a detailed report as to ~~ae-tivity~~activity in the investment ~~ae-count~~account, manager ~~selec-tion. tae-tic al~~selection, ~~tactical~~ changes in the asset ~~a-lloca-tion~~allocation weightings or other information -the -Foundation ~~sha ll~~shall require.

Advisor ~~sha ll~~shall also meet annually with the Foundation Board in September of each year to give a detailed report on the ~~Found-a-tion's in-vestment-s~~Foundation's investments.

#### **ADOPTION**

~~Ad-op ted~~Adopted and Revised by the ~~Founda-tion~~Foundation on this ~~1-6<sup>th</sup>~~16<sup>th</sup> day ~~e-f~~of June, 2015.

PLNPD-1 (01-02)

**DD-PHILADELPHIA  
INSURANCE COMPANIES**

A Member of the Tokio Marine Group

One Bala Plaza, Suite 100  
Bala Cynwyd, Pennsylvania 19004  
610.617.7900 Fax 610.617.7940  
PHLY.com

**FLEXIPLUS FIVE**

~~NOT FOR PROFIT ORGANIZATION DIRECTORS & OFFICERS LIABILITY INSURANCE  
EMPLOYMENT PRACTICES LIABILITY INSURANCE  
FIDUCIARY LIABILITY INSURANCE  
WORKPLACE VIOLENCE INSUR#JCE  
INTERNET LIABILITY INSUR#JCE~~

**Philadelphia Indemnity Insurance Company**

Policy Number: ~~PHSD1277934~~

**DECLARATIONS**

~~NOTICE: EXCEPT TO SUCH EXTENT AS MAY OTHERWISE BE PROVIDED HEREIN, THIS POLICY  
IS WRITTEN ON A CLAIMS MADE BASIS AND COVERS ONLY THOSE CLAIMS FIRST  
MADE DURING THE POLICY PERIOD AND REPORTED IN WRITING TO THE INSURER PURSUANT  
TO THE TERMS HEREIN. THE AMOUNTS INCURRED FOR DEFENSE COST SHALL BE APPLIED  
AGAINST THE RETENTION.~~

Item ~~1.~~ **Pareri Organization**

EXHIBIT "D"Articles of Incorporation

FILED/EFFECTIVE

01 MAR -9 AM 8:57

ARTICLES OF AMENDMENT  
 LEWIS-CLARK STATE COLLEGE  
 EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION  
 (now, LEWIS-CLARK STATE COLLEGE FOUNDATION, INC.)

CLARK SECRETARY OF STATE  
 14/2001 09:00  
 3841 CI: 28457 BI: 3846  
 38.00 = 38.00 NON PROF

C 75476

WHEREAS, the members of Lewis-Clark State College Educational Assistance and Development Foundation, Inc., at a duly called meeting, after proper notice, adopted the following resolution amending and restating the Articles of Incorporation to change the name of the corporation and to conform those Articles to the provisions of the Idaho Non-Profit Corporations Act by the affirmative vote of all members present at such meeting, constituting a majority of the voting power of the members of the corporation entitled to vote, to wit:

BE IT RESOLVED that the Articles of Incorporation of Lewis-Clark State College Educational Assistance and Development Foundation, Inc., be, and the same are hereby, amended and restated in their entirety as follows:

**AMENDED AND RESTATED ARTICLES**

**ARTICLE I**  
**Preliminary Matters**

- 1.01 **Name.** The name of this corporation is LEWIS-CLARK STATE COLLEGE FOUNDATION, INC.
- 1.02 **Nonprofit Status.** This corporation is a nonprofit corporation.
- 1.03 **Duration.** The duration of this corporation shall be perpetual.

**ARTICLE II**  
**Purposes**

- 2.01 **Charitable Scope of Purposes.** This corporation is organized and shall be operated exclusively for charitable, scientific, literary, and educational purposes, within the meaning of §501(c)(3) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws (hereinafter called Internal Revenue Code"), and Treasury Regulations issued thereunder. This corporation shall serve the public interest, and no part of its assets or the income therefrom shall inure to the benefit of any private individual, except for payment of

reasonable compensation for services rendered to the corporation. No substantial part of the activities of this corporation shall directly or indirectly consist of attempting to influence legislation by propaganda or otherwise, and the corporation shall not directly or indirectly participate in, or intervene (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles of incorporation, this corporation shall not conduct or carry on any activities not permitted to be conducted or carried on (a) by a corporation exempt from federal tax under § 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under § 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

**2.02 Higher Education.** In further limitation of the general charitable purposes set forth above, this corporation is organized and shall be operated for the purpose of advancing the goals of higher education. The goals of higher education shall be broadly construed to encompass the charitable, scientific, literary, artistic, educational, social and athletic objectives normally associated with nonsectarian institutions of higher education.

**2.03 Lewis-Clark State College.** The purposes of this corporation shall be accomplished primarily by encouraging, promoting, supporting, performing and carrying out the functions, programs, operations and purposes of Lewis-Clark State College, an institution of higher education and an agency of the State of Idaho with its principal campus located in Lewiston, Idaho, so long as it is an institution of higher education and an agency of the State of Idaho or an organization described in § 501(c)(3) of the Internal Revenue Code, contributions to which are deductible under § 170(c)(2) of the Internal Revenue Code. By way of illustration and not limitation, it shall be within the purposes of this corporation to:

- a. **Funds.** Coordinate fund raising activities on behalf of Lewis-Clark State College and receive, hold, invest and administer donations of every kind on its behalf.
- b. **Programs.** Promote, support, develop, perform, carry out and extend the educational undertakings of Lewis-Clark State College, and in furtherance thereof, to support and conduct any and all charitable, scientific, literary, artistic, educational, social and athletic activities relating thereto.



- c. **Facilities.** Support, conduct and operate such activities as may be designed or intended to facilitate or enhance the educational, cultural, living and operational conditions at Lewis-Clark State College; to provide support for, maintain, enlarge, and extend the curricula, services, faculty, staff, and real or personal properties of Lewis-Clark State College.
- d. **Financial Assistance.** To provide financial or other assistance to the students, faculty and staff of Lewis-Clark State College in their efforts to acquire new knowledge and to extend the educational endeavors of Lewis-Clark State College.
- e. **Cooperation.** Promote cooperation, coordination with, and assistance to other charities in the area of Lewiston, Idaho, particularly schools and hospitals.

### ARTICLE III

#### Powers

- 3.01 **Statutory Powers.** This corporation shall have all rights and powers now given to nonprofit corporations generally under the laws of the State of Idaho, including those powers now set forth in § 30-3-23 of the Idaho Code, and all further and broader rights and powers which may in the future be given to nonprofit corporations generally under any subsequent laws of this state. No subsequent repeal or amendment of any such laws shall diminish or restrict those corporation's rights and powers.
- 3.02 **Activities.** In addition to raising funds and making grants, the corporation may, itself, actively conduct programs designed to accomplish the purposes set forth in Article II, above. Such activities may be engaged in for or on behalf of Lewis-Clark State College in order to assist it in performing its functions or carrying out its purposes.
- 3.03 **Limitations.** No part of the net earnings or assets of the corporation shall inure to the benefit of, or be distributable to, its members, directors, officers or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article II hereof. No substantial part of the activities of the corporation shall be for the purpose of carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in, (including the publishing and distribution of statements) any political campaign on behalf of any candidate for



public office. Notwithstanding any other provisions of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under § 501(c)(3) of the Internal Revenue Code or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under § 170(c)(2) of the Internal Revenue Code or the corresponding section of any future federal tax code.

**ARTICLE IV**  
**No Members**

The corporation shall not have any members.

**ARTICLE V**  
**Board of Directors**

The affairs of the corporation shall be managed by a Board of Directors. The number of directors serving on the Board of Directors shall be fixed in accordance with the corporation's Bylaws. Other than the directors constituting the initial board of directors, who are designated in these articles, the Directors shall be elected, appointed or designated in the manner and for the term or terms provided in the Bylaws of the corporation.

The names and street addresses of the persons constituting the initial board of directors are:

Name	Address
Niel Zimmerman President - LCSC	500 Eighth Street Lewiston, ID 83501
Rita Morris Provost and Academic Vice-President - LCSC	500 Eighth Avenue Lewiston, ID 83501
Dean Froehlich Vice-President of Administrative Services - LCSC	500 Eighth Avenue Lewiston, ID 83501
Richard Meier Vice-President of Student Affairs - LCSC	500 Eighth Avenue Lewiston, ID 83501
Barbara Bowen President LCSC Alumni Association	601 Burrell Drive Lewiston, ID 83501

Gene Straughan  
Faculty Senate Chair Elect- LCSC

P. O. Box 189  
Colton, WA 99113

Eugene Baldeck  
Appointed Director

2214 Vineyard  
Lewiston, ID 83501

Scott Arnone  
Appointed Director

1445 G Street, Suite 101  
Lewiston, ID 83501

Charles Brown  
Appointed Director

322 Main Street  
Lewiston, ID 83501

Bob DeVleming  
Appointed Director

P.O. Box 57  
Lewiston, ID 83501

Donna Doyle  
Appointed Director

566 Crestline Circle Drive  
Lewiston, ID 83501

Joe Hall  
Appointed Director

1617 21<sup>st</sup> Street  
Lewiston, ID 83501

Harriet Husemann  
Appointed Director

523 Cedar  
Lewiston, ID 83501

Jackie McIver  
Appointed Director

835 Main Street  
Lewiston, ID 83501

Sam Penney  
Appointed Director

P.O. Box 305  
Lapwai, ID 83540

Joe Stegner  
Appointed Director

216 Prospect  
Lewiston, ID 83501

A. L. Alford, Jr.  
Elected Director

505 C Street  
Lewiston, ID 83501

Howard Hayes  
Elected Director

P.O. Box 816  
Lewiston, ID 83501

Darrel Inman Elected Director	P.O. Box 856 Lewiston, ID 83501
Terry Kolb Elected Director	P.O. Box 937 Lewiston, ID 83501
William Mannschreck Elected Director	2956 Mayfair Ridge Lewiston, ID 83501
Eadie Saxton Elected Director	1035 29 <sup>th</sup> Street Lewiston, ID 83501
Marilyn Stonebraker Elected Director	1224 Third Street Lewiston, ID 83501
Charles F. Woods Elected Director	308 Main Street Lewiston, ID 83501
John Young Elected Director	P.O. Box 917 Lewiston, ID 83501

#### **ARTICLE VI Registered Agent**

- 6.01 Registered Office.** The street address of the initial registered office of this corporation is the office of the Vice-President for Administrative Services, Lewis-Clark State College, Eighth Avenue and Sixth Street, Lewiston, ID 83501.
- 6.02 Registered Agent.** The name and initial registered agent of the corporation at such street address is Dean A. Froehlich.

#### **ARTICLE VII. Distribution on Dissolution**

Upon dissolution or winding up of the corporation, its assets remaining after payment, or provision for payment of all debts and liabilities of this corporation shall be to the Idaho State Board of Education, as the Board of Trustees of Lewis-Clark State College; provided, however, that if at such time Lewis-Clark State College or its successor in interest is not an agency of the State of Idaho or an exempt organization described in § 501(c)(3) of the Internal Revenue Code or has substantially failed or abandoned its operations or been

dissolved, then the remaining assets of the corporation shall be distributed to such other agencies of the State of Idaho or non-profit fund foundation or corporation involved in higher education which is organized and operated exclusively for charitable purposes and which has established its tax exempt status under § 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, as the Board of Directors may direct. Any such assets not distributed shall be distributed by the district court of the county in which the principal office of the corporation is then located, excluding for any purposes or to such organizations as the court shall determine to be consistent with the purposes of the corporation.

#### ARTICLE VIII.

##### Bylaws

Provisions for the regulation of the internal affairs of the corporation shall be set forth in the Bylaws. The Board of Directors of the corporation shall be authorized to amend the corporation's Bylaws at a properly noticed special or regular meeting of the Board of Directors.

#### ARTICLE VIX.

##### Amendment of Articles

This corporation reserves the right to amend, alter, change or repeal any provisions contained in these articles of incorporation in any manner now or hereafter prescribed or permitted by statute.

IN WITNESS WHEREOF, the duly undersigned officers have signed and attested these Articles of Amendment.

DATED this 20<sup>th</sup> day of February 2001.

LEWIS-CLARK STATE COLLEGE  
EDUCATIONAL ASSISTANCE AND  
DEVELOPMENT FOUNDATION

BY Edith K. Sayton  
President

Attest:

John Young  
Secretary

**State of Idaho**

**Department of State.**

**CERTIFICATE OF INCORPORATION  
OF**

LEWIS-CLARK STATE COLLEGE EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, hereby certify that duplicate originals of Articles of Incorporation for the incorporation of LEWIS-CLARK STATE COLLEGE EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION, duly signed pursuant to the provisions of the Idaho Nonprofit Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I issue this Certificate of Incorporation and attach hereto a duplicate original of the Articles of Incorporation.

Dated April 4, 19 84.



**GREAT SEAL OF  
THE STATE OF IDAHO**

*Pete T. Cenarrusa*  
SECRETARY OF STATE

*Dorise Deuer*  
Corporation Clerk

CINP 779



Apr 4 8 29 AM '84

LEWIS-CLARK STATE COLLEGE  
EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION  
ARTICLES OF INCORPORATION

APRIL 1984

LEWIS-CLARK STATE COLLEGE  
EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION  
ARTICLES OF INCORPORATION

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LEWIS-CLARK STATE COLLEGE  
EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION, Inc.  
ARTICLES OF INCORPORATION

ROBERT P. BROWN, Esquire, being over the age of twenty-one (21) years, for the purpose of forming a corporation under the provisions of the Idaho Nonprofit Corporation Act, Title 30, Chapter 3 of the Idaho Code, hereby adopts these articles of incorporation:

ARTICLE I  
Preliminary Matters

- 1.01 Name. The name of this corporation is LEWIS-CLARK STATE COLLEGE EDUCATIONAL ASSISTANCE AND DEVELOPMENT FOUNDATION, Inc.
- 1.02 Nonprofit status. This corporation is a nonprofit corporation.
- 1.03 Duration. The duration of this corporation shall be perpetual.

ARTICLE II  
Purposes

- 2.01 Charitable scope of purposes. This corporation is organized and shall be operated exclusively for charitable, scientific, literary, or educational purposes, within the meaning of §501(c)(3) of the Internal Revenue Code of 1954, as amended, or corresponding provisions of any subsequent Federal tax laws (hereinafter called Internal Revenue Code"), and Treasury Regulations issued thereunder. This corporation shall serve the public interest, and no part of its assets or the income therefrom shall inure to the benefit of any private individual, except for payment of reasonable compensation for services rendered to the corporation. No substantial part of the activities of this corporation shall directly or indirectly consist of attempting to influence legislation by propaganda or otherwise, and the corporation shall not directly or indirectly participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles of incorporation, this corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an exempt organization described in §501(c)(3) of the Internal Revenue Code, contributions to which are deductible under §170(c)(2) of the Internal Revenue Code.



- 2.02 Higher education. In further limitation of the general charitable purposes set forth above, this corporation is organized and shall be operated for the purpose of advancing the goals of higher education. The goals of higher education shall be broadly construed to encompass the charitable, scientific, literary, artistic, educational, social and athletic objectives normally associated with nonsectarian institutions of higher education.
- 2.03 Lewis-Clark State College. The purposes of this corporation shall be accomplished primarily by encouraging, promoting, supporting, performing and carrying out the functions, programs, operations and purposes of Lewis-Clark State College, an institution of higher education and an agency of the State of Idaho with its principal campus located in Lewiston, Idaho, so long as it is an institution of higher education and an agency of the State of Idaho or an organization described in §501(c)(3) of the Internal Revenue Code, contributions to which are deductible under §170(c)(2) of the Internal Revenue Code. By way of illustration and not limitation, it shall be within the purposes of this corporation to:
- a. Funds. Coordinate fund raising activities on behalf of Lewis-Clark State College and receive, hold, invest and administer donations of every kind on its behalf.
  - b. Programs. Promote, support, develop, perform, carry out and extend the educational undertakings of Lewis-Clark State College, and in furtherance thereof, to support and conduct any and all charitable, scientific, literary, artistic, educational, social and athletic activities relating thereto.
  - c. Facilities. Support, conduct and operate such activities as may be designed or intended to facilitate or enhance the educational, cultural, living and operational conditions at Lewis-Clark State College; to provide support for, maintain, enlarge, and extend the curricula, services, faculty, staff, and real or personal properties of Lewis-Clark State College.
  - d. Financial assistance. To provide financial or other assistance to the students, faculty and staff of Lewis-Clark State College in their efforts to acquire new knowledge and to extend the educational endeavors of Lewis-Clark State College.
  - e. Cooperation. Promote cooperation, coordination with, and assistance to other charities in the area of Lewiston, Idaho, particularly schools and hospitals.

## ARTICLE III

Powers

- 3.01 Statutory powers. This corporation shall have all rights and powers now given to nonprofit corporations generally under the laws of the State of Idaho, including those powers now set forth in §30-307 of the Idaho Code, and all further and broader rights and powers which may in the future be given to nonprofit corporations generally under any subsequent laws of this state. No subsequent repeal or amendment of any such laws shall diminish or restrict this corporation's rights and powers.
- 3.02 Activities. In addition to raising funds and making grants, the corporation may, itself, actively conduct programs designed to accomplish the purposes set forth in Article II, above. Such activities may be engaged in for or on behalf of Lewis-Clark State College in order to assist it in performing its functions or carrying out its purposes.
- 3.03 Limitations. No power or authority shall be exercised by this corporation in any manner or for any purpose which is not permitted for an exempt organization described in §501(c)(3) of the Internal Revenue Code, contributions to which are deductible under §170(c)(2) of the Internal Revenue Code.

## ARTICLE IV

Members

- 4.01 Management authority. The management of the affairs of this corporation shall be vested in its members pursuant to Section 30-314(c) of the Idaho Code.
- 4.02 Apportionment of voting rights among classes. All voting rights shall be exercised by a single class of membership designated "trustee members", with each trustee member entitled to one (1) vote on each matter submitted to a vote at a meeting of such members. The bylaws of the corporation may provide for the designation of any one or more classes of nonvoting members. Except as set forth in these Articles of Incorporation, the designation, number, qualifications, terms of office, manner of selection, time and place of meetings, rights, powers, and duties of the members of each class shall be prescribed in the bylaws of the corporation.
- 4.03 Compensation. No member of the corporation shall receive any compensation for his or her services as a member of the corporation, but the corporation may pay reasonable compensation to any person, including a member of the corporation, for other services actually rendered to the corporation.

- 4.04 Notice of organization meeting. Actual personal notice of the organization meeting of the members of the corporation shall be sufficient notice pursuant to Section 30-324(b) of the Idaho Code.

ARTICLE V  
Directors

There shall be no directors of the corporation, the management of the affairs of the corporation being vested in the trustee members pursuant to Section 30-314 of the Idaho Code.

ARTICLE VI  
Principal Organizer

- 6.01 Name. The name of the principal organizer of this corporation is LEE A. VICKERS, who is over the age of twenty-one (21) years.
- 6.02 Address. The street address of the principal organizer is Office of the President, 8th Avenue and 6th Street, Lewiston, Idaho 83501.

ARTICLE VII  
Registered Office and Registered Agent

- 7.01 Registered office. The street address of the initial registered office of this corporation is Office of the President, Lewis-Clark State College, 8th Avenue and 6th Street, Lewiston, Idaho 83501.
- 7.02 Registered agent. The name of the initial registered agent at such street address is LEE A. VICKERS.

ARTICLE VIII  
Amendment of Articles

This corporation reserves the right to amend, alter, change or repeal any provisions contained in these articles of incorporation in any manner now or hereafter prescribed or permitted by statute.

ARTICLE IX  
Dissolution

In the event of termination, dissolution or liquidation of this corporation, the net assets remaining after payment of all debts and obligations of the corporation shall be transferred and conveyed exclusively to Lewis-Clark State College or its successors-in-interest; provided, however, that if at such time Lewis-Clark State College or its successor-in-interest is not an agency of the State of Idaho or an exempt organization described in §501(c)(3) of the Internal Revenue Code, or has substantially failed or abandoned its operations or been dissolved, then the



remaining assets of this corporation shall be distributed to such other agencies of the State of Idaho and exempt organizations described in §501(c)(3) of the Internal Revenue Code involved in higher education as the board of directors may direct.

ARTICLE X  
Incorporator

10.01 Name. The name of the incorporator of this corporation is ROBERT P. BROWN, Esquire, who is over the age of twenty-one (21) years.

10.02 Address. The street address of the incorporator is 13th and Idaho Streets, Lewiston, Idaho 83501.


IN WITNESS WHEREOF, the incorporator has signed these Articles of Incorporation in duplicate this 2nd day of April, 1984.

  
ROBERT P. BROWN, Incorporator (SEAL)

STATE OF I D A H O )  
                                  : ss.  
County of NEZ PERCE )

On this 2nd day of April, 1984, before me the undersigned, a notary public in and for the State of Idaho, personally appeared ROBERT P. BROWN, known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

  
Notary Public in and for the State of  
Idaho, Residing at Lewiston, therein.

( S E A L )

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EXHIBIT "E"

Bylaws

AMENDED AND RESTATED BYLAWS  
OF  
LEWIS-CLARK STATE COLLEGE FOUNDATION, INC.

ARTICLE I.  
In General

~~and Address:~~

**1.01 Nature of Bylaws.** The following paragraphs contain provisions for the regulation and management of LEWIS-CLARK STATE COLLEGE FOUNDATION, INC., a nonprofit corporation organized and operating under the laws of the State of Idaho.

**1.02 Conflicts.** In the event that there is a conflict between a provision of these Bylaws and a mandatory provision of the laws of the State of Idaho, or the Articles of Incorporation of the corporation, then the mandatory provision of the laws of the State of Idaho, or the Articles of Incorporation shall control.

ARTICLE II.  
Principal Office

**2.01 Principal Office.** The principal office of the corporation in the State of Idaho shall be located at Lewis-Clark State College ~~Foundation~~  
~~500 8th Ave~~  
~~Avenue~~ Lewiston, ID 83501 ~~2691~~

~~Internet Address: www.lesc.edu~~

~~Item 2. Policy Period: From: 09/11/2017 To: 09/11/2018~~  
~~(12:01 A.M. local. The corporation may have such other offices, either within or without the State of Idaho, as the Directors may designate from time at the address shown in Item 1.) to time.~~

~~Item 3. Limits of Liability:~~

<del>(A) Part 1, D&amp;O Liability:</del>	<del>\$</del>	<del>1,000,000 each Policy Period.</del>
<del>(B) Part 2, Employment Practices:</del>	<del>\$</del>	<del>each Policy Period.</del>
<del>(C) Part 3, Fiduciary Liability:</del>	<del>\$</del>	<del>each Policy Period.</del>
<del>(D) Part 4, Workplace Violence:</del>	<del>\$</del>	<del>each Policy Period.</del>
<del>(E) Part 5, Internet Liability:</del>	<del>\$</del>	<del>each Policy Period.</del>
<del>(F) Aggregate, All Parts:</del>	<del>\$</del>	<del>1,000,000 each Policy Period.</del>

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**EXHIBIT E****LEWIS-CLARK STATE COLLEGE FOUNDATION, INC.****Committee or Task Force Descriptions****ARTICLE III.**  
**Non-Director Members**

**3.01 Foundation Members.** In addition to the Directors as defined in Article IV below, the corporation may recognize a class of benefactors and supporters designated as “Foundation Members”, which class may be further subdivided into any number of subclasses as may be determined by the Directors.

**3.02 No Management Authority or Voting Rights.** Foundation Members, as described in 3.01 above, shall have no authority to manage the affairs of the corporation, and shall not be entitled to vote on any matter relating to the corporation. Foundation Members shall have the right to attend and participate in meetings of the Directors.

**3.03 Rights and Privileges.** Except as may be otherwise provided in these Bylaws or the Articles of Incorporation, Foundation Members shall have such recognition, rights, privileges as may be determined by the Board of Directors. Foundation Members are invited to attend meetings of the Board of Directors.

**3.04 Selection.** Individuals or organizations who are interested in the objectives and purposes of the corporation may be admitted as Foundation Members by majority vote of the Directors upon meeting such qualifications as may be determined by the Directors.

**3.05 Designated Members.** The following individuals shall serve as Designated Members by virtue of their offices, to serve for the term of their respective offices. Designated Members do not have voting rights.

- a. The President of Lewis-Clark State College.
- b. The Provost and Vice President for Academic Affairs of Lewis-Clark State College.
- c. The Vice President for Finance and Administration of Lewis-Clark State College.
- d. The Foundation Treasurer as appointed by Lewis-Clark State College with the consent of the Foundation.
- e. The Faculty Senate Chair Elect of the Lewis-Clark State College Faculty Association.
- f. The Lewis-Clark State College Alumni Association Board Representative.
- g. The Vice President of Student Affairs of Lewis-Clark State College.

**3.06 Membership Roster and Certificates.** The corporation shall maintain a roster of Foundation Members, and may issue certificates, cards, or other evidence of association.

**3.07 Personal Status of Association.** Association as a Foundation Member shall be personal to the associate admitted, and shall not survive the death of any individual associate nor be transferred by any means whatsoever.

**3.08 Resignation.** A Foundation Member may resign at any time by written notice to the corporation.

**3.09 Removal.** Association as a Foundation Member may be reviewed for any action which is detrimental to the best interests of the corporation, or for failure to actively support corporate purposes, or to actively participate in corporate activities. Removal shall require the affirmative vote of a majority of the Directors.

**ARTICLE IV.**  
**Directors**

**4.01 General Powers.** All corporate powers shall be exercised by or under the authority of the Board of Directors. The business and affairs of the corporation shall also be managed under the direction of the Board of Directors, except as otherwise provided in the Idaho Non-Profit Corporation Act or the Articles of Incorporation.

**4.02 Presumption of Assent.** A Director of the corporation who is present at a meeting of its Board of Directors at which any action on any corporate matter is taken shall be presumed to have assented to the action unless such Director's

dissent shall be entered in the minutes of the meeting or unless such Director shall file such Director's written dissent to such action with the secretary of the meeting before the adjournment thereof or shall forward such dissent by certified or registered mail to the secretary of the corporation within three days after the adjournment of the meeting. Such right of dissent shall not apply to a Director who voted in favor of such action.

**4.03 Qualification.** Directors need not be officers of the corporation nor residents of the State of Idaho.

**4.04 Elected Directors.** The corporation shall have such Directors as may be elected by majority vote of the Directors, as then constituted, at the annual meeting of Directors. The number of such elected Directors serving at any time shall, in no event, exceed thirty (30). Each Director, including the Director whose terms are expiring, shall have the right to vote for as many persons as there are Directors to be elected, but no Director shall be entitled to cumulate his or her votes.

**4.05 Terms of Elected Directors.** The terms of the Elected Directors pursuant to Article 4.04 shall serve for a period of three (3) years until the annual meeting in the year in which their respective terms expire and until their successors are duly appointed or elected and qualified.

**4.06 Resignation.** Any Director may resign at any time giving written notice to the corporation. Any such resignation shall take effect at the time specified therein, or if the time be not specified, upon its acceptance by the corporation.

**4.07 Removal.** An elected or appointed Director may be removed from office prior to expiration of the term of office by the vote of at least two-thirds (2/3) of the Directors other than the Director voted upon, at any regular or special meeting of Directors. Unexcused absences from two (2) consecutive meetings of the Directors shall be cause for consideration of removal of a Director. The Designated Director is not subject to removal.

**4.08 Vacancies.** A vacancy among the Directors shall be deemed to exist upon death, resignation or removal of a Director. The vacancy of a Director shall be filled by his or her successor in office at the time the office is assumed. The vacancy of a Designated Director shall be filled by appointment of the Executive Committee. A Director appointed or elected to fill a vacancy shall serve the unexpired term of his predecessor in office.

**4.09 Place of Meetings.** All meetings of the Directors shall be held at the principal office of the corporation or at such other place, either within or without the State of Idaho, as the Directors may, from time to time, direct.

**4.10 Organization of Meeting.** The president of the corporation shall act as chairman of meetings of Directors. In the absence of the president, the next Officer shall act as chairman: vice president, then secretary, respectively.

**4.11 Annual Meetings.** The annual meetings of the Directors shall be held in the spring each year. In the event that such annual meeting is omitted by oversight or otherwise, it may be held at a subsequent special meeting called in accordance with the provisions of these Bylaws and the laws of the State of Idaho, and any business transacted or elections held at such meetings shall be valid as if transacted or held at the annual meeting.

**4.12 Special Meetings.** A special meeting of the Directors may be called at any time by the president, and shall be called by the president upon the written request of a majority of the Directors.

**4.13 Notice of Meetings.** Written notice of each meeting of Directors stating the place, day or hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than two (2) days before the date of the meeting. Exceptions may occur with extenuating circumstances. If mailed, such notice shall be deemed to be delivered three (3) days after they are deposited in the United States Mail addressed to the Director at his or her address as it appears on the records of the corporation, with postage paid thereon.

Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. The Directors may waive notice of any meeting, and written waiver of notice executed either before or after the meeting shall be sufficient.

Any adjournment or adjournments of an annual or special meeting to another time and place may be held without new notice being given.

**4.14 Quorum.** A simple majority (defined as 51% or more) of the voting Directors shall constitute a quorum for the transaction of business. The act of a majority (defined as 51% or more) of the Directors present at a meeting at which a quorum is present shall be the act of the Directors.

Foundation Members and Designated Members shall not be considered to constitute a quorum and do not have voting rights.

If, at any meeting of the Directors, there shall be less than a quorum present, those present may adjourn the meeting without notice other than by announcement at the meeting. If, subsequently additional directors arrive and a quorum is present, such meeting can be re-convened and any business may be transacted which might have been transacted at the meeting as originally notified.

**4.15 Action Without a Meeting.** Any action required to be taken at a meeting of the Board of Directors, or any action that may be taken at a meeting of the Directors or of a committee, may be taken without a meeting if a consent in writing, setting forth the actions so taken, shall be signed by a simple majority of the Directors, or by a simple majority of the ~~Executive Committee~~

~~The Executive Committee is chaired by the President of the Foundation Board.~~

~~The members of the Executive Committee~~committee, as the case may be. Such consent shall have the same effect as a unanimous vote.

**4.16 Powers and Duties.** The Directors shall establish policies and have the general management, control and direction of all the business and affairs of the corporation and of all its undertakings to the fullest extent permitted by law. In addition to all powers granted by law, Directors shall have power and authority:

- a. To call meetings of the Directors whenever deemed proper or necessary.
- b. To elect officers of the corporation, to appoint such employees or agents as they deem necessary or proper, to confer upon any officer the power to appoint, remove and suspend officers, employees and agents, and to similarly remove any officer, employee or agent with or without cause.
- c. To determine the policies of the corporation and to make such rules and regulations as may be deemed necessary or proper for the government and guidance of the officers, employees and Directors of the corporation, not inconsistent with the laws of the State of Idaho, the Articles of Incorporation, these Bylaws or the Operating Agreement.
- d. To oversee the security and safekeeping of endowment funds to insure that the same are invested in accordance with the Uniform Prudent Management of Institutional Funds Act as adopted by the State of Idaho and in a manner consistent with the objectives of the corporation. These duties include cooperation with any investment committee or external investment advisors that may be designated by the Directors.
- e. To purchase or otherwise acquire, and to sell, convey, and otherwise dispose of assets on behalf of the corporation at such prices and upon which terms as the Directors may deem appropriate.
- f. To approve payment for such property, rights or privileges, in whole or in part, with money or other securities of the corporation, or by delivery of other property of the corporation.
- g. To approve an action to borrow money and incur indebtedness; to create, make and issue mortgages, deeds of trust, trust and annuity agreements and negotiable or transferable instruments and securities; to do every other act necessary to effectuate the same.
- h. To hold, operate, leave, invest, reinvest and otherwise manage real and personal property of every kind and description.
- i. To fix the compensation, fringe benefits and emoluments of officers and other employees in accordance with noted Article VI.
- j. To select one or more financial institutions to act as depositor of the funds of the corporation and to determine the manner of receiving, depositing and disbursing the funds of the corporation.
- k. To determine by whom and in what manner the corporation bills, notes, receipts, acceptances, endorsements, checks, releases, contracts or other documents shall be signed, and to confer and delegate such power.
- l. To do everything necessary or proper for the carrying out of the objects and purposes of the corporation as set forth in the Articles of Incorporation.

Notwithstanding the general delegation of authority granted, the Directors shall support and assist the College in fundraising and donor relations. In carrying out its purposes the Foundation Directors shall not engage in activities that conflict with federal or state laws, rules and regulations (including but not limited to all applicable provisions of the Internal Revenue Code and corresponding Federal Treasury Regulations), applicable policies of the Idaho State Board of Education or the role and mission of the College.



**4.17 Executive Committee.** There shall be an executive Committee which shall have and may exercise all of the authority of the Directors other than in reference to amendment of the Articles of Incorporation, adoption of a plan of merger or consolidation of the corporation, the sale, lease, exchange or other disposition of all or substantially all the assets of the corporation otherwise than in the usual and regular course of its activities, a voluntary dissolution of the corporation or a revocation thereof, or amendment of the Bylaws of the corporation. The members of this committee shall be: The officers of the Board, the Immediate Past President, all chairs of approved ~~comm it tees~~ committees or task forces and other ~~member-s~~ members as designated.

All action of the executive committee shall be reported to the Directors at its next meeting succeeding such action, and shall be subject to revision or alteration by the Directors, provided that no rights or acts of third parties shall be affected by any such revision or alteration.

A quorum at any meeting of the executive committee shall consist of a simple majority of the Executive Committee Members.

**4.18 Scholarship Committee.** The Directors may designate two or more members as a scholarship committee. These committees, to the extent provided in the resolution below, shall have and exercise the authority of the Directors in the management of the corporation.

To promote the Foundation Scholars Program:

- a. Establish and maintain scholarship criteria and policies including approval/disapproval of any exceptions to policy
- b. Select scholarship recipients on an annual basis
- c. Provide to the Finance & Investment Committee any information that could impact the amount of the annual scholarship award and/or the number of new scholarships to be given
- d. Provide support, encouragement and develop rapport with individual Foundation Scholars through attendance at social functions such as the orientation at the beginning of the academic year, a winter holiday party, a reception at the LCSC President's home, and/or through a graduation recognition event
- e. Maintain long-term contact with Foundation Scholars, at the minimum annually, in recognition that these scholars are the future ambassadors for the Foundation

To meet as often as required to review other scholarship applications as requested and select recipients in accordance with established individual scholarship criteria

To participate in the annual Scholarship Luncheon to honor LCSC Foundation and Alumni Association scholarship recipients and donors.

**4.19 Finance & Investment Committee.** The Directors may designate two more members as the Finance & Investment Committee. These committees, to the extent provided in the resolution below, shall have and exercise the authority of the Directors in the management of the corporation.

Finance & Investment Committee of the Foundation shall have the following responsibilities:

- a. Oversight of endowment investments. Allocate investments among assets classes according to the investment policy statement. Review the performance of investment portfolio and advisor at least annually.
- b. Approve annual distribution of endowments according to the foundation spending policy. For underwater endowments determine if distribution will be paid. If underwater endowment distributions are made, determine the source of funding, including General Unrestricted Funds, Bryden Canyon Quasi-Endowment or other funding sources.
- c. Select the number of Foundation scholar scholarships awarded to freshman each year. For scholarships awarded in excess of funds available in the Foundation Scholars Program, determine if distribution will be paid from General Unrestricted Funds, Bryden Canyon Quasi-Endowment or other funding sources.
- d. Review financial reports and examine fund balances. Develop the annual operating budget two months before the start of each fiscal year.
- e. Approve charitable gift annuities established with gifts of more than \$100,000 per beneficiary. For annuities established with gifts of more than \$200,000 per beneficiary, submit recommendation for full board approval.
- f. Approve acceptance of gifts of assets other than cash. For noncash gifts in excess of \$200,000, submit recommendation for full board approval. Acceptance of marketable securities does not require approval by the committee. Marketable securities will be liquidated immediately upon receipt.

**4.20 Other Committees or Task Forces.** The Directors may designate and appoint one or more standing committees or task forces, each of which shall consist of two (2) or more Directors. These committees, to the extent provided in such resolution, shall have and exercise the authority of the Directors in the management of the corporation.



**ARTICLE V.**  
**Officers**

**5.01 Qualification.** An Officer must be a Director of the corporation with the exception of the Treasurer, who may be a Designated Member as described in Section 3.05.

**5.02 Offices.** The offices of the corporation shall consist of president, vice president, secretary, and treasurer and such other offices as the Directors may choose to appoint.

**5.03 Election.** The officers of the corporation, with the exception of the Treasurer, shall be elected by the Directors at the organizational meeting of Directors and at such annual meeting of Directors thereafter. Officers shall be elected or appointed for a term extending for two years until the next annual meeting of the Directors and shall serve until their successors shall have been duly elected and qualified.

**5.04 Duties of President.** The president shall be the chief executive officer of the corporation and shall attend and preside at all meetings of the Directors and any executive committee of the Directors. The president shall have responsibility for the planning and implementation of the corporation's activities and the appointment of employees of the corporation, subject to the advisement and approval of the Directors. The president or vice-president, unless some other person is specifically authorized by vote of the Directors, shall sign all bonds, deeds, mortgages, contracts and other documents of the corporation. The president shall perform all the duties commonly incident to such office and shall perform such other duties as the Directors shall designate.

**5.05 Duties of a Vice President.** The vice president shall perform the duties and have the powers of the president during his or her absence or disability. A vice president shall perform such other duties and have such others powers as the Directors may designate.

**5.06 Duties of the Secretary.** The secretary shall ensure accurate minutes of all meetings of the foundation members and the Directors are maintained. The secretary shall attend to the giving and serving of all notices of the corporation, shall have custody of all the original records, papers, files and books of the corporation (except books of accounts and valuable papers properly in the custody of the treasurer); shall attest all instruments in writing executed in the name of the corporation and requiring his or her signature; and shall, in general, perform all the duties incident to the office of secretary and such other duties as the Directors shall designate. In the absence of the secretary, an assistant secretary or a secretary pro tempore shall perform such duties.

**5.07 Duties of Treasurer.** The treasurer, subject to the order of the Directors, shall have the care and custody of the funds and valuable papers of the corporation in such bank or banks as the Directors shall designate. The treasurer shall have and exercise, under the supervision of the Directors, all the powers and duties commonly incident to such office and give bond in such form and with such sureties as may be required by the Directors. The treasurer shall keep accurate books of account of the corporation's transactions, which shall be the property of the corporation, and, together with all its property in his or her possession, shall be subject at all times to the inspection and control of the Directors.

**5.08 Duties of Executive Director.** The executive director shall be given the necessary authority and responsibility to operate the affairs of the corporation and all its activities subject to such policies as may be adopted and such orders as may be issued by the Directors or by any committee or task force to whom they have delegated power for such action. He or she shall act as the duly authorized representative of the Directors in all matters in which the Directors have not formally designated some other person to act.

The authorities and duties of the executive director shall include the responsibility for:

- a. Carrying out all policies established by the Directors.
- b. Developing and submitting to the Directors for approval of plans and strategies for the corporation's affairs, including public relations, soliciting donations, and other matters intended to carry out the objectives of the corporation.
- c. Preparing an annual budget showing the expected receipts and expenditures as required by the Directors.
- d. Selecting and managing staff and developing and maintaining personnel policies and practices.
- e. Presenting to the Directors, or their authorized committee, periodic reports reflecting the operating and financial activities of the corporation and the preparation and submission of such special reports as may be required by the Directors.
- f. Attending all meetings of the Directors and committees.
- g. Performing such other duties as may be necessary and in the best interest of the corporation.

**5.09 Other Officers.** The duties of the additional officers, other than as defined in the Bylaws of the corporation, shall be prescribed and defined by the Directors.

**5.10 Authority to Sign Checks.** All checks, drafts or other orders for payment of money, note or other evidence of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers, agent or agents of the Corporation as provided in these Bylaws or in such manner as shall be determined by the Board of Directors.

**5.11 Resignation.** Any officer may resign at any time by giving written notice to the corporation, to the Directors, to the president, or to the secretary of the corporation. Any such resignation shall take effect at the time specified therein, or if the time be not specified, upon its acceptance.

**5.12 Removal.** Any officer or agent may be removed at any time by action of the Directors.

**5.13 Vacancies.** Any vacancy among the officers of the corporation shall be selected by the executive committee subject to the authority of the Directors to approve, disapprove or fill the vacancy themselves.

#### **ARTICLE VI.** **Compensation and Indemnification**

**6.01 Compensation of Directors.** Directors shall not be compensated.

**6.02 Compensation of Officers.** The president, vice president, secretary and treasurer shall receive no compensation.

**6.03 Repayment.** Any payments made to an employee of the corporation for compensation, salary, bonus, interest, rent or expense incurred by him or her, which shall be determined to be unreasonable in whole or in part by the Internal Revenue Service pursuant to Section 4941(d) (2) (E) of the Internal Revenue Code shall be reimbursed by such employee to the corporation to the full extent of such determination of unreasonableness. It shall be the duty of the Directors to enforce repayment of each such amount. In lieu of repayment by the employee, subject to the determination of the Directors, amounts may be withheld from the employee's future compensation or expense reimbursement payments until the amount owed to the corporation shall have been recovered.

**6.04 Indemnification.** Any person who serves on behalf of the Foundation as a director, employee, chairperson or member of any committee, or as a director, trustee or officer of another corporation, shall be deemed to be the Foundation's agent for purposes of this Article and shall be indemnified by the Foundation against expenses (including attorney's fees), judgments, fines, excise taxes and amounts paid in settlement actually and reasonably incurred by such person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or a derivative action, by reason of such service, provided such person acted in good faith and in a manner that he or she reasonably believe to be in the best interest of the foundation and, with respect to any criminal action proceeding, had no reasonable cause to believe his or her conduct was unlawful.

#### **ARTICLE VII.** **Gifts to Corporation**

**7.01 In General.** Donors may make gifts to the corporation by naming or otherwise identifying the corporation. Gifts shall vest in the corporation upon receipt and acceptance by it, whether signified by a Director, officer, employee or agent of the corporation.

**7.02 Acceptance of Governing Documents.** Each donor, by making a gift to the corporation, accepts and agrees to all of the provisions of the Articles of Incorporation and these Bylaws.

#### **ARTICLE VIII.** **Miscellaneous**

**8.01 Books and Records.** The corporation shall keep accurate and complete books and records of account and shall keep minutes of the proceedings of its Directors and committees having any authority of the Directors. All books and records of the corporation may be inspected by any Director for any proper purpose at any reasonable time.

**8.02 Parliamentary Procedure.** Parliamentary Procedure shall be the code that governs the procedures of the Foundation Board of Directors' meetings.

**8.03 Corporate Seal.** There shall be no seal of the corporation, and all contracts and other papers of the corporation shall be authenticated without any corporate seal.

**8.04 Waiver of Notice.** Whenever any notice whatsoever is required to be given by these Bylaws, or the Articles of Incorporation, or any of the nonprofit corporation laws of the State of Idaho, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice for all purposes.

**8.05 Contracts and Conveyances.** All contracts, deeds, conveyances, negotiable instruments and other instruments of like character which have first been approved by the Directors shall be signed by the president or vice president and the secretary or an assistant secretary, or otherwise as directed by the Directors. No contract of any officer of the corporation shall be valid without previous authorization or subsequent ratification of the Directors.

**8.06 Fiscal Year.** The Foundation shall operate on a fiscal year beginning July 1st and ending June 30th.

**8.07 Dissolution.** The corporation exists for the sole purpose of providing support to Lewis-Clark State College (the "College"). Given the significant administrative contribution provided to the corporation by the College, in the event that the corporation ceases to provide such support, the corporation may be dissolved and all assets and records will be distributed exclusively to the College or its successor in interest pursuant to the Articles of Incorporation.

**8.08 Amendment.** These bylaws may be altered, amended or repealed at any regular or special meeting of the Directors, provided a quorum is present and provided further that notice of the substance of the proposed amendment shall be submitted to each Director within the same time and in the same manner prescribed for notice of the meeting.

#### **CERTIFICATION**

We, the undersigned President, Vice President and Secretary of the Lewis-Clark State College Foundation, Inc. an Idaho Corporation, do hereby certify that the foregoing Bylaws supersede all prior Bylaws, amended or restated, were duly adopted as the restated Bylaws of said corporation at a duly constituted meeting of the members of the corporation at which a quorum was present, in person or by proxy, said meeting, held March 17, 2015, and that the same do now constitute the Bylaws of said corporation.

**EXHIBIT "F"****Conflict of Interest Policy****Lewis-Clark State College Foundation Policy on Conflict of Interest**  
**CONFLICTS OF INTEREST POLICY**

No board member shall use his or her position, or the knowledge gained therefrom, in such a manner that conflict between the interest of the organization or any of its affiliates and his or her personal interests arises.

Each board member has a duty to place the interest of the organization foremost in any dealings with the organization and has a continuing responsibility to comply with the requirements of this policy.

Board or committee members may not obtain for themselves, their relatives, or their friends a material interest of any kind from their association with the organization.

It is, nevertheless, recognized that transactions between Lewis-Clark State College Foundation ("Foundation") and a business or other organization with whom a board member is affiliated may be beneficial to the Foundation and that the Foundation should not be precluded from entering into that beneficial transaction so long as the board member does not participate in or otherwise influence the Foundation's decision regarding the transaction.

It shall be the policy of the Foundation to require that all new Board members, prior to assuming their positions, and all present Board members, as soon as practicable after the adoption of this policy, submit in writing to the President a list of all businesses or other organizations (other than the Foundation) of which he or she is an officer, member, owner (either as a sole practitioner or partner), shareholder with a five percent (5%) or greater interest in all outstanding voting shares, employee or agent, with which the Foundation has, or may reasonably in the future have, a relationship or transaction in which the Board member or officer would have conflicting interests. Each written statement shall be resubmitted each year with any necessary changes.

The President shall become familiar with the statements of all Board members and officers in order to guide their conduct should a conflict arise. The Vice-President shall be familiar with the statement filed by the President.

At such time as any matter comes before the Board in such a way as to give rise to conflict of interest, the affected Board member or officer shall make known the potential conflict, whether disclosed by written statement or not. After answering any questions that might be asked, the affected Board member shall withdraw from the meeting until the matter has been voted upon. In the event that the affected Board member or officer fails to withdraw voluntarily, the President is empowered to require withdrawal from the room during both discussion and vote on the matter. In the event the conflict of interest affects the President, the Vice-President is empowered to require that the President withdraw in the same manner, and for the duration of discussion and action on the matter the Vice-President shall preside.

If the matter about which a conflict has arisen is the item of business for which a special meeting of the Board was called, the affected member may be counted to establish a quorum, but shall not participate in the discussion or vote on it.

ADOPTED, this 15<sup>th</sup> day of December, 1998.

EXHIBIT "G"Code of Ethical Conduct

Directors and Officers of the LC State Foundation represent Lewis-Clark State College and its Foundation, and have a responsibility to conduct themselves in such a manner as to give a positive impression of Lewis-Clark State College to the public, students, and alumni. Directors and Officers of the LC State Foundation pledge to accept the following ethical guidelines:

1. Accountability: Faithfully abide by the Articles of Incorporation, Bylaws and policies of the LC state Foundation, and exercise reasonable care, faith and due diligence in organizational affairs.
2. Professional Excellence: Maintain a professional level of courtesy, respect and objectivity in all Foundation activities.
3. Professional Gain: Exercise the powers invested for the good of all members of the organization rather than his/her personal benefit. Transactions involving the Foundation and the personal or business affairs of a trustee, director, officer, or staff member should be approved in advance by the Foundation's governing board. In addition, directors, officers, and staff members of a foundation disqualify themselves from making, participating, or influencing a decision in which they have or would have a financial interest.
4. Confidential Information: Respect the confidentiality of sensitive information known due to service.
5. Collaboration and Cooperation: Respect the diversity of opinions as expressed or acted upon by the Foundation board, committees and membership, and promote collaboration, cooperation and partnership among Foundation Members.
6. Gifts: No director, trustee, officer, or staff member of a foundation shall accept from any source any material gift or gratuity in excess of fifty dollars (\$50.00) that is offered, or reasonably appears to be offered, because of the position held with the foundation; nor should an offer of a prohibited gift or gratuity be extended by such an individual on a similar basis.



**EXHIBIT "H"****Gift Acceptance Policy****Lewis-Clark State College Foundation  
Gift Acceptance Policy  
(Article VII of the Bylaws)****Gifts to Corporation:****In General**

Donors may make gifts to the corporation by naming or otherwise identifying the corporation. Gifts shall vest in the corporation upon receipt and acceptance by it, whether signified by a Director, officer, employee or agent of the corporation.

**Acceptance of Governing Documents**

Each donor, by making a gift to the corporation, accepts and agrees to all the provisions of the Articles of Incorporation and (the) Bylaws.

**Split Interest Gifts**

The corporation shall have the power and authority to arrange and administer deferred and other split-interest gifts, including, but not limited to, charitable lead and remainder unitrusts and annuity trusts, and charitable gift annuities, but only as permitted by the laws of the State of Idaho. If a gift is made to the corporation or a third party (in trust or otherwise) to make income or other payments for a period of a life or lives or other periods to any individuals or for noncharitable purposes, followed by payments to the corporation, or to make income or other payments to the corporation, followed by payments to any individuals or for noncharitable purposes, only the payments to the corporation shall be regarded as subject to the corporation's Articles of Incorporation and (the) Bylaws and then only when the corporation becomes entitled to their use. The Directors may take such actions as it, from time to time, deems necessary to protect the corporation's rights to receive such payments.

**Restricted Gifts, Acceptance**

Any donor may, with respect to a gift made by such donor to the corporation, provide at the time of the gifts restrictions or conditions which are not inconsistent with the charitable purposes of the corporation, as to (i) the manner of distribution, including amounts, times and conditions of payment and whether from principal or income, and (ii) the name, as a memorial or otherwise, for a fund given, or addition to a fund previously held, or anonymity for the gift. Restrictions involving the naming of a fund as a memorial or otherwise may be satisfied by keeping such name appropriate accounts reflecting the interest of such funds in a common investment. Nothing in the foregoing shall obligate the corporation to accept any gift or to perform any act, which, in the opinion of the Directors, will not be in the best interests of the corporation or which may jeopardize or cause it to lose its status as an exempt organization described in Section 501 (c) (3) of the Internal Revenue Code.

**EXHIBIT "I"****Policy for Accounting for Gift Revenue****Lewis-Clark State College Foundation**  
**Policy for Accounting of Gift Revenue**

1. **Fiduciary Responsibility.** Each gift, regardless of value, form, or designated use, shall be accounted for at the time of receipt until used as directed by the donors in support of the mission of the Foundation and/or the College. During such time as funds are retained, they shall be invested in accordance with procedures of the Finance and Investment Committee. The development office shall be responsible for any reports to donors on the use of their funds, to be accomplished in concert with operating managers and the accounting department.
2. **Allocation to Restricted Funds.** Gifts received for restricted purposes (either temporarily restricted or permanently restricted) shall be separately accounted for in order to maintain stewardship of these funds as donors direct. The segregation of these funds is to be performed by the accounting department, who shall report to donors on their disposition and use through the development office.
3. **Expenditure Controls.** The uses of gift revenue, especially restricted gifts shall be fully accounted for, beginning with their deposit to temporarily restricted fund accounts, stewardship, disposition reports, and with expenditures only as directed by the donor in keeping with the mission of the College and/or the Foundation.
4. **Allocation to Endowment.** Funds restricted to endowment or so restricted by the Foundation Board shall be invested and accounted for in accord with policies of the Finance and Investment Committee.
5. **Investment of Funds.** All gifts received shall be invested until used in accord with donor wishes, using short-term or long-term investment plans as defined by the Finance and Investment Committee. Funds restricted to endowment or so restricted by the Foundation Board shall be invested and accounted for as directed by the Finance and Investment Committee. Investment earnings shall be used only for the purposes board, with amounts as resolved by the Finance and Investment Committee.
6. **Accounting Reports.** Regular accounting reports will summarize the disposition of all money, illustrating their present disposition by source, purpose or use, and fundraising program, which shall be prepared for each Foundation Board meeting and distributed to the Board members.

**EXHIBIT "J"****Foundation Insurance**

PI-NPD-1 (01-02)

**PHILADELPHIA  
INSURANCE COMPANIES**

A Member of the Tokio Marine Group

One Bala Plaza, Suite 100  
Bala Cynwyd, Pennsylvania 19004  
610.617.7900 Fax 610.617.7940  
PHLY.com

**FLEXIPLUS FIVE**  
**NOT-FOR-PROFIT ORGANIZATION DIRECTORS & OFFICERS LIABILITY INSURANCE**  
**EMPLOYMENT PRACTICES LIABILITY INSURANCE**  
**FIDUCIARY LIABILITY INSURANCE**  
**WORKPLACE VIOLENCE INSURANCE**  
**INTERNET LIABILITY INSURANCE**

**Philadelphia Indemnity Insurance Company**

Policy Number: PHSD1562701

**DECLARATIONS**

**NOTICE: EXCEPT TO SUCH EXTENT AS MAY OTHERWISE BE PROVIDED HEREIN, THIS POLICY IS WRITTEN ON A CLAIMS MADE BASIS AND COVERS ONLY THOSE CLAIMS FIRST MADE DURING THE POLICY PERIOD AND REPORTED IN WRITING TO THE INSURER PURSUANT TO THE TERMS HEREIN. THE AMOUNTS INCURRED FOR DEFENSE COST SHALL BE APPLIED AGAINST THE RETENTION.**

- Item 1. Parent Organization and Address:  
 LEWIS-CLARK STATE COLLEGE  
 FOUNDATION  
 500 8th Ave  
 Lewiston, ID 83501-2691  
  
 Internet Address: [www.lcsc.edu](http://www.lcsc.edu)
- Item 2. Policy Period: From: 09/11/2020 To: 09/11/2021  
 (12:01 A.M. local time at the address shown in Item 1.)
- Item 3. Limits of Liability:
- |     |                               |    |           |                     |
|-----|-------------------------------|----|-----------|---------------------|
| (A) | Part 1, D&O Liability:        | \$ | 1,000,000 | each Policy Period. |
| (B) | Part 2, Employment Practices: | \$ |           | each Policy Period. |
| (C) | Part 3, Fiduciary Liability:  | \$ |           | each Policy Period. |
| (D) | Part 4, Workplace Violence:   | \$ |           | each Policy Period. |
| (E) | Part 5, Internet Liability:   | \$ |           | each Policy Period. |
| (F) | Aggregate, All Parts:         | \$ | 1,000,000 | each Policy Period. |

**NBP1557971**  
 Renewal of Number  
 POLICY DECLARATIONS  
**No. NBP1557971A**

\*\*\* **RENEWAL CERTIFICATE** \*\*\*  
**United States Liability Insurance Company**  
 1190 Devon Park Drive, Wayne, Pennsylvania 19087  
 A Member Company of United States Liability Insurance Group

Direct Bill Policy

NAMED INSURED AND ADDRESS:  
**LEWIS-CLARK STATE COLLEGE FOUNDATION**  
**500 8TH AVE**  
**LEWISTON, ID 83501**

POLICY PERIOD: (MO. DAY YR.) From: 03/26/2020 To: 03/26/2021

12:01 A.M. STANDARD TIME AT YOUR  
 MAILING ADDRESS SHOWN ABOVE

FORM OF BUSINESS: Non-Profit Corporation

BUSINESS DESCRIPTION: Foundation

IN CONSIDERATION OF THE RENEWAL PREMIUM STATED BELOW, EXPIRING POLICY NUMBER NBP1557971 IS RENEWED  
 FOR THE POLICY PERIOD STATED ABOVE. PLEASE ATTACH THIS RENEWAL CERTIFICATE TO YOUR EXPIRING POLICY.

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED.  
 THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

	PREMIUM
Businessowners Liability Coverage Part	\$611.00
Businessowners Property Coverage Part	\$50.00


**TOTAL: \$661.00**

Coverage Form(s) and Endorsement(s) made a part of this policy at time of issue

**See Endorsement EOD (1/95)**

Agent: **STONEBRAKER MCQUARY AGENCY GROUP, INC. (2141)**  
 P.O. Box 9  
 Clarkson, WA 99403

Issued: 03/10/2020 10:46 AM

By:   
 Authorized Representative

THESE DECLARATIONS TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART DECLARATIONS,  
 COVERAGE PART COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF.

EXHIBIT "K"

Committee Descriptions  
Committee or Task Force Descriptions

Executive Committee

~~Responsibilities include:~~  
~~making interim decisions~~

The Executive Committee is chaired by the President of the Foundation Board.

The members of the Executive Committee shall be: The officers of the Board, the Immediate Past President, all chairs of approved committees or task forces and other members as designated.

Responsibilities include:

- \* making interim decisions for the ~~Board~~Board (to be ratified by the full ~~Board~~Board at its subsequent ~~meeting~~meeting);
- \* overseeing the long-range and strategic ~~planning~~planning of the organization;
- \* serving as a ~~sounding~~sounding board for new programs or ~~polices~~policies that should come before the full Board eventually;
- \* enforcing ~~membership responsibilities, including~~membership responsibilities, including attendance ~~polices~~policies and committee appointments;
- ~~monitoring~~\* monitoring progress of Board and staff in achieving the current year goals;
- ~~scrutinizing~~\* scrutinizing budget ~~performance~~performance;
- ~~maintaining~~\* maintaining a close and candid ~~relationship~~relationship with the leadership of the College;
- ~~following~~\* following and evaluating the ~~performance~~performance of the ~~Foundation's Executive~~Foundation's Executive Director;
- ~~evaluating~~\* evaluating Board performance by ~~recognizing superior~~recognizing superior results or levels of service and by arranging for the ~~departure~~departure of ~~unproductive~~unproductive Board members;
- \* acting on behalf of the ~~Board~~Board in ~~times~~times of emergency or necessary ~~expedient~~expediency.

The actions of the ~~Executive Committee~~Executive Committee are subject to ~~revision~~revision or alteration by the Board. Minutes of Executive ~~Committee~~Committee meetings are sent to each Board member. ~~Membership~~Membership in the ~~Executive Committee~~Executive Committee will not exceed a quorum of the full Board. A quorum at any ~~meeting~~meeting of the Executive ~~Committee~~Committee shall ~~consist~~consist of a ~~simple~~simple majority of the ~~members~~members.

Lewis-Clark State College Foundation  
 Other Committee or Task Force Descriptions

Finance and Investment Committee

The Finance and ~~Investment Committee~~Investment Committee shall oversee the ~~Foundation's~~Foundation's budget ~~activities~~activities and ~~expenses~~expenses; ~~monitor~~monitor the ~~flow of~~flow of funds to determine ~~consistency~~consistency between ~~expenditures~~expenditures and generated revenue; manage the ~~investment~~investment portfolio; ~~establish~~establish ~~financial policies~~financial policies; ~~oversee the buildings~~establish financial policies; ~~oversee the buildings~~oversee the buildings and grounds owned by the Foundation.

### Scholarship Committee

The Scholarship ~~Committee~~Committee shall oversee the ~~awarding~~awarding of specific ~~scholarships~~scholarships; ~~establish scholarship~~scholarships; establish scholarship policies and ~~review~~review the process; assist in the ~~planning~~planning of three ~~scholarship events annually~~scholarship events annually.

### Other Committees or Task Forces

The Directors may ~~designate~~designate and appoint one or more standing ~~committees~~committees or task forces, each of ~~which shall consist of~~which shall consist of two (2) or more Directors. These ~~committees~~committees, to the extent provided in such ~~resolution~~resolution, shall have and exercise the ~~authority~~authority of the Directors in the ~~management~~management of the corporation.





~~Lewis Clark State College~~

EXHIBIT "L"Endowment Fund Fee PolicyNotice of Endowment Fund Fee Policy  
LCSC Foundation~~Foundation Director~~  
~~Policy on Conflict of Interest~~~~CONFLICTS OF INTEREST POLICY~~

~~No board member shall use his or her position, or the knowledge gained there from, in such a manner that conflict between the interest of the organization or any of its affiliates and his or her personal interests arises~~  
Effective January 1, 2020, the LCSC Foundation Board will implement the following policy regarding administrative fees on endowment and accounts.

2% Fee on Donations Received

In general, a 2% administrative fee will apply to all donations received by the Foundation to offset the costs of accounting, fundraising and other administration costs. However, the fee will not apply in the following circumstances:

1. Additional donations to an endowment or annual fund in existence as of January 1, 2020.
2. Funding to athletic or academic programs solicited by coaches or academic staff that simply passes through the Foundation to the respective department.
3. Funding designated to the Center for Arts and History solicited by department staff that simply passes through the Foundation to the department.
4. In-kind donations.
5. Other donations solicited by faculty or others where the donated funds simply pass through the Foundation.

The 2% fee will apply at the time of the donation and will be a one-time fee. The 2% fee for gift annuities will apply at the end of the annuity when the funds become available to the Foundation, subject to the above restrictions.

½ of 1% (.5%) Annual Fee on Average Endowment Fund Balance

The .5% fee will be charged to Endowment Funds, Alumni Endowments, and Other Endowments. The .5% fee will not apply to the following fund classifications:

1. Gift annuities
2. General Unrestricted Funds
3. Annual Funds

4. Funds designated as Other Funds5. LCSC Designated Funds

The .5% fee will be based on the average endowment fund balances and not on the amount of profit or loss earned or allocated for any time period. The fee will be calculated twice during each year using .25% times the fund market values at December 31 and June 30, and will be included with the December and June six months' market allocation postings.

¶

~~Each board member has a duty to place the interest of the organization foremost in any dealings with the organization and has a continuing responsibility to comply with the requirements of this policy.~~

~~Board or committee members may not obtain for themselves, their relatives, or their friends a material interest of any kind from their association with the organization. No board member shall accept from any source any material gift or gratuity in excess of fifty dollars (\$50.00) that is offered, or reasonably appears to be offered, because of the position held within the Foundation; not should an offer of a prohibited gift or gratuity be extended by such an individual on a similar basis.~~

~~It is, nevertheless, recognized that transactions between Lewis-Clark State College Foundation ("Foundation") and a business or other organization with whom a board member is affiliated may be beneficial to the Foundation and that the Foundation should not be precluded from entering into that beneficial transaction so long as the board member does not participate in or otherwise influence the Foundation's decision regarding the transaction.~~

~~It shall be the policy of the Foundation to require that all new Board members, prior to assuming their positions, and all present Board members, as soon as practicable after the adoption of this policy, submit in writing to the President a list of all businesses or other organizations (other than the Foundation) of which he or she is an officer, member, owner (either as a sole practitioner or partner), shareholder with a five percent (5%) or greater interest in all outstanding voting shares, employee or agent, with which the Foundation has, or may reasonably in the future have, a relationship or transaction in which the Board member or officer would have conflicting interests. Each written statement shall be resubmitted each year with any necessary changes.~~

~~The President shall become familiar with the statements of all Board members and officers in order to guide their conduct should a conflict arise. The Vice President shall be familiar with the statement filed by the President.~~

~~At such time as any matter comes before the Board in such a way as to give rise to conflict of interest, the affected Board member or officer shall make known the potential conflict, whether disclosed by written statement or not. After answering any questions that might be asked, the affected Board member shall withdraw from the meeting until the matter has been voted upon. In the event that the affected Board member or officer fails to withdraw voluntarily, the President is empowered to require withdrawal from the room during both discussion and vote on the matter. In the event the conflict of interest affects the President, the Vice President is empowered to require that the President withdraw in the same manner, and for the duration of discussion and action on the matter the Vice President shall preside.~~

~~If the matter about which a conflict has arisen is the item of business for which a special meeting of the Board was called, the affected member may be counted to establish a quorum, but shall not participate in the discussion or vote on it.~~

ADOPTED, this 15<sup>th</sup> day of December, 1998.

### CONFLICTS OF INTEREST FORM

As required in paragraph five (5) of the Conflicts of Interest Policy, please list all businesses or other organizations (other than the Foundation) of which you are an officer, member, owner (either as a sole practitioner or partner), shareholder with a five percent (5%) or greater interest in all outstanding voting shares, employee or agent, with which the Foundation has, or may reasonably in the future have, a relationship or transaction in which you would have conflicting interests.

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

Name:

Signature

Date

This form should be returned to President, LCSC Foundation, Lewis Clark State College, 500 Main Avenue, Lewiston, ID 83501.

