FLORIDA SOUTHWESTERN STATE COLLEGE™

Agenda
District Board of Trustees Workshop
Lee Campus – Building I, Room 223
May 28, 2019
1:00 p.m.

Trustee Lunch..Available at 12:30 for lunch meeting

AGENDA

1. Discussion of the Board of Trustees Self-Evaluation .... *Dr. Henry Peel & Dr. Joe Van Gaalen*

2. BOT Action Items .... *Chairman Rhone*

   <u>Consent Agenda</u>

   1. Approval for Continuing Services for Construction Management
   2. Approval of Corrected Academic and Duty Day Calendar
   3. Approval of the President's Contract

3. Updates from the President... *Dr. Jeff Allbritten*

4. Closing Remarks...*Trustees*

ADJOURNMENT

Agenda Item No.: 1

Florida SouthWestern State College District Board of Trustees
Agenda Item Summary

Meeting Date: 5/28/2019

1. **Action Requested/Purpose: Approval of construction management firms and authorizing the administration to award a contract(s) for Continuing Services for projects with construction costs of $2,000,000.00 or less.**

2. **Action Requested/Purpose: Approval for Continuing Services for Construction Management Firms**

3. **Fiscal Impact:** ☐ Yes ☐ No ☒ N/A

4. **Funding Source**: Amount: $ N/A

5. **Administration Recommendation: The Administration recommends District Board of Trustees approval of Construction Management firms and authorizing the administration to award contract(s) for (1) year with option to extend up to an additional (12) month term for construction projects with construction costs of $2,000,000.00 or less.**

6. **Agenda Item Type:**	7. **Requirement/Purpose (Include Citation)**
☒ Action Item ☐ Consent Agenda ☐ Information Only ☐ Board Requested Information/Report	☒ Statute **287 .055** ☐ Administrative Code ☐ Other

8. **Background Information: Eighteen (18) firms submitted response to RFQ #19-02 on 4/4/2019. Six (6) firms were selected to be interviewed and the Selection Committee recommended that all 6 firms be considered to be awarded a Continuing Services Agreement for construction management services. See attached for the firms recommended to be awarded contracts.**

Requested by:	[signature]
Funding Verified by:	[signature] **Vice President, Administrative Services**
Approved for Agenda by:	[signature] **President**

Request for Qualifications #19-02
Construction Management At-Risk Services for Construction Projects on a Continuing Basis

Construction Management Firms **Recommend for Award of Continuing Services Contract for Projects less than $2 Million** **6/1/19-6/30/20 with option to extend one year ending 6/30/2021**
1. Charles Perry Partners Inc
2. Chris-Tel Company of SWFL Inc dba Chris-Tel Construction
3. CORE Construction Services of Florida LLC
4. GATES Butz Institutional Construction LLC
5. Gulfpoint Construction Company Inc
6. Skanska USA Building Inc

Agenda Item No.: 2

Florida SouthWestern State College District Board of Trustees **Agenda Item Summary** Meeting Date: 5/28/2019

1. **Title:** **Academic and Duty Day Calendar**

2. **Action Requested/Purpose:** **Approval of corrected Academic and Duty Day Calendar**

3. **Fiscal Impact:** ☐ Yes ☒ No ☐ N/A

4. **Funding Source**: Amount: $

Administration Recommendation: The Administration recommends District Board of Trustees approval of the corrected College Academic and Duty Day Calendar for 2019-2020.

5. **Agenda Item Type:**	6. **Requirement/Purpose (Include Citation)**
☐ Action Item ☒ Consent Agenda ☐ Information Only ☐ Board Requested Information/Report	☐ Statute ☐ Administrative Code ☐ Other

Background Information:

The College faculty and staff duty day calendar is developed based on the academic calendar operating dates. The calendar provides for 166 duty days for teaching faculty and 208 duty days for library faculty in accordance with the Collective Negotiations Agreement, and 243 duty days for non-instructional staff.

The calendar has been reviewed and approved by the designated College administrators. It is recommended that this action be approved.

Requested by:	Susan Bronstein **Director, Human Resources**
Requested by:	[signature] **Provost**
Funding Verified by:	[signature] **Vice President, Administrative Services**
Approved for Agenda by:	[signature] **President**

2019 - 2020 Academic Calendar for Faculty

	FALL 2019			SPRING 2020			SUMMER 2020		
	Full term	Mini-A	Mini-B	Full term	Mini-A	Mini-B	Full term	Mini-A	Mini-B
CLASSES AND FINAL EXAMS									
First day of classes	8/19/19	8/19/19	10/17/19	1/6/20	1/6/20	3/17/20	5/11/20	5/11/20	6/25/20
Last day of classes	12/2/19	9/30/19	12/2/19	4/20/20	2/24/20	4/20/20	8/3/20	6/17/20	8/3/20
Final exams (exam schedule on the web)	12/3 - 12/9	10/1 - 10/7	12/3 - 12/9	4/21 - 4/27	2/25 - 3/2	4/21 - 4/27	Last Class	Last Class	Last Class
LAST DATE TO									
Add courses, drop courses, change credit/audit	8/26/19	8/26/19	10/24/19	1/13/20	1/13/20	3/24/20	5/18/20	5/18/20	6/29/20
Add course for financial aid eligibility	8/26/19	8/26/19	8/26/19	1/13/20	1/13/20	1/13/20	5/18/20	5/18/20	5/18/20
Add or change a program	8/26/19	8/26/19	N/A	1/13/20	1/13/20	N/A	5/18/20	5/18/20	N/A
Withdraw from courses	10/24/19	9/16/19	11/15/19	3/18/20	2/6/20	4/8/20	7/9/20	6/8/20	7/24/20
GRADES AND ATTENDANCE VERIFICATION									
Last day to replace 'I' grade - previous semester	9/16/19	9/16/19	9/16/19	2/3/20	2/3/20	2/3/20	6/8/20	6/8/20	6/8/20
Attendance verification due	8/27/19	8/27/19	10/25/19	1/14/20	1/14/20	3/25/20	5/19/20	5/19/20	7/6/20
Final grades due	12/11/19 **4:30 p.m.**	10/9/19 **4:30 p.m.**	12/11/19 **4:30 p.m.**	4/29/20 **4:30 p.m.**	3/4/20 **4:30 p.m.**	4/29/20 **4:30 p.m.**	8/5/20 **4:30 p.m.**	6/24/20 **4:30 p.m.**	8/5/20 **4:30 p.m.**
ADDITIONAL IMPORTANT DATES									
First faculty duty day	8/12/19			1/2/20					
Last faculty duty day	12/11/19			5/6/20					
Professional development days	8/12-8/16			1/2-1/3					
Commencement Ceremony	5/1/20	5/1/20	5/1/20	5/1/20	5/1/20	5/1/20	5/1/20	5/1/20	5/1/20
Convocation	8/14/19	8/14/19							
COLLEGE CLOSED									
	9/2/19 11/10 - 11/11 11/28 - 12/1 12/15 - 1/1	9/2/19	11/10 - 11/11 11/28 - 12/1 12/15 - 1/1	1/20/20 3/8 - 3/14	1/20/20	3/8 - 3/14	5/25/20 7/3-7/4	5/25/20	7/3-7/4

Proposed Calendar- Revised May.14.2019

*** It is the student's responsibility to drop course/s by this date to get a full refund (or not be charged). Non attendance does not guarantee a drop.**

2019 - 2020 College Calendar

	FALL 2019			SPRING 2020			SUMMER 2020		
	Full term	Mini-A	Mini-B	Full term	Mini-A	Mini-B	Full term	Mini-A	Mini-B
ADMISSIONS DEADLINES									
International (F1) application deadline	6/3/19	6/3/19	NA	9/30/19	9/30/19	NA	2/24/20	2/24/20	NA
International (F1) transfer application deadline	6/17/19	6/17/19	NA	10/14/19	10/14/19	NA	3/16/20	3/16/20	NA
Freshmen, first-time in college application deadline	7/31/19	7/31/19	NA	12/2/19	12/2/19	NA	4/27/20	4/27/20	6/1/20
Transfer and bachelor degree application deadline	7/31/19	7/31/19	9/30/19	12/2/19	12/2/19	3/2/20	4/27/20	4/27/20	6/1/20
Readmit and non-degree application deadline	8/14/19	8/14/19	10/14/19	12/29/19	12/29/19	3/2/20	4/27/20	4/27/20	6/17/20
Dual enrollment/early admission application deadline	8/26/19	NA	NA	1/13/20	NA	NA	NA	NA	NA
Apply for a change of Florida residency status to be eligible for in-state tuition rates	8/26/19	8/26/19	10/24/19	1/13/20	1/13/20	3/24/20	5/18/20	5/18/20	7/2/20
REGISTRATION DATES									
Priority: veterans, honors, housing, athletes	3/14/19	3/14/19	3/14/19	10/28/19	10/28/19	10/28/19	3/19/20	3/19/20	3/19/20
Degree-Seeking	3/15/19	3/15/19	3/15/19	10/29/19	10/29/19	10/29/19	3/20/20	3/20/20	3/20/20
Open registration	3/18/19	3/18/19	3/18/19	10/30/19	10/30/19	10/30/19	3/23/20	3/23/20	3/23/20
State employees	8/19/19	8/19/19	10/17/19	1/6/20	1/6/20	3/17/20	5/11/20	5/11/20	6/25/20
CLASSES AND FINAL EXAMS									
First day of classes	8/19/19	8/19/19	10/17/19	1/6/20	1/6/20	3/17/20	5/11/20	5/11/20	6/25/20
Last day of classes	12/2/19	9/30/19	12/2/19	4/20/20	2/24/20	4/20/20	8/3/20	6/17/20	8/3/20
Final exams (exam schedule on the web)	12/3 - 12/9	10/1 - 10/7	12/3 - 12/9	4/21 - 4/27	2/25 - 3/2	4/21 - 4/27	Last Class	Last Class	Last Class
LAST DATE TO									
* Add courses, drop courses, change credit/audit	8/26/19	8/26/19	10/24/19	1/13/20	1/13/20	3/24/20	5/18/20	5/18/20	6/29/20
Add course for financial aid eligibility	8/26/19	8/26/19	8/26/19	1/13/20	1/13/20	1/13/20	5/18/20	5/18/20	5/18/20
Add or change a program	8/26/19	8/26/19	N/A	1/13/20	1/13/20	N/A	5/18/20	5/18/20	N/A
Withdraw from courses	10/24/19	9/16/19	11/15/19	3/18/20	2/6/20	4/8/20	7/9/20	6/8/20	7/24/20
GRADES AND ATTENDANCE VERIFICATION									
Last day to replace 'I' grade - previous semester	9/16/19	9/16/19	9/16/19	2/3/20	2/3/20	2/3/20	6/8/20	6/8/20	6/8/20
Attendance verification due	8/27/19	8/27/19	10/25/19	1/14/20	1/14/20	3/25/20	5/19/20	5/19/20	7/6/20
Final grades due	12/11/19 **4:30 p.m.**	10/9/19 **4:30 p.m.**	12/11/19 **4:30 p.m.**	4/29/20 **4:30 p.m.**	3/4/20 **4:30 p.m.**	4/29/20 **4:30 p.m.**	8/5/20 **4:30 p.m.**	6/24/20 **4:30 p.m.**	8/5/20 **4:30 p.m.**
FINANCIAL ACTIVITIES									
60% of the Semester (students who stop attending before this date may have to return financial aid funds)	10/25/19	9/17/19	11/18/19	3/18/20	2/9/20	4/11/20	6/30/20	6/2/20	7/18/20
Financial aid book buying days	8/5-8/26	8/5-8/26	10/7-10/24	12/9-1/13	12/9-1/13	3/2-3/24	4/27-5/18	4/27-5/18	6/15-7/2
Classes dropped for non-payment	8/1/19	8/1/19	10/2/19	1/2/20	1/2/20	3/4/20	5/5/20	5/5/20	6/24/20
GRADUATION & COMMENCEMENT CEREMONY									
Last day update auto graduation status (opt in/out)	12/2/19	9/30/19	12/2/19	4/20/20	2/24/20	4/20/20	8/3/20	6/17/20	8/3/20
Commencement ceremony application deadline - **4:30 p.m.**	4/3/20	4/3/20	4/3/20	4/3/20	4/3/20	4/3/20	4/3/20	4/3/20	4/3/20
Commencement ceremony	5/1/20	5/1/20	5/1/20	5/1/20	5/1/20	5/1/20	5/1/20	5/1/20	5/1/20
ADDITIONAL IMPORTANT DATES									
Placement testing for new students begins	2/11/19	2/11/19	2/11/19	9/23/19	9/23/19	9/23/19	2/10/20	2/10/20	2/10/20
New student orientation & advising sessions begin	3/22/19	3/22/19	3/22/19	10/29/19	10/29/19	10/29/19	3/12/20	3/12/20	3/12/20
Convocation	8/14/19	8/14/19							
COLLEGE CLOSED									
Proposed Calendar - Revised May.14.2019	9/2/19 11/10 - 11/11 11/28 - 12/1 12/15 - 1/1	9/2/19	11/10 - 11/11 11/28 - 12/1 12/15 - 1/1	1/20/20 3/8 - 3/14	1/20/20	3/8 - 3/14	5/25/20 7/3-7/4	5/25/20	7/3-7/4

*** It is the student's responsibility to drop course/s by this date to get a full refund (or not be charged). Non attendance does not guarantee a drop.**

Agenda Item No.: 3

Florida SouthWestern State College District Board of Trustees **Agenda Item Summary** Meeting Date: 5/28/2019	
1. **Action Requested/Purpose: Approval of President's Contract** 2. **Fiscal Impact:** ☒ Yes ☐ No ☐ N/A 3. **Funding Source**: Amount: $ 20,882 annual increase for each year of the 5-year contract. 4. **Administration Recommendation:** Approval of a contract between the District Board of Trustees of Florida SouthWestern State College and Dr. Jeffery S. Allbritten for services as the College President for 2019 through 2024 and authorization for the President to receive all standard benefits granted to College Executives.	
5. **Agenda Item Type:** ☐ Action Item ☒ Consent Agenda ☐ Information Only ☐ Board Requested Information/Report	8. **Requirement/Purpose (Include Citation)** ☒ **Statute 1001.64(18)** ☐ **Administrative Code 6A-14.026** ☐ Other **BOT 6Hx6:1.01**
9. Background Information: The proposed contract is recommended by the Chair. Further, authorization is granted for the President to receive all standard benefits granted to College Executives.	

Requested By:	**Braxton C. Rhone** **Chair, District Board of Trustees**

FLORIDA SOUTHWESTERN STATE COLLEGE
EMPLOYMENT AGREEMENT
FOR THE PRESIDENT

THIS AGREEMENT dated May 28, 2019 ("EFFECTIVE DATE"), and shall amend and replace in its entirety the agreement that was entered into on June 27, 2017 by and between the **BOARD OF TRUSTEES OF FLORIDA SOUTHWESTERN STATE COLLEGE, FLORIDA** ("BOARD"), a political subdivision of the State of Florida and public body corporate, 8099 College Parkway, Fort Myers, Florida 33919-5566, and **JEFFERY ALLBRITTEN, D.A.**, ("PRESIDENT").

WITNESSETH

WHEREAS, the BOARD and the PRESIDENT, at a regular meeting held pursuant to §1001.61, Florida Statutes on May 28, 2019, have negotiated the terms and conditions of this employment agreement and desire to reduce their agreement of such terms and conditions to writing.

NOW, THEREFORE, in consideration of the terms and conditions and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **EMPLOYMENT**. The BOARD hereby employs DR. ALLBRITTEN to serve as PRESIDENT and Chief Executive Officer of Florida SouthWestern State College (the "COLLEGE") for an initial term as described in Paragraph 3 below. The PRESIDENT hereby accepts such employment and acknowledges that during any term of this Agreement, the PRESIDENT shall also serve as Secretary of the BOARD, in accordance with Section 1001.65(5), Florida Statutes. The PRESIDENT shall devote, except as provided otherwise herein, full-time attention and energies to the duties as PRESIDENT, subject to the policies, supervision and direction of the BOARD.

2. **DUTIES**. PRESIDENT shall act as the PRESIDENT of COLLEGE and perform all duties and assume all responsibilities as president as may be prescribed by the laws of the State of Florida, the rules and regulation of the State Department of Education, and the policies and directives of the Board of Trustees of Florida SouthWestern State College. PRESIDENT shall, among other duties and not in limitation thereof, oversee, manage and coordinate all day to day activities of COLLEGE; retain qualified faculty and administrative and staff, and take appropriate action to discipline or dismiss same if necessary; promote admissions; maintain the COLLEGE physical plant; promote the expansion of the COLLEGE's direct support organization; oversee and be responsible for the development of the budget for the COLLEGE; ensure that all accreditation requirements are complied with, and accurately and timely transmit same to the appropriate accreditation agencies; ensure adherence to the controls and procedures designed to maintain the accuracy of the COLLEGE's financial statements and fiscal health and

integrity; ensure adherence to the Florida Open Government and Public Records laws, and maintain appropriate communications in accordance with Florida law and Board of Trustee policies, with the Board Chair and Board Members, and carry out the policies of the Board of Trustees; attend all meetings of the Board of Trustees, unless excused by the Chair, and provide staff to ensure the adequacy of facilities and equipment for the conduct of such meetings; maintain communications with, and request legal advice from, the General Counsel and attorney or attorneys hired by COLLEGE; faithfully, diligently, exclusively and competently devote his full time and attention and energy to the business of the COLLEGE. He may, and is encouraged to, devote a reasonable amount of time, to civic and educational activities that promote the interests of the COLLEGE, provided same does not interfere with his duties to the COLLEGE.

PRESIDENT shall not have any interest, financial or otherwise, direct or indirect, in any activity which is, or raises the appearance of, a conflict or impropriety in the discharge of his duties. Further, PRESIDENT shall not engage in any act of immorality, misconduct in office, incompetency, gross insubordination, willful neglect of duty, or drunkenness, nor be convicted of a crime involving moral turpitude.

3. **TERM OF EMPLOYMENT; EVALUATION and RENEWAL**. The PRESIDENT'S employment shall be for an initial term commencing May 28, 2019, and terminating June 30, 2024, subject, however, to prior termination as provided for in this Agreement. The anniversary date of this Agreement hereafter shall be deemed to be July 1 of each year. Pursuant to Florida Statutes and Section 6A-14.026, Florida Administrative Code, the BOARD shall annually evaluate the PRESIDENT'S performance of his duties and responsibilities. The BOARD'S evaluation shall be conducted no later than May 30 of each year and the written evaluation shall be submitted to the State Board of Education as provided for by law.

   In the event that the BOARD desires to extend the term of this Agreement, then, immediately prior to the 2024 anniversary of the commencement date of the initial term of this Agreement, the BOARD and the PRESIDENT shall, in conjunction with the PRESIDENT'S annual evaluation, determine whether the PRESIDENT shall continue his employment beyond 2024, and, if so, under what terms and conditions.

4. **COMPENSATION AND BENEFITS.** The BOARD agrees to pay the PRESIDENT for services rendered as follows:

   A. <u>Base Salary during Initial Contract Year</u>. As compensation for the services described in this Agreement, the BOARD will pay DR. ALLBRITTEN a base salary of $315,409.50 for the contract year beginning July 1, 2019 ending June 30, 2020. This base salary will be revisited and adjusted each June 30 based upon a satisfactory annual review by the BOARD, but not to exceed any percentage increase granted to faculty approved during the annual budget approval meeting. Salary is payable bimonthly on the regular payroll schedule of COLLEGE. Pursuant to §1012.885(4), Florida Statutes, any remuneration in excess of $200,000 in any fiscal year shall only be paid from nonstate-appropriated funds.

B. **Performance Incentive**. In recognition of DR. ALLBRITTEN's service and contributions to the COLLEGE and the BOARD's desire to reward his performance, a performance incentive of 10% of his base salary will be earned by DR. ALLBRITTEN and paid, after signing of this employment agreement, in July each year following an annual review by the BOARD of TRUSTEES which exhibits a Board determination of excellence in his leadership as demonstrated by a satisfactory annual review of 3.0 or above on a 4.0 scale. Provided that no performance incentive shall be paid or payable in any year in which the annual review is less than 3.0 on a 4.0 scale.

C. **Regular Retirement Plan Contributions**. The PRESIDENT has opted to direct contributions to the local annuity program meeting requirements of Section 403(b) of the Internal Revenue Code of 1986, the "CODE" (not to exceed the annual compensation limits), rather than the Florida Retirement System. Pursuant to this contract the BOARD has determined that it is appropriate to use the Board approved contribution rate for all Local Annuity Program qualified participants in the college. Additionally, the college will contribute in an employer 403(b) contribution the difference between the Local Annuity program contribution amount and the maximum contribution amount set forth under CODE section 415(c). The PRESIDENT under this subsection shall be paid in 24 equal installments. In no event shall the amount paid to the PRESIDENT under this paragraph exceed the dollar limit on contributions and other additions to defined contribution plans as indexed under applicable law.

D. **Deferred Compensation**. For each contract year during the employment period, the BOARD shall pay as and for additional compensation up to the maximum annual limits on behalf of the PRESIDENT into an employer sponsored program meeting the requirements of Section 401 (a) of the CODE, a contribution to ensure that the amount of the payments made to the PRESIDENT under this subsection shall equal the maximum contribution allowed by the CODE under section 415 (c), such amount to be paid in July each year. For each contract year during the employment period, the BOARD shall pay as and for additional compensation on behalf of the PRESIDENT into an employer sponsored plan meeting the requirements of Section 457 (b) of the CODE, a contribution to ensure that the amount of the payments made to the PRESIDENT shall equal the maximum contribution allowed by the code for a plan meeting the requirements of Section 457 (b) of the CODE, such amount to be paid in January each year. In recognition of his service and contributions to the

COLLEGE and the BOARD's desire to retain his services into the future, for each contract year during the employment period, the BOARD shall pay as and for additional compensation on behalf of the PRESIDENT 17% of his base salary in July of each year into a longevity incentive plan (pending BOARD approval) that will be provided to the PRESIDENT upon his retirement.

E. **Post-Presidential Employment.** In recognition of his long service and significant contributions to the COLLEGE, the BOARD wishes to employ the PRESIDENT following a 6-month sabbatical at the conclusion of his service as PRESIDENT, by providing him a three-year administrative contract position at 50% of his presidential base salary to benefit from his expertise in creating the Center for International Education, lobbying, major gift fundraising, and his academic experience in Chemistry and Mathematics.

F. **Health Benefits**. Each contract year during the employment period (including the post-presidential employment period, or until he reaches the age of 65), the PRESIDENT shall be provided with the COLLEGE sponsored health, dental and vision insurance including coverage for the PRESIDENT's spouse.

G. **Insurance**. It is the intent of the BOARD that the PRESIDENT be provided appropriate life insurance at 3 times his base salary, and long and short-term disability insurance coverage. The PRESIDENT and his spouse shall be provided long term care insurance coverage.

H. **Automobile**. During the employment period, the BOARD shall provide a vehicle allowance of $1250.00 per month, and a fuel/maintenance allowance of $750.00 per month for each month prior to the termination of this contract. These allowances are paid in lieu of any mileage allowance for in district travel.

I. **Vacation and Sick Leave**. As the chief executive officer of the COLLEGE, the PRESIDENT shall receive all standard benefits granted to college executives.

J. **Professional Development Leave**. The PRESIDENT shall be granted 12 professional development leave days per year. All professional development leave days and vacation leave days are to be used at the PRESIDENT's discretion and shall be recorded and vested at the execution of this contract on the yearly anniversary thereof.

K. **Development**. During the employment period, the BOARD shall provide an allowance of $450 payable in 24 semi-monthly installments to be used in the PRESIDENT'S sole discretion for costs related to promoting the interests of the college.

5. **REIMBURSABLE EXPENSES.** Subject to the PRESIDENT providing receipts or other documentation in accordance with the BOARD'S established policies and the College's procedures and rules, the College shall reimburse the PRESIDENT for the following:

The College shall pay, in the manner provided for in BOARD'S established policies and the College's procedures and rules, reasonable membership dues in professional associations and reasonable subscriptions to professional journals and any other reasonable expense that serves the best interest of the College incurred by the PRESIDENT in the course of his employment by the BOARD that is within the annual budget established by the BOARD for the Office of the President.

6. **CONSULTING ACTIVITIES AND SERVICE ON BOARDS.**

A. The PRESIDENT shall not render services of any professional nature to or for any person or firm for remuneration other than to the BOARD, and shall absolutely not engage in any activity that may be competitive with or adverse to the best interests of the BOARD.

B. The PRESIDENT is authorized to serve on national and state educational boards and councils, serve on the boards of nationally recognized educational associations and foundations and engage in customary professional development without taking annual paid vacation leave. The PRESIDENT is authorized to serve on local, charitable and community boards, including but not limited to, organizations such as Rotary and Chamber of Commerce

7. **TERMINATION.** This Agreement may be terminated as follows:

A. Death or Disability. In the event of the death or permanent disability of the PRESIDENT, this Agreement shall terminate and the PRESIDENT or his estate, as the case may be, shall be due compensation and benefits hereunder only to the date of death or determination of disability by the BOARD. For the purposes of this agreement, "permanent disability" shall be defined as the PRESIDENT'S inability to perform his duties set forth in Section 1 for a minimum of six (6) continuous months.

B. Other Termination. The BOARD shall have the right to suspend or dismiss the President at any time, with or without cause.

(i) If the PRESIDENT receives both a negative evaluation by a super majority of the BOARD and a vote not to be retained by a super majority of the BOARD, the PRESIDENT shall be dismissed as herein provided, this Agreement shall be terminated as herein provided. A super majority shall be defined as six (6) of the nine (9) BOARD members, or five (5) of the eight (8), or four (4) of the seven (7) of the then current BOARD. In the event of a vote by a supermajority of the BOARD to terminate the PRESIDENT'S contract under this paragraph 7(B)(i), the PRESIDENT shall be provided with written notice of the decision to terminate this employment contract and the termination of employment shall become effective ninety (90) days after the giving of such written notice. At the end of the ninety (90) day period the PRESIDENT shall be entitled to a severance payment equal to twenty weeks of compensation of base salary as provided for in §215.425(4)(a)(1), Florida Statutes.

(ii) In any case, if the BOARD terminates the President's employment with cause, the BOARD shall determine the amount, if any, of termination compensation to be provided consistent with Florida law including, without limitation, §215.425, Florida Statutes. Provided, however, that if the President is terminated for "misconduct" as defined in Section 443.036(30), Florida Statutes, as that section may be amended from time to time, the BOARD shall not pay the President any severance pay.

Reasons for termination with cause shall include the following:

1. A deliberate and certain violation of the duties set forth in this Agreement, or his refusal or unwillingness to perform such duties in good faith and to the best of his abilities.

2. Any conduct constituting moral turpitude that would bring public disrespect, contempt, or ridicule upon the college, as determined solely by the BOARD.

3. A serious and deliberate violation of a State or Federal law, rule, in the judgment of the BOARD adversely reflects upon and or adversely affects the college.

4. Prolonged chronic and/or excessive absences from duty without the BOARD'S consent.

5. Misconduct as defined in Section 443.036(29), Florida Statutes.

8. **GENERAL PROVISIONS.**

A. This Agreement shall be construed and regulated under and by the laws of the State of Florida, the State Board of Education rules, Board policies, and the definitions set forth in the General Provisions of 2012 Salary Schedule.

B. This Agreement contains the entire agreement between the parties with respect to the PRESIDENT'S employment and is merged into and expressed in this Agreement.

C. No change, amendment, supplement or modification of this Agreement shall be valid unless the same shall be in writing and signed by the parties hereto.

D. The section headings in this Agreement are solely for convenience of reference and shall not affect the interpretation or construction of the terms and provisions thereof.

E. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

F. The delivery by electronic or facsimile of an executed copy of this Agreement shall be deemed valid as if an original signature was delivered.

G. Each party has participated fully in the negotiation and preparation of this Agreement with full benefit of counsel. Accordingly, this Agreement shall not be more strictly construed against either of the parties.

H. If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

I. This Agreement is governed by the laws of the state of Florida, without regard to its conflict of laws principles.

IN WITNESS WHEREOF, the undersigned parties hereby execute this Agreement on the date first above written.

BOARD OF TRUSTEES OF FLORIDA SOUTHWESTERN STATE COLLEGE	**PRESIDENT**
______________________________	______________________________
Braxton Rhone, Chair	Jeffery S. Allbritten, D.A.
Dated: ________________________	Dated: ________________________

THE CHRONICLE
of Higher Education

ADVICE

Negotiating Nonsalary Benefits

By Raymond D. Cotton | JULY 26, 2002

In negotiating an employment contract, a college president and a board are faced with many compensation, governance, administrative, and legal issues. But both sides may be in a hurry to get the agreement signed so the college can make a public announcement.

In most cases, the new president has spent his or her career in higher education. On the other side of the table are people whom the Association of Governing Boards of Universities and Colleges calls "citizen trustees." That is, they are usually highly regarded people from the community (bankers, lawyers, business people, et al.) who donate their time -- and often their money -- for the benefit of the college on whose board they sit. Nevertheless, most board members have little idea what elements ought to be included in the employment agreement of a president. According to AGB data, most of the time they have little or no comparison data upon which to make such decisions. And their knowledge and understanding of the academic enterprise may be limited to what they learned about it years earlier as undergraduates.

As a result, the two parties come together with the mutual desire to benefit the college or university they both love, but lacking the skills, the information, and the time to make informed decisions. That's why many trustees who are responsible for the president's contract (usually the board's compensation committee or executive committee) look backward to the employment agreement that existed between the institution and its prior president, and try in principle to stay as close to that agreement as they can.

Data collected by Jane Wellman and Robert Atwell in Presidential Compensation in Higher Education: Policies and Best Practices (AGB, March 2000), state that only about 20 percent of boards use outside consultants to advise them during the contract-negotiation process. It is important for the president-elect who, after all, is oftentimes the only higher-education professional involved in these negotiations, to help educate the board members. But that can be awkward, given the newness of the relationships, and thus third parties, preferably lawyers who are knowledgeable in higher-education issues, can be helpful.

As a higher-education lawyer myself with more than 20 years of practice, I've seen a variety of nonsalary issues get lost in the negotiation shuffle, to the detriment of both the president and the board. Here are the most common:

Deferred compensation: Because it involves risk-taking by the president, an awareness of basic elements of nonprofit tax law, and some new thinking by the board, deferred compensation often fails to make it into presidential employment agreements. The deferring of compensation can occur when the parties agree that some portion of the president's salary is to be held in trust and made available if he or she serves out the full length of the contract. When a board does not make use of this kind of incentive, it may be giving up an opportunity to hold on to a star performer through the use of "golden handcuffs." For the president, deferring some portion of compensation can provide significant tax benefits and additional income at a point in the president's life when retirement may be looming. While there is no typical amount of deferred compensation that ends up in the compensation package, the final figure is usually related to the president's base salary and the length of the contract. If the board does not raise this issue, presidents or their representatives should.

Disability insurance: Almost no one gets excited about disability insurance -- until they need it. In my opinion, everyone in higher education should have a disability policy that covers at least 60 percent of their salary. Clearly, this should apply to the president, too. Unfortunately, many colleges have policies in place that discriminate against higher-paid employees and leave the president without sufficient coverage. Such polices may cover 60 percent of an employee's salary, but may also have a benefit cap as low as $5,000 a month. Assuming a president earns a salary of $200,000 a year, 60 percent of that amount would be $120,000. If a college has a disability insurance policy with a $5,000 a month benefit cap on it, only 30 percent of the president's salary would be forthcoming in the event he or she became totally disabled while working for the college. Unless a president has significant other assets or resources, I view that level of coverage as insufficient to adequately protect the president and his or her family in the event of a catastrophe. In cases like this, the president ought to bring this inequity to the attention of the board chairman or the compensation committee and request additional disability coverage to bring the level to 60 percent of base salary. Specific add-on policies are available in the marketplace.

Life Insurance: Depending upon the president's family and financial circumstances, adequate life insurance coverage could make the difference in keeping the president's children or spouse above the poverty level should the president die while in office. How much life insurance is enough is a question to be answered by presidents and their financial advisers. As an industry minimum, I would recommend that the college or university provide coverage of at least two and a half times the president's salary.

Long-Term-Care Insurance: This is a relatively new type of insurance designed to fill the gaps in employer-sponsored health insurance plans and ultimately Medicare. A long-term-care insurance policy provides reimbursement for custodial-care expenses (i.e., home health care or nursing-home care) not covered by health insurance or disability income polices. In the event of a disability while working, these policies can provide the money to pay for custodial-care expenses and ensure that assets accumulated for retirement are not consumed prematurely. In addition, while disability benefits typically end at retirement, long-term-care insurance policies can provide benefits on a post-retirement basis. Since long-term-care insurance policies are considered health insurance policies, they receive very favorable tax treatment; premiums and benefits are not subject to current or future taxation. Also, this is one of the few fringe benefits that may be provided to spouses. Finally, providing the president and spouse with a long-term-care insurance policy may be another opportunity to use "golden handcuffs." The board of trustees may opt to structure this portable benefit to be paid up in 10 years or at retirement.

Residence: The president's home can be a tool used for recruiting, fund raising, alumni events, faculty and student events, and so on. Many colleges and universities own a president's home that is inhabited by the incumbent president. The college or university covers most of the expenses associated with the president's home. In the event that the college or university does not own its own president's home, a benefit that can be negotiated between the board and the president would be a level of "housing allowance." There are no fixed guidelines for housing allowances that I am aware of. However, in those cases where the president's home is routinely used for college or university business, $2,000 to $4,000 a month in housing allowance support would not be unreasonable. In high-rent areas like Boston, New York, or San Francisco, even higher levels of housing assistance could be justified in today's market place.

These and other nonsalary benefits ought to be discussed thoroughly in contract talks between the board's compensation committee and the president (or their representatives). Sometimes the parties can negotiate these issues directly without feelings of irritation or acrimony. Most often, however, I would recommend that the two sides either agree upon a neutral mediator or each select a representative to negotiate.

Once a contract is negotiated, a well-qualified lawyer should be consulted to draft the final agreement, which should be a legally binding document. The negotiation process itself is very important to the ongoing relationship between the board and the president. All of the issues that are of concern to either the board or the president should be thoroughly discussed, negotiated, and agreed upon at this time.

The legal literature reflects many cases where the parties to an agreement talked past each other and did not have a genuine meeting of the minds on important issues. In academe, we most often see this expressed when presidents do not stay the full length of their contracts.

I had a case once where a president was being asked to leave his post. I reviewed his contract and found that it was very one-sided. I asked him why he had signed such a contact; hadn't he had legal advice? He replied that he had believed he did not need a lawyer because he had trusted the other side to be fair to him. Don't make that mistake.

Experience has taught me that when it comes to the relationship that ought to exist between a president and a board, good fences do indeed make for good neighbors.

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Presidential contracts are becoming more complex and corporate (essay)

Submitted by Anonymous on May 18, 2017 - 3:00am

Over the next several weeks, universities will be concluding their presidential searches that began last fall. The press releases announcing the new presidents are being written. The news conferences are being planned.

Most of the news stories will follow a familiar script: a biographical sketch of the candidate, a quote from the chair of the governing board as well as one from someone at the president's former institution. The new president will say something about how honored they are to have been selected. Many articles, but not all, are likely to mention the new president's salary -- an amount almost surely greater than their predecessor's.

But what will rarely be reported, at least initially, are the full terms of the new president's contract. In fact, getting a copy of the new contract may be problematic in the case of public universities and virtually impossible at private universities.

But our most recent study of 116 public university presidential contracts provides some insights for presidents, governing boards, faculty members and the public about what to expect. What those stakeholders will find provides some interesting insights into the transformation of a university president from a role of service to a role as corporate CEO.

Last June, we presented the findings of our research at the annual meeting of the American Association of University Professors. The study included contracts for public university presidents in 47 states, including 44 flagship institutions and 30 public members of the Association of American Universities, as well as those of the universities that were part of our 2010 study funded by the Kauffman Foundation and 92 from an original 1998 study. A list of the institutions included in the study can be found here [1].

Our major conclusion is straightforward. Putting aside the dramatic increases in presidential salaries in recent years, the employment agreements for university presidents are becoming increasingly complex and bear little resemblance to the typical appointment letters for a faculty member, department chair, dean or even other senior members of the administration. The exceptions, as Randall S. Thomas and R. Lawrence Van Horn report in a recent study [2], are contracts for coaches. They concluded that there are "many commonalities between the structure and incentives of the employment contracts of CEOs." Our data suggest that the same holds true for an increasing number of university presidents. We call this the "CEO-ization" of the university presidency.

In this piece, we will go beyond the typical compensation reports that are published each year and provide an overview of the structures and incentives we discovered in the contracts we analyzed. The data points for our study are the actual employment agreements for presidents of public universities. We collected these documents through open-records requests where we asked not only for the current agreement but also for any amendments and related governing board resolutions. As might be expected, not every institution provided what we requested in a timely manner. A few institutions denied our request since we were not residents of the state, some states provided incomplete or dated information and two claimed that there was no contract. Several "state-related" universities in Pennsylvania claimed an exemption from any open-records requests. For institutions in some state systems, such as the University of California, we had to supplement what was provided with publicly available policy documents that were referenced in the materials we received. In all, of the 142 requests we made, we received enough information from 116 institutions to include them in our study.

The presidential employment agreements we examined varied greatly in complexity. While the trend is certainly toward more corporate-like agreements, we found that some of the documents we received were simple appointment letters. They merely announced the individual's appointment as president, stated a salary, specified the term and contained boilerplate language incorporating the rules and regulations of both the state and the university. Typically, these "simple" agreements were for institutions in states with statutes requiring presidents to serve at will as well as prohibiting such features as bonuses and postappointment employment.

At the other end of the spectrum were lengthy and detailed employment contracts. The most sophisticated were almost certainly drafted by a lawyer representing the president and included clauses covering virtually every imaginable aspect of employment: term, compensation, incentives, benefits, perquisites, outside activities, evaluation, termination and postemployment parachutes. While we are reluctant to classify such complex agreements as representing best practice, nonetheless, we think that describing these elements in a bit more detail may be helpful in understanding the trend toward the CEO-ization of the university presidency.

- **Term:** The vast majority of the contracts we examined included provisions for multiyear appointments. Other than those agreements that were structured as at will or one-year renewable, the term for initial appointments varied from three to five years. Renewal contracts were most often for five years.
- **Compensation:** Every contract in our study specified a base salary. In some instances, this was divided between a state-appropriated/university portion and private/nonuniversity funds. A substantial number of contracts also included deferred-compensation plans. The language regarding these plans varied from simply stating an amount to be deferred each year to very technical appended agreements, obviously drafted by a tax lawyer, with detailed references to various IRS regulations, stipulations on eligibility, investment accruals and more.
- **Incentives:** Since our last study in 2010, the number of employment agreements that include some form of incentive pay, the types of incentives and their value has increased greatly. Some of the incentives include signing bonuses, performance bonuses, retention bonuses and completion bonuses. The total value of the incentives per employment agreement varied from a few thousand dollars to over $1 million. We paid particular attention to so-called performance bonuses, especially the criteria upon which they were based. In most instances, the president proposed the criteria, the governing board approved them, and they did not appear to be public or stated in measurable terms. The one exception was Arizona, where it was clear that the governing board set the criteria in advance, incorporated them into the employment agreements and made them public and measurable.
- **Benefits:** All presidents received the standard benefits available to other employees of the university, and, in many instances, also received

supplemental benefits. Sometimes, especially in the case of statewide systems, such benefits were available to all executives in the system. But in most cases, these supplemental benefits were distinct to the individual. Some of benefits in this category included additional life insurance, disability insurance and health benefits such as executive physicals. In addition, many presidents received special retirement benefits, such as supplemental annuities. In many of the cases where such benefits are taxable, language in the agreement requires the university to "gross up" the amount paid so that the president does not incur an additional tax liability. We even found one case in which the president was provided with funds to cover his children's private K-12 schooling. (As a reminder, all presidents in our study are from public universities.)

- **Perquisites:** Many of the employment agreements require the president to live in the university's official residence. In order for that to be a nontaxable benefit, it must be an explicit requirement. Where there is no official university residence, the president typically receives a housing allowance varying from $18,000 to $72,000 per year. Many presidents also receive a car or car allowance -- one president received $20,000 each year to lease a car. While those are the two most common perks, we found a wide range of other such benefits. A partial list includes travel and entertainment allowances, first-class and business-class travel for the president and their spouse or partner, access to private or chartered planes, financial planners or tax advisers, legal services, tuition assistance for family members, moving expenses -- not only for moving in but also for moving out -- storage fees, mortgage assistance, professional dues, social club and country club memberships (often with golf privileges), and telecommunications allowances for both equipment and monthly fees.
- **Outside activities:** Many agreements include specific language regarding outside activities for which the president receives compensation, such as speaking fees, royalties and remuneration for serving as a corporate director. In the latter case, we are finding an increasing number of agreements that either limit the number of directorships or require some sort of approval by the governing board.
- **Evaluation:** Quite a few of the agreements in our study address the issue of both annual and renewal evaluations. However, the language is quite general and typically involves the president proposing annual goals for the governing board's review and approval. Often, the contract also includes language regarding time frames, especially with regard to renewal reviews.
- **Termination:** The termination clauses are often the most specific and carefully worded sections of these agreements. We found language concerning four types of termination: 1) for cause, 2) without cause, 3) resignation and 4) death. Except in the case of for cause, in virtually all instances the president was entitled to some sort of payout. At the extreme, some presidents received the full value of the remaining time on their contract. In other situations, the maximum payout was limited -- most often to one year. Deferred compensation, incentives, benefits and

perks often depended on the timing and circumstances of the termination.

- **Postemployment parachutes:** With only a handful of exceptions, primarily in those states that prohibit presidents from holding tenure and/or that have some other limitation on postpresidential appointments, most employment agreements provide at least two basic benefits. In about two-thirds, the president holds tenure and may return to the faculty at the completion of the term. Often coupled with this is language that predetermines the president's faculty salary. Nearly half of these contracts provided for a postpresidential sabbatical. This is most often for a year and at the individual's presidential, rather than faculty, salary. We also found other benefits such as continuing administrative support, graduate assistants, discretionary funding, reduced teaching loads, move-out expenses, gifting or ability to purchase a car, a dedicated parking space, Medicare insurance subsidies, continued club memberships, certain survivor benefits and tickets to cultural and athletics events -- often with reserved seating.

Some elements included in presidential contracts do not fit easily into these categories. One example, although not common, is spousal or partner compensation other than that of a trailing spouse or partner. While that is typically in the form of a stipend, we found at least one instance of what we believe is a sinecure worth over $200,000 per year. Another example is pre-employment consulting agreements. Some contracts have clauses regarding indemnification and/or confidentiality, especially in circumstances where payouts for termination without cause are involved.

In later articles, we will explore some of those issues in more depth. Our concern is not whether these are good or bad contracts, nor whether such presidents are worth the monies they are paid. Rather, our purpose is to present the current state of the art so that other university staff members, boards and the public can determine whether this CEO-ization is appropriate and should continue or whether higher education should take a new direction with presidential contracts.

We leave you with one other thought: putting aside coaches, who we believe are really in the entertainment business, the presidents of public universities are almost always the highest-paid public employees in a state. In fact, every president in our study earned more than the highest-paid governor in any state, and many were paid more than the U.S. president. Further, most of their contracts included benefits, perks and protections not available to any other elected or appointed public official, faculty member or university administrator.

Governing boards maintain that today's universities are not all that different from running a corporation and that such employment terms are necessary, if not essential, to recruit top talent. However, one recent headline in the *Financial Times* suggests that may not be the case: "How Paying Chief Executives Less Can Help Corporate Performance." We'll explore that in our next article.

Author Bio:

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