

EMPLOYMENT AGREEMENT

BETWEEN

BOARD OF REGENTS OF THE

NEVADA SYSTEM OF HIGHER EDUCATION

AND

JANE A. NICHOLS

ACTING CHANCELLOR EMPLOYMENT AGREEMENT
between
Board of Regents of the Nevada System of Higher Education,
and
Jane A. Nichols

This Acting Chancellor Employment Agreement (this "Agreement") is effective as of June 26, 2017 (the "Effective Date"), contingent upon the approval of the Board of Regents of the Nevada System of Higher Education (the "Board of Regents" or "Employer"), by and between the Board of Regents of the Nevada System of Higher Education, and Jane A. Nichols (the "Acting Chancellor" or the "Employee").

ARTICLE 1 – PURPOSE

The Board of Regents and Employee have entered into this Agreement because the Board of Regents desires to contract with the Employee to serve as the Acting Chancellor of the Nevada System of Higher Education (the "System") for the period set forth in Article 3.

ARTICLE 2 – PUBLIC DOCUMENT

The parties agree that this Agreement is a public document and that the Board of Regents may release copies of this Agreement to persons requesting the same.

ARTICLE 3 – TERM OF EMPLOYMENT, NOTICE OF NON-RENEWAL

3.1. Term of Employment.

The Employee's employment hereunder, subject to the approval of the Board of Regents of the Nevada System of Higher Education, shall be for a term of thirty-seven (37) days and shall commence on July 1, 2017, and, except as otherwise provided herein, continue until this Agreement expires at 11:59 p.m. Pacific Time on August 6, 2017 (the "Term").

3.2. Notice of Non-renewal.

THE PARTIES TO THIS AGREEMENT EXPRESSLY UNDERSTAND AND AGREE THAT THE PROVISIONS OF THIS ARTICLE CONSTITUTE THE NOTICE TO THE EMPLOYEE OF THE NONRENEWAL OF EMPLOYMENT AS ACTING CHANCELLOR UNDER THIS AGREEMENT AND THAT EMPLOYEE'S EMPLOYMENT AS ACTING CHANCELLOR WILL TERMINATE ON THE DATE AND TIME SET FORTH IN THIS ARTICLE 3, AND THAT, NOTWITHSTANDING ANY PROVISION OF THE NEVADA SYSTEM OF HIGHER EDUCATION ("NSHE") CODE (BOARD OF REGENTS' HANDBOOK, TITLE 2) (HEREINAFTER, "NSHE CODE") TO THE CONTRARY, NO OTHER NOTICE OF NONRENEWAL OF EMPLOYMENT AS ACTING CHANCELLOR SHALL BE REQUIRED.

ARTICLE 4 – POSITION

4.1 Employment as Acting Chancellor.

The Employee is hereby employed by the Board of Regents to serve in the position of Acting Chancellor of the Nevada System of Higher Education ("NSHE"). Throughout the Term, the Employee shall use Employee's best full-time energies and abilities for the exclusive benefit of, and at all times in the best interests of, the Board of Regents, NSHE, and the member institutions and units that make up NSHE.

4.2 Description of Employee's Responsibilities.

4.2.a. Recognition of Duties.

The Employee agrees to be a loyal employee of the Board of Regents. The Employee agrees to devote Employee's best efforts full-time to the performance of all duties for the Board of Regents and to give proper time and

attention to furthering Employee's responsibilities and to comply with all rules, regulations, policies, and decisions established or issued by the Board of Regents and NSHE. The Employee agrees that, during the Term, Employee will not engage, directly or indirectly, in any business or investments that would materially detract from or interfere with Employee's ability to apply best efforts to the performance of all duties hereunder.

4.2.b. General Duties and Responsibilities of Employee.

During the Term, the Employee agrees to undertake and perform properly, efficiently, to the best of Employee's ability and consistent with the standards of the Board of Regents, and in accordance with the Board of Regents' *Handbook* and the *NSHE Procedures and Guidelines Manual*, all duties and responsibilities attendant to the position of Chancellor as set forth in Article 4.2.c below. Employee shall not exhibit any behavior that brings Employee, the Board of Regents, NSHE or any member Institution of NSHE into public disrepute, contempt, scandal or ridicule or any behavior that is unfavorable to the reputation or ethical standards of the Board of Regents or NSHE. In Employee's position as Chancellor, Employee is held directly accountable by the Board of Regents for these general responsibilities.

4.3 Reporting Relationship.

The Employee shall report to the Board of Regents.

4.4 Presence at System Offices.

NSHE has offices located in Las Vegas and Reno. Employee shall provide oversight, management and control of each office and spend appropriate time at each office.

ARTICLE 5 – COMPENSATION

In consideration for the promises Employee has made in entering into this Agreement, the Employee shall be entitled to the compensation as described below. All payments, including non-cash consideration and benefits are subject to normal deductions and withholding of all applicable state, local and federal taxes, including all provisions, regulations and guidelines of the Internal Revenue Code, and for any retirement or other benefits to which the Employee is entitled or in which Employee participates, and are subject to the terms and conditions of Article 6 hereof concerning termination of this Agreement.

5.1 Base Salary and COLA.

5.1.a Base Salary.

The base salary paid to the Employee for all services and satisfactory performance of the terms and conditions of this Agreement shall be at the base rate of \$34,839.00 ("Base Salary") payable in one installment to the Employee on August 6, 2017.

5.1.b COLA.

Employee is not eligible for Cost of Living (COLA) increases at any time during the Term of this Agreement and Employee waives any claim for COLA granted by the Nevada State Legislature for state employees or otherwise authorized for System employees by the Board of Regents.

5.2 Fringe Benefits.

Employee is not eligible for, and hereby waives any claim to, any fringe benefits provided to professional employees of the NSHE including, but not limited to, retirement contributions, insurance, annual and sick leave.

5.3 Expenses

Reimbursement to the Employee for all travel and out-of-pocket expenses reasonably incurred for the purpose of and in connection with the performance of Employee's duties under this Agreement, shall be made in accordance with standard reimbursement rates and procedures of the NSHE upon presentation to the Board Chair of standard travel reimbursement forms, vouchers or other statements itemizing such expenses in reasonable detail. For purposes of this section, Employee's primary residence shall be Reno, Nevada and Employee's eligibility for reimbursement for travel and other out-of-pocket expense shall be based on such primary residence.

ARTICLE 6 – DISCIPLINE AND TERMINATION

The Employee recognizes that Employee's promise to remain as Chancellor through the entire Term is of the essence of this Agreement to the Employer. It is also recognized, however, that certain circumstances may make it appropriate for Employer to terminate this Agreement prior to the completion of its entire Term. Employee serves at the pleasure of the Board of Regents and, at any time after commencement of this Agreement, the Board of Regents, for its own convenience and, in its sole and absolute discretion, with or without cause, may terminate this Agreement. Upon such termination, the Employee shall receive the Base Salary set forth in Article 5.1.a for the portion of the Term Employee actually served as Acting Chancellor; prorated to the date of such termination.

ARTICLE 7 – RESTRICTIVE COVENANTS

7.1 Confidential Information.

The parties agree that in the course of employment, Employee will have access to confidential information regarding the NSHE and its member institutions, including, without limitation, donor lists and donor information, which could be used by other others to the disadvantage of the NSHE and its member institutions. Employee shall not provide, and is prohibited from providing, any such confidential information to any third party outside of NSHE or to other institutions, their employees, agents or representatives. A breach of this Article 7.1 by Employee shall constitute cause to termination this Agreement.

ARTICLE 8 – MISCELLANEOUS

8.1 Choice of Law and Venue.

It is the intent of the parties hereto that this Agreement shall be governed by and construed in accordance with the laws of the State of Nevada and the laws of the State of Nevada shall govern the validity, performance, and enforcement of this Agreement. Any and all disputes arising out of or in connection with this Agreement shall be litigated in a court of competent jurisdiction in Washoe County, State of Nevada, and the parties hereby expressly consent to the jurisdiction of said court.

8.2 Assignment of Agreement.

The Employee's rights and interests under this Agreement may not be assigned, pledged or encumbered by the Employee.

8.3 Merger Clause.

THIS AGREEMENT CONSTITUTES THE FULL AND COMPLETE UNDERSTANDING OF THE PARTIES WITH RESPECT TO THE EMPLOYMENT OF THE EMPLOYEE AND SUPERSEDES ALL PRIOR UNDERSTANDING AND AGREEMENTS, ORAL OR WRITTEN, REGARDING THE EMPLOYEE'S EMPLOYMENT BY THE BOARD OF REGENTS.

8.4 Amendments to Agreement.

This Agreement may be amended at any time only by a written instrument duly approved by the Board of Regents of the Nevada System of Higher Education, and executed on behalf of the Board of Regents by the Chair of the Board and the Employee.

8.5 Severability.

If any provision or provisions hereof shall be deemed invalid or unenforceable, either in whole or in part, this Agreement shall be deemed amended to delete or modify, as necessary, the offending provision or provisions or to alter the bounds thereof in order to render it valid and enforceable.

8.6 No Waiver of Default.

No waiver by the parties hereto of any default or breach of any covenant, term or condition of this Agreement shall be deemed to be a waiver of any other default or breach of the same or any other covenant, term or condition contained herein.

8.7 Acknowledgement.

The Employee acknowledges that Employee has read and understands the provisions of this Agreement and that such provisions are reasonable and enforceable and Employee agrees to abide by this Agreement and the terms and conditions set forth herein. Employee acknowledges having had the opportunity to consult with counsel of Employee's choice regarding the provisions of this Agreement prior to signing it.

8.8 Indemnification

The Employee agrees to hold harmless and indemnify the Employer and Employer's officers, employees and agents from any and all suits, claims, demands, damages, liability, costs and expenses, including attorneys' fees and costs, arising out of the Employee's performance of acts outside the scope of this Agreement, or for acts in pursuit of outside income as permitted by this Agreement, except such suits, claims or demands in which the Employee seeks to compel Employer to comply with its obligations hereunder or in which the Employee seeks to enforce any remedies Employee may have hereunder. This Article 8.8 shall survive the termination for any reason of this Agreement.

8.9 Employer Retains All Materials and Records.

All materials or articles of information including, without limitation, all documents, records, material or data, furnished to the Employee or developed by the Employee in connection with the Employee's employment hereunder, are and shall remain the sole property of the Employer. This Article 8.9 shall survive the termination for any reason of this Agreement.

8.10 Employee Will Not Incur Indebtedness.

It is mutually agreed and understood that the Employee shall not incur any indebtedness for or on behalf of NSHE except in accordance with the policies and procedures established by the Board of Regents.

8.11 Government Immunity Not Waived.

It is expressly agreed and understood between the parties that Employer is an entity of the State of Nevada and that nothing contained herein shall be construed to constitute a waiver or relinquishment by the Employer of the right to claim such exemption, privileges and immunities as may be provided by law.

8.12 Notice.

Any notice or communication which may or is required to be given under this Agreement shall be in writing and shall be deemed to have been given on the earlier of either the day actually received or on the close of business on the third business day following the day when deposited in the United States Mail, postage prepaid, registered or certified, addressed to the party at the address set forth at its name below or such other address as may be given by such party in writing to the other:

If to the Employee:

Jane A. Nichols

With a copy to:

If to the Board of Regents:

Chair of the Board of Regents
2601 Enterprise Road
Reno, Nevada 89512

and

4300 S. Maryland Parkway
Las Vegas, Nevada 89119

With a copy to:

Chief of Staff and Special Counsel
4300 Maryland Parkway
Las Vegas, Nevada 89119

8.13 Applicability of Nevada System of Higher Education Code.

Except as expressly stated herein, the provisions of the Nevada System of Higher Education Code, Title 2 of the NSHE Board of Regents' *Handbook*, as may be amended from time to time during the Term, are incorporated in this Agreement.

8.14 Captions.

All captions in this Agreement are included for convenience only and do not constitute, nor are incorporated in, the terms and conditions of this Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement or caused this Agreement to be executed, intending to be legally bound by its provisions upon approval of the Board of Regents of the Nevada System of Higher Education, the Employee acknowledging that Employee has had an opportunity to review this Agreement with Employee's attorney.

BOARD OF REGENTS OF THE NEVADA SYSTEM
OF HIGHER EDUCATION

EMPLOYEE

By: _____

By: _____

Date: _____

Date: _____