Approved by the Board of Trustees

November 16, 2023

 **02**

 Board Meeting

 November 16, 2023

## AMEND MULTIYEAR CONTRACT WITH

## DIRECTOR, DIVISION OF INTERCOLLEGIATE ATHLETICS, URBANA

**Action**: Amend Multiyear Contract with Director, Division of Intercollegiate

 Athletics

**Funding**: Non-Appropriated Institutional Funds in the Division of Intercollegiate

 Athletics Operating Budget

 On February 29, 2016, the Board of Trustees Executive Committee approved the appointment of Joshua H. Whitman as director, Division of Intercollegiate Athletics, University of Illinois Urbana-Champaign. This action was reported to the Board of Trustees on March 16, 2016. The Board approved an initial non-tenured appointment for a five-year term, beginning on March 5, 2016, and ending on March 4, 2021. The Board has since approved various amendments to Mr. Whitman’s employment agreement, including action in November 2019 and May 2022 to extend the term and make other changes. The Board has also approved Mr. Whitman’s anticipated total annual compensation, for each year of the term, including base salary compensation, retention incentive compensation and supplemental compensation for achieving performance goals, as determined in advance by the chancellor. Full standard benefits on the same terms as provided by the university to all professional employees, with contributions and benefit amount based upon the base salary where relevant, were provided to Mr. Whitman.

 The chancellor, University of Illinois Urbana-Champaign, and vice president, University of Illinois System, now recommends amending Mr. Whitman’s employment agreement to extend the term, adjust compensation, and amend provisions related to termination.

 Mr. Whitman’s current employment agreement expires in 2028. The chancellor now proposes extending the term by three years, through June 30, 2031. The chancellor also proposes two additional contingent one-year extensions beyond 2031, conditional on Mr. Whitman’s continued service as of certain dates. An extension through June 30, 2032, will become effective unless the university provides written notice of termination prior to June 30, 2024, and an additional one-year extension to June 30, 2033, will become effective unless the university provides written notice of termination prior to June 30, 2025.

 Mr. Whitman’s annual base compensation will be increased to, and shall not fall below, $1,500,000, effective retroactively to July 1, 2023. Effective July 1, 2028, Mr. Whitman’s annual base compensation shall increase to, and shall not fall below, $1,725,000.

 Supplemental incentive compensation payments and limitations in Mr. Whitman’s employment agreement will also be amended. Mr. Whitman will remain eligible for retention incentive compensation payments if he remains continuously employed as director of athletics as of specific dates during the term. The previously approved retention incentive compensation schedule will be amended so he will receive retention incentive compensation payments in accordance with the following schedule:

2024 – $300,000,

2026 – $325,000,

2028 – $350,000,

2029 – $300,000,

2031 – $350,000,

2033 – $375,000.

 Limitations regarding Mr. Whitman’s maximum performance incentive compensation based on satisfying performance goals set forth in advance by the chancellor will be amended. Effective July 1, 2023, through June 30, 2028, Mr. Whitman’s maximum performance incentive compensation shall not exceed $350,000. Effective July 1, 2028, through the remainder of the term, including additional extensions, if applicable, his maximum performance incentive compensation shall not exceed $400,000.

 Other significant terms and conditions of Mr. Whitman’s original employment agreement remain in effect or will be appropriately amended to reflect the extension of the term. These include setting forth conduct expectations and instances in which he may be terminated for cause with no further payment obligations.

 In the event the university terminates Mr. Whitman without cause, the university will pay 100 percent of base salary compensation remaining due during the term. However, this payment obligation will be subject to a cap of $9.0 million. Mr. Whitman will continue to have an obligation to mitigate the university’s post-termination payments based on earnings obtained through subsequent employment elsewhere.

 Similarly, Mr. Whitman will pay the university liquidated damages in the event he resigns his employment. Liquidated damages payable to the university will vary depending on the type of subsequent employment he may receive, should he leave for a competing position, and the time of occurrence within the term. Mr. Whitman shall be required to pay liquidated damages of $1.0 million for every year remaining in the term if he accepts a position as director of athletics at a Big Ten member institution. He will be required to pay liquidated damages of $750,000 for every year remaining in the term if he accepts a position as athletic director at another NCAA Division 1 (Football Bowl Subdivision) institution. Through July 1, 2028, he will be required to pay liquidated damages of $750,000, if he accepts a senior executive leadership position in a professional or amateur sports league, conference, association, or similar organization. After July 1, 2028, this category will be reduced to $250,000 for every year remaining in the term. If the remaining contract term falls below three years, Mr. Whitman’s liquidated damages obligations will be eliminated.

 Funding is provided from non-appropriated institutional funds in the Division of Intercollegiate Athletics operating budget.

 The Board action recommended in this item complies in all material respects with applicable State and federal laws, University of Illinois *Statutes*, *The General Rules Concerning University Organization and Procedure*, and Board of Trustees policies and directives.

 The president of the University of Illinois System concurs.