



**EMPLOYMENT CONTRACT  
FOR  
PRESIDENT, Foothill College**

Entered Into Between  
Foothill-De Anza Community College District  
And  
**KRISTINA WHALEN**

This contract is made and entered into between the Governing Board (the "Board") of the Foothill-De Anza Community College District (the "District") and **KRISTINA WHALEN** ("President") for the position of president of **Foothill College**.

Whereas Education Code Section 72411 authorizes the Board to employ a president of **Foothill College** as the Chief Executive Officer of the College, it is the desire of the Board to employ **KRISTINA WHALEN** as President of **Foothill College** as set forth herein and summarized immediately below:

<b>Name:</b>	<b>KRISTINA WHALEN</b>
<b>Title:</b>	<b>President, Foothill College</b>
<b>Beginning Date:</b>	<b>March 31, 2023</b>
<b>Ending Date:</b>	<b>June 30, 2024</b>
<b>Full-time Equivalency:</b>	<b>1.00 FTE</b>
<b>Number of months of regular service during each full year of this contract:</b>	<b>Twelve (12) Months</b>
<i>Salary Placement:</i>	
<b>Range:</b>	<b>11</b>
<b>Step:</b>	<b>2</b>
<b>Tier:</b>	<b>3</b>
<b>Monthly Base Salary Rate:</b>	

**1. TERM**

*Term:* The Board hereby employs President for a 12-month term.

*Renewal of Contract:* Anniversaries of this contract shall be July 1 of each year. This contract shall be reviewed annually and renewed by mutual agreement of the Board and President. Prior to March 15<sup>th</sup> of each year of this contract, and conditioned upon a satisfactory evaluation by the chancellor as set forth in Section 4 (Performance Objectives and Evaluation) of this contract, the Board may extend the contract for one or more additional year(s). In the event the Board fails to give notice of its decision not to renew the contract, the contract shall be extended automatically for an additional term of one year.

*Continuation of Terms and Conditions:* Upon extension of this contract, either by express Board approval or failure to give notice, the terms and conditions of this contract will continue in effect and until the terms are expressly changed by issuance of new contract language, or Board action modifying the Administrators Handbook or affecting one or more sections of this contract.

## 2. COMPENSATION AND ALLOWANCES

*Starting Salary:* The Board shall compensate President as set forth above and in accordance with the Executive Administrator Salary Schedule range assignment for the classification of president, payable in equal installments over the number of months of regular service during each full year of this contract, as specified above, and in accordance with the District's monthly payroll practices.

*Salary Schedule Adjustment:* Classification of president shall receive an increase adjustment to the salary schedule equal to and effective the same date as any salary increase adjustment(s) granted to District administrator salary schedules. President salary shall be adjusted in accordance with such salary schedule adjustment.

*Salary Step Adjustment During the Term of this Contract:* President shall be eligible for a salary step adjustment, up to the top step of the salary range, on July 1 of each subsequent year of this contract and in accordance with the terms and conditions set forth in the Administrators Handbook, Salary Administration.

*Educational Recognition:* President shall be eligible to be placed on Tier 2 or Tier 3 of the Salary Schedule in recognition of educational attainment beyond the minimum required for the position and in accordance with the terms and conditions outlined in the Administrators Handbook, Salary Administration.

*Other Salary Adjustment(s):* The salary of President may be adjusted at any time by the Board in consideration of performance, salary provided to other personnel, or other factors the Board deems appropriate such as the compensation of presidents in comparable districts locally and throughout the state. Such comparisons are advisory only. Any recommendation for other salary adjustment must be approved by Board action in a public session of a regularly scheduled meeting of the Board.

*Earned Professional and Administrative Achievement Awards:* Awards earned and for which President is receiving compensation prior to assuming an executive administrator position shall be retained, and shall continue payment for the duration of President's employment. In addition, President shall be eligible to earn Executive Achievement Awards under the same conditions and terms as provided for administrators of the district, except as follows: an application for an Executive Achievement Award shall be submitted not later than June 30 immediately prior to the year in which the award is effective. Should President return to non-executive administrator, classified, or faculty status, President shall resume eligibility for awards in accordance with the *Agreement* or *Handbook* applicable to his/her employment status.

*Establishing Future Levels of Compensation:* In establishing future levels of compensation under this contract, the Board may consider merit, experience, financial conditions within the District, and other appropriate factors such as compensation compared to counterparts in comparative districts.

### *Allowances:*

Automobile: President is expected to maintain personal transportation for purposes of conducting in-county district business. In the event President uses a personal automobile to conduct the performance of duties and related activities, President shall receive a per month allowance as reimbursement for all expenses incurred in the use of President's personal automobile in the performance of in-county district-related activities. Such allowance shall be reported as income. The automobile allowance for the 2022-2023 year shall be based on the prior year 2021-2022 allowance of \$492 per month increased by the percentage of increase applied to

the District's 2022-2023 general apportionment received from the State, rounded to the next whole dollar. Further, this amount shall continue to be increased annually by the same percentage as the percentage of increase applied to the District's general apportionment received from the State, rounded to the next whole dollar.

In-County Business-Related Expenses: President is expected to represent the District within the scope of President's employment. President shall receive a per month allowance to defray actual and necessary expenses incurred within the county in representing the district within the scope of President's employment. Such allowance shall be reported as income. The expense allowance for in-county business-related activities for 2022-2023 shall be based on the prior year 2021-2022 allowance of \$927 per month increased by the percentage of increase applied to the District's 2022-2023 general apportionment received from the State, rounded to the next whole dollar. Further, this amount shall continue to be increased annually by the same percentage as the percentage of increase applied to the District's general apportionment received from the State, rounded to the next whole dollar.

Cell Phone: President is expected to maintain a personal smart phone for the purpose of conducting District business. President shall receive \$185 per month or an amount equivalent to the cost of the District-established standard for phone and service attributed to position of President, whichever is higher, for expenses, including purchase/lease and maintenance costs, incurred in the use of President's personal smart phone. Such allowance shall be reported as income.

### 3. DUTIES

President shall render full and regular service to the District during each month of the contract. President shall perform the duties of president as prescribed by the laws of the State of California and this contract, as described in and reasonably related to the position description for president, or as reasonably assigned by the chancellor. President shall execute all powers and duties as assigned by the chancellor in accordance with policies adopted by the Board, the rules and regulations of the Board of Governors of the California Community Colleges, and the laws of the State of California. President is directly responsible to the chancellor and through the chancellor to the Board, and serves as an executive administrator of the District.

### 4. PERFORMANCE OBJECTIVES AND EVALUATION

*Performance Objectives*: On or around the beginning of each fiscal year (July 1 – June 30) the chancellor and President shall meet to establish President's performance objectives for the next fiscal year. The performance objectives shall be related to the goals and mission of the District.

*Annual Evaluation*: The chancellor and President shall discuss on an as-needed basis their working relationship and President's responsibility and accountability as the president. The chancellor shall evaluate and assess in writing President's performance at least once each year during the term of this contract unless otherwise agreed. The annual evaluation shall normally occur on or around the beginning of the fiscal year in anticipation of establishing objectives for the next review period. Said evaluation and assessment shall be reasonably related to the assigned duties and functions of the position of president and the goals and objectives of the Foothill-De Anza Community College District for the year in question.

*Evaluation Format*: President shall be evaluated using a mutually agreed upon form; however, chancellor reserves the right to establish the format in the event agreement cannot be reached. The evaluation shall identify President's strengths and challenges and shall assess

President's performance in terms of the scope and role of President's assignment. President shall also provide an annual self-evaluation to the chancellor.

*Timelines:* Non-compliance with one or more of the timelines for completion of establishing performance objectives or concluding an evaluation shall not constitute a material breach of this contract.

## 5. OUTSIDE PROFESSIONAL ACTIVITIES

*Professional Meetings:* President may attend appropriate professional meetings at local, state and national levels. Expenses so incurred shall be reimbursed to President in accordance with applicable district policy. As requested, President shall report to the chancellor on President's appraisal of such meetings.

*Other Professional Activities Without Remuneration:* With the prior approval of the chancellor, President may undertake outside professional activities without remuneration, including consulting, speaking and writing, provided these activities do not interfere with President's normal duties.

*Other Professional Activities With Remuneration:* If the outside professional activity includes remuneration, the following will apply.

- If the activity is *unrelated* to President's normal duties, the following will apply:
  - President shall use available leave to account for his/her time spent on other professional activities;
  - President may accept and retain expense remuneration by an outside party for personal costs incurred in conducting the other professional activities; and
  - President may accept and retain remuneration other than expense remuneration for personal costs by an outside party for other professional activities.

Alternatively, and subject to the agreement of chancellor that the activity and/or donation is of value to the District, President may donate the remuneration to the District or to the Foothill-De Anza Community College District Foundation; in this event, President shall not be required to use leave to account for his or her time spent on the other professional activities.

- *If the activity is reasonably related to President's normal duties*, and subject to the concurrence of the chancellor to engage in the outside professional activity, the following will apply:
  - President shall be deemed to be representing the district and shall not be required to use leave to account for his/her time spent on other professional activities;
  - President may accept and retain expense remuneration by an outside party for personal costs incurred in conducting other professional activities; and
  - President may accept remuneration other than expense remuneration by an outside party for other professional activities and all such remuneration shall be deposited to the District or to the Foothill-De Anza Community College District Foundation.

## 6. LEAVES AND HOLIDAYS

*Vacation:* President shall be entitled to accrue up to one hundred ninety-two (192) hours of vacation (i.e., 24 (8-hour) days) per year in the same manner as provided to other 12-month administrators. Such vacation shall be accrued in accordance with the Administrators Handbook, Leaves and Holidays. Vacation accrued but not used may be carried over to the next year, subject to the maximum accumulation limit of twice the annual accrual of vacation of three hundred eighty-

four (384) hours (i.e., 48 (8-hour) days) for twelve (12) month administrators. When President's accrued but unused vacation balance reaches the maximum accumulation, President shall cease to accrue vacation until such time as the accrued but unused vacation balance is reduced below the maximum accumulation allowable. Vacation accrual for assignments of less than full time and/or less than twelve (12) months shall be prorated.

*Payout of Accrued but Unused Vacation:* In event of termination or expiration of this contract, or separation from employment, President shall be entitled to cash compensation, at the rate of pay in effect at the time of termination, separation, or expiration of contract, for unused accrued vacation, up to the maximum allowed.

*Other Leaves:* President shall be entitled to Personal Necessity Leave, Bereavement Leave, Sick Leave, Extended Sick Leave, Sick Leave Donation, Military Leave, Legislative Leave, Industrial Accident Leave, Leave for Jury Duty, Unpaid Leave of Absence, Parental Leave, Pregnancy Disability Leave, and Family Medical Leave as described in the Administrators Handbook, Leaves and Holidays.

*Reporting Vacation and Other Leaves:* President agrees to report the use of leave in accordance with District procedures.

*Professional Development Leave:* President shall be entitled, upon request, to a paid professional development leave of up to three months at full salary after six (6) or more consecutive years of service. Such leave does not accrue and shall not convert to cash payment if not used. Once leave is taken, another paid professional development leave may be taken following a subsequent six (6) years of consecutive service. The timing and general provisions of the leave, including additional expenses, such as tuition, registration fees, travel, and housing associated with participation in an extended seminar/workshop, shall be subject to mutual agreement between President and the chancellor, and approval of the Board.

*Holidays:* President shall be entitled to paid District holidays as described in the Administrators Handbook, Leaves and Holidays.

## 7. FRINGE BENEFITS

*Health and Welfare Benefits:* President shall be afforded all health and welfare benefits of employment or retirement for which President is eligible and as provided to the District's twelve (12) month administrators as described in the Administrators Handbook, Benefits, and Benefits for Retired Administrators.

*Pre-Retirement Reduction, Emeritus Program, and Early Notice Incentive:* President shall be afforded all retirement and incentive benefits of employment or retirement for which he or she is eligible as provided to the District's twelve (12) month administrators as described in the Administrators Handbook, Pre-Retirement Reduction, Emeritus Program, and Early Notice Incentive.

*District 401(a) Select Plan:* At the beginning of the first month of the third year of employment President shall be eligible to participate in the Foothill-De Anza Community College District 401(a) Select Plan as adopted by the Board on May 31, 2000, and as subsequently amended. In accordance with the terms and conditions of the Plan, the District shall contribute six hundred dollars (\$600) per month to the Plan on behalf of President.

## 8. EXPENSES

*Out-of-County Expenses:* Expenses related to out-of-county business (e.g. mileage, travel) shall be paid directly or reimbursed in accordance with district policy and procedure.

*Home Office:* President is expected to be able to conduct business on and off District property and within and outside the customary hours of District business operation. The District shall provide and maintain appropriate computer, tablet, printer, fax machine, and/or other appropriate technology or devices, and related supplies for President's home or other place of use outside President's District-located work desk in order to conduct and be available to transact District business. All other expenses related to establishing and maintaining a home office are not reimbursable.

## 9. BREACH OF CONTRACT

*Advance Notice:* In the event that the chancellor or the Board charges President with a material breach of this contract based on an unsatisfactory evaluation or other criteria, and seeks to terminate said contract prior to its expiration, the chancellor shall, prior to taking such action, give President reasonable advance written notice of intent to terminate, which shall include:

- a) the proposed action and the reasons therefore;
- b) a reasonably detailed statement of the charges and material upon which the proposed action is based;
- c) the right to respond either orally or in writing to the chancellor; and
- d) the right to a hearing before the chancellor.

*Request for Hearing:* A request for hearing shall be filed by President with the chancellor within five (5) work days after receipt of service of notice of the proposed action on President, including the statement of charges as set forth above. The hearing shall be held before any action is taken and within twenty-five (25) working days after the notice was served on President, unless continued for good cause.

*Hearing:* The hearing shall be conducted by the chancellor and shall not be an evidentiary hearing but rather, it shall be an opportunity for President to respond to the charges of material breach. Each party shall have the right to call any witnesses. Each party shall have the right to counsel.

*Decision and Appeal:* The decision of the chancellor shall be in writing, shall include the reasons for his or her action, and shall be forwarded to President and the Board. President may appeal to the Board within fifteen (15) working days of receipt of the chancellor's decision. The Board's decision shall be final, but shall not limit any right to file an action in court.

## 10. TERMINATION OF CONTRACT

*Board Termination of Contract:* The Board may terminate the employment of President at its discretion for any reason upon a minimum of thirty (30) calendar days written notice to President. In the event of such termination, President shall receive an amount equal to the monthly salary of President multiplied by the number of months remaining on the unexpired term of this contract; however, in accordance with Government Code 53260, if the unexpired term of this contract is greater than eighteen (18) months, the maximum cash settlement shall not be greater than an amount equal to the monthly salary of President multiplied by eighteen (18).

The cash settlement shall also include an amount equal to the District's monthly contribution to the President's health plan election, if any, in effect as of the date of termination,

equivalent to the number of months remaining on the unexpired term of the contract, not to exceed eighteen months.

The settlement shall not include any non-cash items, except payout of unused accrued vacation as of the date of separation as provided by Section 6 of this contract.

*President Termination of Contract:* President may terminate this contract by giving the chancellor at least forty-five (45) calendar days advance written notice of the termination of employment. If President terminates the contract, President is entitled only to compensation earned through President's last day of employment plus the payment of unused accrued vacation as provided by Section 6 of this contract.

By mutual agreement, the Board and President may waive the requirement that President give at least forty-five (45) calendar days advance written notice of his/her termination of employment.

*Termination by Mutual Agreement:* Notwithstanding any other provision herein, the parties may mutually terminate this contract on a "no fault" basis, without any showing of cause, at any time, by jointly agreeing in writing to do so. Upon such no fault joint termination President shall be compensated only through the last date of President's actual employment plus the payment of unused accrued vacation as provided by Section 6 of this contract.

#### 11. TENURE *(if applicable)*

If President has tenure in the district, President shall retain reassignment and return rights as provided by Education Code 87454 and as described in the Administrators Handbook, Termination, Layoff, and Reassignment.

#### 12. NOTICES

All notices required to be served pursuant to this contract shall be by personal delivery to President at the offices of the District or by Certified Mail, Return Receipt Requested, to President's home address. A copy shall be served to the president of the Board of Trustees in accordance with established District communication procedures.

#### 13. CERTIFICATION

President shall maintain and update all appropriate credential(s) and certification(s) required by California law.

#### 14. INCORPORATION OF ADMINISTRATORS HANDBOOK

Provisions of the Administrator Handbook adopted and approved by the Board, including any amendments, and as specified in this contract shall be considered part of and incorporated into this contract.

#### 15. APPLICABLE LAW

This contract is subject to all applicable laws of the State of California, Rules and Regulations of the State Board of Governors, and rules, regulations and policies of this Board, all of which are made a part of the terms and conditions of this contract as though set forth herein.

#### 16. SAVINGS CLAUSE

If any provision of this contract is held to be contrary to law by a court of competent jurisdiction, such provision shall not be deemed valid and subsisting except to the extent permitted by law but all other provision shall continue to remain in full force and effect.

17. MODIFICATION

This contract contains the entire agreement and understanding between the parties. There are no oral understandings or terms and conditions not contained or referenced in this contract. This contract cannot be changed orally. This contract may be changed, modified, or superseded only by mutual agreement and by written amendment executed by both parties, except that this contract may be modified or terminated pursuant to Education Code 72411(b).

18. RE-OPENER

Either party may reopen negotiations on any provision of this contract at any time, by submitting a request to reopen to the other party.

IN WITNESS WHEREOF, the parties have caused this contract to be executed on the dates indicated below.

**OFFERED ON BEHALF OF THE BOARD OF TRUSTEES OF THE  
FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT**

\_\_\_\_\_  
Date

BY: \_\_\_\_\_  
**Judy C. Miner, Chancellor**

**ACCEPTANCE OF EMPLOYMENT CONTRACT**

I have reviewed this Employment contract and I accept this Employment Contract and the terms and conditions of employment. I have not agreed to, and will not accept, any current or future employment and/or contract with any other school district, community college district, or other employer which will in any way conflict with my duties in this position. As a condition of employment, I agree to abide by all rules, regulations and policies of the Board and all local, state and federal governments.

\_\_\_\_\_  
Date

BY: \_\_\_\_\_  
**Kristina Whalen, President**

**Please return signed contract to the District Office of Human Resources no later than twenty (20) calendar days following the date of offer as indicated by signature of the Chancellor above. Failure to return signed contract within twenty (20) calendar days may void the terms of this offer of employment.**