



*Northwestern Michigan College provides lifelong learning opportunities to our communities.*

1701 East Front Street  
Traverse City, MI 49686  
(231) 995-1010  
[trustees@nmc.edu](mailto:trustees@nmc.edu)

## Special Meeting Agenda

Monday, October 14, 2019  
at University Center, 2200 Dendrinos Drive

10:30 a.m. Special Meeting

### I. GENERAL BUSINESS

- A. Call to Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Review of Agenda and Approval of Additions, Deletions, or Rearrangements

### II. REPORTS

- E. Presidential Performance & Compensation Committee Report—*Chris Bott, Committee Chair*

### III. PUBLIC INPUT

Request forms for public input are available at the meeting location. Each person wishing to address the Board during public comment must be present and shall provide their name, address, city, phone, and issue to be addressed on a form provided prior to the meeting. The topic addressed should be related to business within the jurisdiction of the Board. Forms should be given to the Board Chair prior to the call for order. Comments will be limited to (3) three minutes in length per speaker. The Board will take public remarks into consideration, but will not comment at time of input.

### IV. DISCUSSION ITEMS

### V. ACTION ITEMS

- F. **Food Service Equipment for West Hall Innovation Center** (Pursuant to Policy A-106.00 Finance)  
Recommend authorization for administration to enter into a contract with Stafford-Smith Incorporated in the amount of \$448,680 for food service kitchen equipment to be funded by bond funds.
- G. **Closed Session** (Pursuant to Policy A-106.00 Other)  
Recommend that the Board convene in closed session as permitted by Section 8(c) of the Michigan Open Meetings Act, MCL 15.268, to discuss strategy connected with the negotiation of collective bargaining agreements between the College and the Michigan Education Association. (*Roll Call Vote*)



- H. **Reconvene Regular Meeting** (Pursuant to Policy A-106.00 Other)  
Recommend the closed session adjourn and the open session of the regular meeting be reconvened. (*Roll Call Vote*)
- I. **Faculty Collective Bargaining Agreement** (Pursuant to Policy A-106.00 Finance)  
Recommend authorization for administration to enter into an agreement by and between the Northwestern Michigan Faculty Association, MEA-NEA, and Northwestern Michigan College effective immediately through July 31, 2022.
- J. **Faculty Chair Collective Bargaining Agreement** (Pursuant to Policy A-106.00 Finance)  
Recommend authorization for administration to enter into an agreement by and between the Northwestern Michigan Faculty Chair Association, MEA-NEA, and Northwestern Michigan College effective immediately through July 31, 2022.
- K. **Presidential Contract** (Pursuant to Policy A-106.00 Human Resources)  
Approval of presidential contract as recommended by the Presidential Performance and Compensation Committee for Dr. Nick Nissley, effective January 1, 2020 through December 31, 2021.

## VI. REVIEW OF FOLLOW-UP REQUESTS

Confirm requests made by the Board that require administrative follow-up for information to be provided to the Board at a later date.

## VII. ADJOURNMENT

### Upcoming Board Meeting Dates:

*All board meetings are open to the public.*

October 28, 2019 – NMC Hagerty Center, Great Lakes Campus, 715 E. Front Street  
November 25, 2019 – NMC Hagerty Center, Great Lakes Campus, 715 E. Front Street  
December 16, 2019 – NMC Hagerty Center, Great Lakes Campus, 715 E. Front Street (3<sup>rd</sup> Monday)  
January 27, 2020 – NMC Hagerty Center, Great Lakes Campus, 715 E. Front Street  
February 24, 2020 – NMC Hagerty Center, Great Lakes Campus, 715 E. Front Street  
March 23, 2020 – NMC Hagerty Center, Great Lakes Campus, 715 E. Front Street  
April 27, 2020 – NMC Hagerty Center, Great Lakes Campus, 715 E. Front Street  
May 18, 2020 – Great Lakes Campus, Room 112, 715 E. Front Street (3<sup>rd</sup> Monday)  
June 22, 2020 – Great Lakes Campus, Room 112, 715 E. Front Street



Northwestern  
Michigan  
College

**MEMO**

*Administrative Services*

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**To:** Timothy J. Nelson, President  
**From:** Vicki Cook, VP Finance and Administration  
**Date:** October 9, 2019  
**Subject:** Spence Brothers Recommendation for West Hall Innovation Center  
Food Service Equipment

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After receipt of food service equipment bids and post-bid interview meetings with subcontractor team, the A/E Team, NMC and Spence Brothers recommends award of a subcontract for food service kitchen equipment to **Stafford-Smith Incorporated.**

**Cost Breakdown**

**Food Service Equipment – Equipment/Freight (no tax) - \$382,939**

**Food Service Equipment – Install & Ansul System - \$65,741**

**Total: \$448,680**

Please refer to attached materials from Spence Brothers.



**SPENCE  
BROTHERS**

"Building Trust Since 1893"

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October 8, 2019

Northwestern Michigan College  
West Hall  
1701 East Front Street  
Traverse City, MI 49686

Re: NMC West Hall Innovation Center Renovation and Expansion  
Contract Award Recommendation – Food Service Equipment

Attention: Vicki Cook

Dear Vicki,

After receipt of the Food Service Equipment bids and conducting the subcontractor Post-bid Interview meeting; the A/E team members and Spence Brothers recommends award of the work scope to Stafford Smith, Inc. The following cost breakdown indicates the total bid amount with detail for the equipment costs should NMC wish to purchases those items directly:

- Food Service Equipment - Install & Ansul System – \$65,741
- Food Service Equipment – Equipment / Freight (no tax) – \$382,939

**Total Scope Value: \$448,680**

For additional bid value information please see attached Food Service Equipment Bid Results matrix with all bidders and amounts listed.

Please contact me if you have any questions.

Respectfully,

CHRIS TOUHEY  
Project Manager

<b>NMC West Hall Innovation Center - FOOD</b>		10/8/2019	
Non-DTMB: Spence Project 18-195			
<b>Bid Category / Scope</b>	<b>Bid Bond</b>	<b>Base Bid Amount</b>	<b>Remarks</b>
<b>Food Service Equipment</b>			
Great Lakes West	N/A	\$ 506,328.00	No taxes included in Base Bid. Tax: \$25,216
Stafford-Smith, Inc.	N/A	\$ 448,285.00	No taxes included in Base Bid. Tax: \$22,976 (Equip), \$395 (Ansu)
Trimark Marlinn LLC	N/A	\$ 532,518.00	No taxes included in Base Bid. Tax: \$49,824 (9.75% - not MI rate)

# NORTHWESTERN MICHIGAN COLLEGE

## Dr. Nick Nissley Employment Agreement

This Employment Agreement (the "Agreement") is made by and between **Northwestern Michigan College**, a Michigan community college ("College" or "Employer"), and **Dr. Nick Nissley** ("President").

### RECITALS

Northwestern Michigan College and its Board of Trustees ("Board") desires to employ **Dr. Nick Nissley** as its President and Chief Executive Officer, and **Dr. Nick Nissley** desires to be employed by the College as its President and Chief Executive Officer;

The parties to this Agreement engaged in negotiations regarding the terms and conditions of the Agreement;

The Agreement is drafted and entered into pursuant to the Michigan Community College Act, MCL 389.1, et seq;

This Agreement shall replace and supersede all prior agreements between the parties regarding the subject matter herein, whether written or oral; and

In consideration of the promises and mutual agreements contained herein, the receipt and sufficiency of which are hereby acknowledged as adequate consideration, the parties now enter into this Agreement.

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, the parties hereby agree as follows:

- 1. Employment.** The College agrees to employ **Dr. Nick Nissley** as President and Chief Executive Officer and President accepts such employment with the College, upon the terms and conditions set forth in this Agreement.
- 2. Term.** The term of this Agreement, which becomes effective January 1, 2020 (the "Effective Date"), shall be for 2 years, and shall terminate on December 31, 2021 (the "Termination Date"), unless terminated earlier as provided herein (the "Term"). The parties may extend the Term of this Agreement, or otherwise modify its provisions, only by way of mutual written Agreement, signed and dated by both parties consistent with Article 15 below.
- 3. Position and Duties.** During the period of employment, President shall act as the College's President and Chief Executive Officer (collectively referred to as "President").

**3.1 Governance.** The College, through its Board, delegates to the President the authority of the internal management of the institution. The President will provide the Board with appropriate information, in a timely manner, in order that the Board may promulgate policy. The President, as Chief Executive Officer, is responsible for executing policies and implementing identified

goals through the day-to-day management of the College. The Board and its individual members agree not to interfere with or to usurp the responsibilities of the President.

3.2 Other Duties. The President will: (1) provide leadership for academic excellence; (2) administer the instruction, student services, and business affairs of the College; (3) periodically direct the review of Board policies; (4) promote and endeavor to maintain a positive College image in the community; (5) establish and maintain sound working relationships with other governmental agencies; (6) endeavor to maintain and improve professional competence; (7) serve as the Board's designated representative with respect to all matters concerning employer-employee matters; (8) annually evaluate administrative employees reporting directly to the President and participate in the evaluation of the remaining employees in accordance with College procedures; and (9) manage and control College property and enter into contracts on behalf of the College as authorized by the Board.

3.3 Accountability. The President, as Chief Executive Officer, is accountable to the Board, acting as a body of the whole. Only decisions of the Board acting as a body are binding upon the President except in instances when the Board, acting as a body, delegates appropriate functions to the Board Chair or a committee of the Board.

**4. Compensation.** In consideration for the services to be provided by President to the College, pursuant to the terms of this Agreement, President shall be paid or receive compensation during the Term of the Agreement as set forth herein.

4.1 Salary. The President's salary shall be at the annual rate of One hundred and eighty five thousand Dollars (\$185,000) until December 31, 2020. Effective January 1, 2021, the President's salary shall be at the annual rate of One hundred and ninety thousand Dollars (\$190,000) and increased by the percentage used to adjust the salary scale for staff and executives of the college for the calendar year 2021. The President must achieve satisfactory job performance on the most recent Annual Review (identified in paragraph 6.1) in order to receive increases identified in this paragraph.

**5. Health and Other Benefits.** Beginning on the Effective Date of employment, President shall be eligible for and may participate in any and all employee benefit plans in which the College is the plan sponsor or a participating employer, including any health insurance and other benefit plans. President agrees and acknowledges that the benefits provided by the College may be changed or amended from time to time at the sole discretion of the College.

5.1 Paid Time Off. The President shall accumulate 20 vacation days annually and may accrue up to a maximum of 40 days. Any remaining unused vacation shall be payable at one hundred percent (100%) of the then current value in cash to the President upon separating from employment with the College unless it falls under 7.3 and notice is less than six months. The President shall receive all other paid or unpaid leave permitted by College policy, or required by law, as granted to other College executive administrators.

5.2 Additional Benefits. In addition to those listed above, the College shall provide the following additional benefits:

5.2.1 Office Holder Allowance. The College shall provide the President an office holder allowance of Ten thousand dollars (\$10,000) per fiscal year to be used by the President at his discretion to carry out the duties of the office.

5.2.2 Reimbursement for Professional and Private Organizations and other Business Expenses. The President shall be entitled to reimbursement for reasonable business expenses incurred in the exercise of duties as President, subject to providing proof of expenditures. The College shall pay on the President's behalf or reimburse membership dues, fees, or assessment of professional and private organizations incurred for business use in the exercise of the President's duties. Board approval must be obtained in advance for membership in private clubs. All approved reimbursements shall be paid to the President within thirty (30) days of approval (which shall be completed within thirty (30) days of being submitted by the President).

5.2.3 Professional Meetings. The President may attend professional meetings at local, state, national, and international levels. Reasonable expenses so incurred shall be reimbursed by the College. The President shall provide the Board with a semiannual summary report of nonlocal travels to professional meetings.

5.2.4 Outside Professional Activities. The President may undertake outside professional activities, including as a consultant, speaking, and writing, provided these activities do not interfere with the President's duties. The President shall issue a semiannual report to the Board listing any consultancies or boards for which compensation was provided. The President may, and is encouraged to, serve on boards of private, publicly held, or nonprofit corporations, subject to the College's Conflict of Interest policy.

5.2.5 Automobile. The College shall provide the President with an automobile allowance of One thousand dollars (\$1,000) per month for his professional and personal use.

5.2.6 Annual Physical. The College shall reimburse the President for the actual costs of an Executive Health Program performed by a licensed physician at a healthcare facility selected by the President once each fiscal year.

## **6. Performance Reviews.**

6.1 Annual Review. In order to ensure ongoing communication between the President and the Board concerning the President's objectives and job responsibilities, as well as to achieve a mutual understanding between the parties concerning the accomplishments of such objectives and responsibilities, there shall be an annual written review of the President's performance, which shall include a meeting with the President and the Board for the purpose of reviewing such objectives and responsibilities. Such annual reviews may include prioritizing job objectives and establishing timetables and resources for completion of such objectives. The Board shall establish a schedule and evaluation instrument for the review of the President and shall allow sufficient time for the parties to prepare an outline of accomplishments and progress made toward attaining the performance objectives and satisfying the duties and responsibilities of the office.

6.2 Semi-Annual Review. The Board shall also schedule at least one interview

with the President between annual reviews to discuss the progress the President is making in the then current year toward goals set for the President that year. This interview is intended to provide guidance for the President throughout the year. Additional interviews for the same purpose may be requested by the President or a majority of the Board, from time to time.

**7. Termination of Agreement.** This Agreement may be terminated in advance of the expiration of the Term as follows:

7.1 Termination for Cause. The Agreement may be terminated by the College for Cause at any time. A Termination for Cause will supersede the Term as set forth in Article 2 of this Agreement. Termination for Cause shall mean termination by Employer of President's employment for any of the following reasons: (a) the President's conviction of a felony; (b) the President's engaging in an act of theft, falsification of records, or other material dishonesty to the detriment of the College, in the Board's discretion; (c) the President's intentional failure, refusal, or unwillingness to fulfill the duties as set forth in this Agreement in a manner that is materially detrimental to the College (financially or otherwise), in the Board's discretion; (d) the President's action(s) constitutes a material breach of this Agreement that causes substantial harm to the College; or (e) the President's use or possession of a controlled substance on College premises or at College events without an authorized prescription (together and singularly "Cause").

7.1.1 Termination for Cause requires written notice to President sent by the Board which sets forth each reason for the proposed Termination for Cause. Before the Board makes a final decision, the President is entitled to meet with the Board, in open or closed session, within thirty (30) calendar days of the issuance of the written notice. The President may be represented by legal counsel at the President's expense and may present any evidence to the Board to rebut the stated reason(s) for termination. After the President has had an opportunity to respond to the stated reason(s) for termination, the Board will make a final decision in writing within thirty (30) days, and shall provide the President with a written copy of its final decision. The Board may, within its discretion, suspend President from all duties and assignments after provision written notice and pending the outcome of the Board's final decision.

7.1.2 Upon Termination for Cause, the President shall be entitled to receive the following: (i) the amount of salary that is earned but unpaid as of the date of termination; (ii) any benefits accrued as of the date of termination under the employee benefit plans of the College in which President participates; and (iii) any defense or indemnification that the President may have under this Agreement or as provided by law (collectively, "Accrued Benefits").

7.1.3 Upon Termination for Cause, the President will not be entitled to any further compensation, privileges, or benefits, except as set forth hereinabove.

7.2 Termination Not for Cause (by Employer) . The Board may implement a Termination Not for Cause at any time upon the Board providing President with ninety (90) days' written notice of the Termination Not for Cause.

7.2.1 If the Board implements a Termination Not for Cause, then, as of the effective date of termination, the College shall prorate and pay the base salary to the President for each month remaining in the Term of the Agreement or for 6 months, whichever is less. The College also shall pay all health and other benefits specified in Section 5 for the same duration as the base salary.

7.2.2 Termination Not for Cause is termination by Employer of the President's employment other than Termination for Cause, Voluntary Termination, Termination by Mutual Agreement, Termination by Death, and Termination by Disability.

7.3 Voluntary Termination (by President). This Agreement may be terminated voluntarily by the President with six (6) months written notice by the President to the Board. The President shall continue to carry out all regular duties during the 6-month notice period. During this time period, the President shall be paid his annual salary and all benefits as set forth in paragraph 4 and 5 of this Agreement. If the President provides less than a 6-month notice, he shall continue to carry out all regular duties during the period of notice provided. He shall be entitled to his annual salary for the period of notice provided, shall be entitled to any defense or indemnification that the President may have under this Agreement or as provided by law and he shall be entitled to participate in any and all employee benefit plans for which he is eligible and in which the College is a plan sponsor or a participating employer but he shall not be entitled to and will forfeit the benefits set forth in paragraphs 5.1, 5.2.1, 5.2.6 of this Agreement. As of the date of his Voluntary Termination, the President shall be entitled to receive Accrued Benefits.

7.4 Termination by Mutual Agreement. This Agreement may be terminated upon written mutual agreement by the parties at any time.

7.5 Death. This Agreement shall be terminated automatically upon President's death. The College shall be obligated to pay to President's estate the amount of salary that is earned but unpaid as of the time of President's death. President's designated beneficiary or estate, as the case may be, shall be entitled to receive any benefits accrued under any employee benefit plans of the College in which President participates.

7.6 Disability. If President is disabled, either mentally or physically, and unable to perform his duties with or without reasonable accommodation, President may separate from the employment of the College at his option, or be separated at the College's option. For purposes of this Agreement, (1) such disability must first have prevented President from performing his duties with or without reasonable accommodation for a period of over ninety (90) calendar days in any twelve (12) consecutive month period; and (b) a physician mutually agreed upon by President and the College shall certify that President is not able to perform his duties with or without reasonable accommodation. The College shall pay for any examination fee or other charges that may be incurred in connection with such certification. If the physician certifies that President is disabled as defined by this paragraph 7.6, then either party may terminate this Agreement upon thirty (30) days' prior written notice to the other party and President shall be entitled to Accrued Benefits. During such thirty (30) day period, President shall continue to receive his salary and shall be entitled to receive all such other benefits due to President pursuant to the terms of any then existing employee benefit plans of the College in which President participates.

**8. Code Sections 409A, 457(f), and 507(f).** This Agreement is intended to comply with or be exempt from the requirements under Internal Revenue Code Sections 409A and 507(f), as applicable, and as each may be amended from time to time, and the terms of the Agreement shall be interpreted and applied consistent with such intent. If necessary, any provision will be held null and void to the extent such provision fails to comply under Section 409A and 507(f), but such action will not affect the remainder of this Agreement and it shall remain in full force and effect. The Parties agree that, for the limitation on nonqualified deferred compensation under Section 409A, where applicable, each payment of compensation under this Agreement shall be treated as a separate payment of compensation for the purposes of applying the Section 409A deferral election rules and exclusion from Section 409A for certain short-term deferral amounts. To the maximum possible extent, notwithstanding anything to the contrary in this Agreement, all reimbursements and in kind benefits provided under this Agreement will be made or provided in accordance with the requirements of 409A, including, where applicable, the requirement that (1) any reimbursement is for expenses incurred during the period of time as specified in this Agreement; (2) the amount of expenses eligible for reimbursement, during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year; (3) the reimbursement of eligible expenses will be made no later than the last day of the calendar year following the year in which the expense is incurred, and (4) the right to reimbursement is not subject to liquidation or exchange for another benefit. If any benefit becomes taxable under Section 457(f), if applicable, before it is to be paid under the terms of this Agreement, the College may, in its sole discretion, notwithstanding the other provisions of this Agreement, distribute a portion of such benefit sufficient to cover any federal, state and local income taxes and employment taxes required on the amount taxable to the President.

**9. Notices.** Any notice provided for in this Agreement shall be in writing and either be personally delivered, faxed, mailed electronically, or mailed by certified mail return receipt requested, to the recipients at the addresses indicated below or such other address that either party shall specify in writing. Any notice under this Agreement shall be deemed to have been given when so delivered or mailed.

President: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

During his employment, President shall notify Employer of any changes to President's address.

Employer: Northwestern Michigan College  
1701 E. Front St.  
Traverse City, MI 49686

**10. Assignment.** This Agreement shall be binding on all Northwestern Michigan College's successors and assigns. This Agreement shall not be and cannot be assigned by the President.

**11. Waiver.** Waiver by one party of this Agreement of a breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach.

**12. Mutual Understanding.** Each Party warrants that he/she/it has read this Agreement, fully understands the contents of this Agreement, has had the opportunity to obtain independent legal advice regarding the Agreement's legal effect, and is under no duress regarding its execution.

**13. Severability.** The provisions of this Agreement shall be severable, and the invalidity of any provision shall not affect the validity of other provisions.

**14. Governing Law.** This Agreement shall be construed in accordance with its terms under the laws of the State of Michigan.

**15. Entire Agreement.** This Agreement contains the entire agreement between the parties relating to the subject matter herein, and supersedes any prior agreements or communication, whether written or oral. No modification of this Agreement shall be valid or binding unless the modification is in writing, dated and signed by both parties.

**16. Counterparts.** This Agreement may be executed in any number of counterparts, and may be signed via facsimile or e-mail (scan), and each such counterpart shall be deemed to be an original instrument, but all such counterparts shall constitute one Agreement.

**[REMAINDER OF PAGE LEFT BLANK. SIGNATURE PAGE TO FOLLOW]**

**IN WITNESS WHEREOF**, the parties have executed this agreement as of the day and year indicated below.

**PRESIDENT**

**WITNESSED**

\_\_\_\_\_  
**By: Nick Nissley, Ed.D.**

\_\_\_\_\_  
**By: Holly Gorton**

**Dated: October 14, 2019**

**Dated: October 14, 2019**

**NORTHWESTERN MICHIGAN COLLEGE**

*Chris M. Bott*

\_\_\_\_\_  
**By: Chris M. Bott**

**Board of Trustees Chair**

**Dated: October 14, 2019**