

Contract Extension for Stephen Smiley


RECOMMENDATION

It is recommended that the Board of Trustees approve the first amendment to the Employment Agreement for Head Men’s Basketball Coach Stephen Smiley.

BACKGROUND

This Amendment extends the term of the Agreement through June 30, 2030, and includes the following key modifications:

- Increases base salary;
- Guarantees salary through June 30, 2029;
- Introduces a voluntary termination buyout provision through June 30, 2029;
- Adds a retention bonus;
- Revises performance-based incentives; and
- Incorporates language regarding University Governmental Immunity.

<i>Tamra J. English</i>			5/29/25
Responsible Staff	Date	President	Date
Board Action	Date		

**AMENDMENT ONE TO THE EMPLOYMENT AGREEMENT BETWEEN
THE UNIVERSITY OF NORTHERN COLORADO
AND
STEPHEN SMILEY**

1. **Parties.** This Amendment is made and entered into between the Board of Trustees for the University of Northern Colorado (University), and Stephen Smiley (Smiley).
2. **Purpose of Amendment.** This Amendment shall constitute the first amendment to the Employment Agreement (Agreement) between the University and Smiley. The purpose of this Amendment is to: a) extend the term of the Agreement in various sections through June 30, 2030; b) increase base salary; c) guarantee salary through June 30, 2029; d) add voluntary termination buy out through June 30, 2029; e) add a retention bonus; f) revise incentives; and g) amend the Agreement to include University Governmental Immunity.

The original Agreement, dated November 15, 2022, required Smiley to serve as the University Head Men's Basketball Coach for a base annual base salary of \$161,646.00 per year with an expiration date of April 30, 2027.

3. **Term of the Amendment.** This Amendment shall commence on the date the last required signature is affixed hereto and shall remain in full force and effect through the term of the Agreement, unless terminated at an earlier date pursuant to the provisions of the Agreement, this Amendment, or pursuant to federal or state statute or rule or regulation.
4. **Amendments.**
 - A. Recital three of the original Agreement is hereby amended to read as follows:

WHEREAS, the University's Board of Trustees has determined that this multiyear Agreement is necessary for the hiring or retaining of Smiley in light of prevailing market conditions and competitive employment practices.
 - B. Section 2 of the original Agreement is hereby amended to read as follows:

TERM. This Agreement shall commence on July 1, 2025, and shall be in effect until June 30, 2030 (Term), unless otherwise terminated by the Parties pursuant to the terms of this Agreement. On or before March 1, 2030, University will notify Smiley in writing whether it intends to enter into negotiations with Smiley for a new or renewal employment agreement for his employment after June 30, 2030. If the University does not so inform Smiley, Smiley will not be required to pay University the amount described in Paragraph 10, below, if he were to terminate the Agreement thereafter pursuant to Paragraph 10.
 - C. Section 3 of the original Agreement is hereby amended to read as follows:

SALARY. Smiley shall be paid an annual base salary of one hundred eighty-five thousand two hundred fifty-one dollars (\$185,251.00) per year at the commencement of the Term of this Agreement, payable by the University in equal monthly installments on the same payroll dates as other University employees. Smiley will be eligible and considered for compensation adjustments to his annual base salary as consistent with and applicable to University's exempt employees.

D. Section 5 of the original Agreement is hereby amended to read as follows:

INCENTIVE COMPENSATION. Provided that (a) Smiley achieves one or more of the goals described in sub-paragraphs (i) through (ix), below, (b) Smiley remains employed in the position of Head Men's Basketball Coach under the terms of the Agreement through April 30 of each full intercollegiate men's basketball season to which such goals apply, (c) this Agreement is not terminated pursuant to Paragraph 8, below, prior to the date on which payment for such Incentive Compensation is due and payable to Smiley, and (d) beginning with the 2022-2023 intercollegiate men's basketball season, University's men's basketball student-athlete academic performance is at or above 930 (multiyear) of the NCAA Academic Performance Rate, Smiley will have earned and shall receive annual Incentive Compensation for each full intercollegiate men's basketball season during the Term of this Agreement as follows:

- i. \$2,500.00 for team grade point average ("GPA") during the Fall semester at or above 2.80 for each academic year of the Term of this Agreement stated in Paragraph 2, above;
- ii. \$2,500.00 for team GPA during the Spring semester at or above 2.80 for each academic year of the Term of this Agreement stated in Paragraph 2, above;
- iii. \$2,500.00 for men's basketball student-athlete annual academic performance at or above 950 of the NCAA Academic Performance Rate;
- iv. \$2500 if the MBB team has 80% of the eligible student-athletes graduate similar to the Graduation Success Rate. UNC will determine the graduation rate based on the past three years of those student-athletes who have competed on the team. Those who transfer eligible or graduate transfers will not count in this graduation rate. Student-athletes have a six-year window to graduate
- v. \$1,500.00 if any men's basketball student-athlete is named to the NCAA Academic All-America team;
- vi. \$2,500.00 for the men's basketball student-athletes and staff meeting the expectations of the Director of Athletics in performing marketing and community service activities throughout the academic year;
- vii. \$2,500.00 if the men's basketball team finishes in the top four, including ties, of the Big Sky regular season standings;
- viii. \$1,000.00 if the men's basketball team finishes first, including ties, in the Big Sky regular season standings; and
- ix. \$2,500.00 if the men's basketball team makes the NCAA Tournament.

The amount of Incentive Compensation earned under subparagraph (i) shall be due and payable (less applicable Federal, State, and local taxes) on January 31 in each year of the Agreement to which such goals apply. The amount of Incentive Compensation earned under subparagraphs (ii) through (ix) of this Paragraph 5 shall be due and payable in one lump sum (less applicable Federal, State, and local taxes) on June 1 following each full intercollegiate men's basketball season to which such goals apply.

Should Smiley be employed under this Agreement on June 30th in each year of this Agreement, Smiley will earn a \$30,000 payment, less applicable deductions for federal, state, and local taxes as an earned retention incentive. Retention incentives will be paid solely from donated funds.

Should Smiley be employed under this Agreement on June 30, 2025, Smiley will earn an additional \$30,000 payment, less applicable deductions for federal, state, and local taxes as an earned retention incentive. If Smiley is employed under this Agreement on June 30, 2026, Smiley will earn an additional \$30,000 payment, less applicable deductions for federal, state, and local taxes as an earned retention incentive. Retention incentives will be paid solely from donated funds in the UNC MBB Retention Fund. For the purposes of clarity, the above retention incentives are cumulative and will result in a total retention of bonus of \$60,000 to be paid to Smiley on June 30, 2025, as well as June 30, 2026, if donated funds are available in men's basketball foundation accounts.

- E. Section 9 of the original Agreement is hereby amended to read as follows:

TERMINATION WITHOUT CAUSE. Termination "without cause," as defined in this Agreement, is defined as any reason not constituting "cause" as defined in Paragraph 8, above. Should University terminate this Agreement "without cause" on or before June 30, 2029, University will pay Smiley a severance payment consisting of his base salary for each remaining fiscal year through Fiscal year 2029 (less applicable Federal, State, and local income taxes and other lawful deductions). Any severance payment will be paid out in equal installments monthly through fiscal year 2030 and will be reduced by reasonable and fair salary or compensation Smiley receives as a basketball coach with another employer from the date of his termination "without cause" through fiscal year 2030. University, in its sole discretion, may pay the severance payment in a lump sum or in equal monthly installments over the term of the Agreement.

- F. Section 10 of the original Agreement is hereby amended to read as follows:

VOLUNTARY TERMINATION. Smiley shall have the right to terminate this Agreement for any reason upon seven (7) days written notice to University. If Smiley terminates this Agreement pursuant to this Paragraph 10, he shall not thereafter receive any salary or benefits from the University after such written notice to University. If Smiley terminates this Agreement on or before June 30, 2029, pursuant to this Paragraph 10 because he intends to assume a position as a head men's basketball coach or an assistant men's basketball coach at another college or university, he will be required to

pay to the University of Northern Colorado Foundation Blue and Gold Area of Greatest Need within thirty (30) days of submission of such written termination notice to University the sum of one hundred thousand dollars (\$100,000.00).

- G. Section 20 of the original Agreement is hereby amended to read as follows:

FUND AVAILABILITY AND BOARD OF TRUSTEES APPROVAL. Financial obligations of the University, as an entity of the State of Colorado, after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise available. The Parties understand and agree that this Agreement is subject to approval by the University Board of Trustees and is not valid until so approved.

- H. Section 21 is hereby added to the original Agreement to read as follows:

21. GOVERNMENTAL IMMUNITY. Notwithstanding anything herein to the contrary, no term or condition of this Agreement will be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the “Colorado Governmental Immunity Act,” CRS §§ 24-10-101, *et seq.*, as now or hereafter amended.

5. **Amended Responsibilities of Smiley.**

- A. Responsibilities of Smiley have not changed.

6. **Amended Responsibilities of the University.**

- A. Responsibilities of University have not changed.

7. **Special Provisions.**

- A. **Same Terms and Conditions.** Except for items explicitly delineated in this Amendment, all terms and conditions of the original Agreement between the University and the Smiley, including but not limited to governmental immunity, remain unchanged and in full force and effect.
- B. **Counterparts.** This Amendment may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute the same Amendment.

8. **General Provisions.**

- A. **Entirety of Contract.** The original Agreement, consisting of six (6) pages; and this Amendment One, consisting of five (5) pages, represent the entire and integrated

agreement between the parties and supersede all prior negotiations, representations, and agreements, whether written or oral.

9. **Signatures.** The parties to this Amendment, through their duly authorized representatives, have executed this Amendment on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Amendment.

UNIVERSITY:

Board of Trustees for the University of Northern Colorado

Dale Pratt, CFO and Vice President for
Finance & Administration

Date

SMILEY:

STEPHEN SMILEY

Stephen Smiley

Date

Recommended for Approval by the University

Darren Dunn
Director of Athletics
University of Northern Colorado

Date