

**CONTRACT FOR EMPLOYMENT AS SUPERINTENDENT**  
**between**  
**THE FITZGERALD PUBLIC SCHOOLS BOARD OF EDUCATION**  
**-and-**  
**BARBARA VANSWEDEN**

**THIS CONTRACT**, made and entered into at Warren, Michigan, this 9<sup>th</sup> day of April, 2009, by and between Fitzgerald Public Schools, a Michigan General Powers School District (the "District"), and Ms. Barbara J. VanSweden (the "Superintendent").

**IT IS AGREED**

1. **TERM** - The District will employ the Superintendent for a period of the remainder of the 2008-2009 school year and two full school years thereafter, from March, 2009 to June 30, 2011 in the capacity of Superintendent, as defined in the Michigan Revised School Code, MCLA 380.11 et seq.

The District's Board of Education may take official action to determine whether to extend the term of this Contract for any additional school year on or before April 1 of the 2010-2011 school year, and on or before April 1 of each succeeding year; provided, the term of this Contract will not be extended except by official and affirmative action of the District's Board of Education in a public meeting held in conformity with the Open Meetings Act.

2. **TENURE** - The Superintendent will not have or acquire tenure in her current or any other administrative or assigned capacity. The District's failure to continue the Superintendent's employment after the term of this Contract, or re-employ her in another capacity, will not be considered a breach of this Contract.
3. **QUALIFICATIONS** - The Superintendent represents and warrants that she meets, and will continue to meet, at least the minimum qualifications and certifications required by law to serve in her current assignment and any other administrative or other position to which she may be assigned.
4. **DUTIES** - The Superintendent will competently and faithfully perform her duties, as required by law, and any additional duties or tasks assigned by the District's Board of Education. The Superintendent will fulfill all Board policies and administrative regulations and all of the decisions and directives of the District's Board of Education, and carry out the District's programs and policies during the entire term of this Contract and any renewal terms.

5. **SALARY** - The Superintendent's base salary for the 2008-2009 school year will be \$155,000, prorated by the fraction of the school year completed prior to January 29, 2009, with the prorated amount payable in equal bi-weekly installments over the remainder of the school year. The Superintendent's base salary for the remaining years of this Contract will be established by the District's Board of Education after consultation with the Superintendent; but will not be less than her base salary as established under this contract for 2008-2009 and payable in equal bi-weekly installments during the then-current school year. The Superintendent will also receive the additional compensation for her services in the form of fringe benefits as listed herein.
6. **FRINGE BENEFITS** - The Superintendent shall be entitled to the fringe benefits listed below which include medical insurance, long term disability, life insurance, absence days, retirement benefits, death benefits, travel/accident insurance benefits, and memberships. The Superintendent is entitled to the same fringe benefits that are available to other administrators, to the extent they do not conflict with the terms of this Contract. The Board of Education expressly retains the right, in connection with the future establishment of benefits for the Superintendent and administrative positions, to modify and change benefits existing as of the date of this Contract. To the extent the administrators' benefits are modified, the benefits available to the Superintendent shall be those set forth in the then current Summary of Fringe Benefits Fitzgerald Administrators.
- a. Medical Insurance, Flexible Benefit Plan. See Exhibit A attached hereto and incorporated herein.
- b. Long Term Disability.
- Benefits following ninety (90) calendar days of continuous disability.
  - Benefits paid at 66-2/3% of salary to a maximum monthly benefit of \$5,000.
  - As a condition of continuing receipt of salary and benefits during disability in the course of utilizing absence days, the Superintendent shall apply for long-term disability insurance benefits sufficiently in advance of the expiration of the 90 day waiting or initial elimination period following onset of disability specified under the insurance policy in order to receive salary continuation benefits under such long term disability insurance policy. Receipt of continuation payments by the Superintendent under such insurance contract shall be in partial offset of the School District's obligation for salary continuation during the period of time that absence days are available or capable of being utilized (i.e., daily pay for

absence day - LTD benefit = District addition to LTD until absence days are exhausted following 90 day LTD qualification period).

- Benefits shall be to age 65 for disabilities that occur prior to age 61; for disabilities that occur on or after age 61 benefits end five years (5) after the disability or age 70, whichever occurs first; after age 70, coverage is for one (1) year.

c. Life Insurance.

- In addition to the term insurance provided under Plan A or B, the Superintendent may elect one of the following term life and AD&D insurance options:
  - (i) Insurance in the amount of three (3) times current salary to a maximum of \$175,000; or
  - (ii) Insurance in the amount of one (1) times current salary and a stipend in an amount equal to the premium for insurance of \$175,000 minus current salary; or
  - (iii) No additional insurance. The Superintendent would receive a stipend in an amount equal to the premium for three (3) times current salary to a maximum of \$175,000.
- The Board also provides life and AD&D insurance benefit after retirement as follows:
  - (i) \$50,000 ages 55 to 66
  - (ii) \$40,000 to age 67
  - (iii) \$30,000 to age 68
  - (iv) \$20,000 to age 69
  - (v) \$10,000 to age 70
  - (vi) \$3,000 after age 70

d. Absence Days.

- The Superintendent will earn one and one-half (1-1/2) days per each month worked, The maximum granted will be eighteen (18) absence days per year. The Superintendent shall be entitled to accumulate absence days for use in other school years.
- Upon retirement, the Superintendent shall be reimbursed at the following rates dependent upon the range of days approved and not used:

50 – 100 days at \$40.00 per day; or  
101 – 150 days at \$50.00 per day. The Superintendent shall not be paid for any accumulated days above 150.

e. Board-Paid Retirement.

- The Board shall pay on behalf of the Superintendent, the State requested percent of salary to the Michigan Public School Employees' Retirement Fund ("MPSERS") by the School District.

f. Paid Vacation.

- The Superintendent will earn 15 vacation days per year for each of the first 4 years of employment with the District. For year 5 and each year thereafter, the Superintendent will earn 20 days paid vacation per year. Based upon her seniority with the District, the Superintendent shall hereinafter be entitled to 20 days paid vacation per year.
- Vacation is to be taken between July 1 and June 30 of the year after it is earned. The Superintendent will not be permitted to accumulate paid vacation days from year to year and will not be paid for unused vacation days.
- It is acknowledged that no administrator at Fitzgerald Public Schools who shall be employed in a position requiring less than 52 weeks per year of services shall receive vacation days or benefits.

g. Designated Paid Non-Work Days.

- The Superintendent will receive non-work days as published by the Board of Education in keeping with the schedule below for the 2008-2009 school year. In subsequent years, the holiday schedule may vary by way of date but shall be generally in keeping with the breaks and holidays outlined below.

July 4 and 5 (Independence Day)

August 31 and September 3 (Labor Day)

December 24, 25, 26, and 27 (as a winter year end holiday)

December 28, 31 and January 1, 2 (New Year)

February 14 and 15 (Winter Break)

April 4 (as a spring holiday)

May 26 (Memorial Day).

- It is understood that there are times when the Superintendent may be expected to work on designated non-work days. In such cases compensatory time off or some other form of compensation may be provided at the Board's discretion.

h. Travel/Accident Insurance.

- As part of the Board of Education policy, the Superintendent shall receive \$55,000 in Accidental Death and Dismemberment insurance.

i. Membership.

In addition to district wide membership in professional organizations, the Superintendent will have an annual budget of up to \$500.00 for payment of membership(s) in job-related, professional organization(s).

j. Death Benefit.

In the event of death, an active employee's beneficiary (as indicated on the life insurance beneficiary card) shall receive payment in the following amounts:

- A. Should death occur prior to or during the school year in which age sixty (60) is attained, one hundred sixty-five dollars (\$165) for each year of service to the district;

OR

- B. Should death occur during the school year in which age sixty-one (61) or sixty-two (62) is attained, one hundred twenty-five dollars (\$125) for each year of service to the district;

OR

- C. Should death occur during the school year in which age sixty-three (63), sixty-four (64), or sixty-five (65) is attained, seventy dollars (\$70) for each year of service to the district.

k. Credit Hours.

This section is not applicable for hires after June, 2009.

Additional salary allowance in the amount of \$15 for each semester hour or approved credit beyond degree. Degree refers to the highest degree held at the time of employment as an administrator. Hours required for attaining, re-attaining, or maintaining Michigan administrator (or teacher) certification are not eligible for this payment.

An administrator who earns education specialist degree will receive an additional salary of \$1000 per year above the base salary. An administrator who earns a doctorate will receive an additional \$2,700 per year above the base salary.

l. Longevity.

For employees hired prior to the end of the 2008-2009 school year:

- A. After 5 years of Fitzgerald service: \$ 700;
- B. After 10 years of Fitzgerald service: \$1,400;
- C. After 15 years of Fitzgerald service: \$2,100.

- 7. **TRANSPORTATION** - The Superintendent shall be required to own or lease and operate an automobile for the purpose of traveling to the various school buildings and facilities of the School District, as well as to attend out-of-district conferences and meetings in the course of her duties. The Superintendent will bear the entire cost of owning and operating the automobile and will not be eligible for any reimbursement of such costs.
- 8. **PHYSICAL AND MENTAL EXAMINATIONS** - At least once a year during the term of this Contract, the Superintendent shall have a medical examination, the costs for which shall be paid by the District. A copy of the report from the examination or a certificate of the physician certifying the fitness of the

Superintendent shall be provided to the President of the Board of Education as soon as it is available following the examination. The Board of Education reserves the right to direct the Superintendent to an examining physician for a medical report if, in its judgment, there are circumstances which warrant a verification of either the physical or psychological competence of the Superintendent. The reports from both the annual examination and the latter examination may be shared by the President of the Board of Education with the other trustees, but shall otherwise be maintained in confidence.

9. **PROFESSIONAL ORGANIZATIONS AND CONFERENCES** - The District will reimburse the Superintendent for dues and expenses reasonably incurred in connection with her membership in professional organizations for which the Superintendent has received advance written approval from the President of the District's Board of Education. The District will also reimburse the Superintendent for expenses reasonably incurred attending conferences for which the Superintendent has received advance written approval from the President of the District's Board of Education.
10. **EVALUATION** - The District's Board of Education may evaluate the Superintendent's performance annually. The evaluation shall, at a minimum, rate the Superintendent as "satisfactory" or "unsatisfactory". The Superintendent shall be evaluated no later than March 1 of any school year.
11. **CONFLICT OF INTEREST** - The Superintendent will faithfully serve the District and its interests during the term of this Contract. The Superintendent will not directly or indirectly acquire or otherwise possess any interest adverse to that of the District. In the event that a question arises as to whether a given interest is in conflict with the interests of the District, the Superintendent shall make full disclosure of same to the Board of Education for its review and disposition, which disposition shall be controlling and complied with by the Superintendent.
12. **BOARD MEETINGS** - Among her other duties, the Superintendent shall prepare the agenda for each Board of Education meeting in consultation with the President of the Board or the President's designee and forward same to each member of the Board of Education, along with her recommendations and supporting documentation on each agenda item, sufficiently in advance of the meeting so that each member can assimilate such information prior to the meeting.
13. **DISABILITY** - Should the Superintendent be unable to perform the duties and obligations of this Contract by reason of illness, accident or other causes, and such disability exists for a period of more than one hundred eighty (180) calendar days, the Board of Education, at its option, may terminate this Contract, whereupon the respective rights, duties and obligations of the parties shall thereby terminate. Likewise, if it is immediately determinable that such disability is permanent, irreparable, or of such nature as to make the continued performance of the Superintendent's duties improbable, the Board, at its option, may immediately

terminate this Contract, whereupon the respective rights, duties, and obligations of the parties shall thereby terminate. This provision shall not, in any way, derogate from the long-term disability benefits that apply by operation of other provisions of this Contract.

14. **OUTSIDE EMPLOYMENT** - The Superintendent will not be employed by or perform services for any other employer or person during the term of this Contract.
15. **INDEMNIFICATION** - The District will defend the Superintendent and indemnify and hold the Superintendent harmless from any and all claims, judgments, liabilities, costs and actual attorneys fees, of a civil nature, but not including criminal matters, arising from or relating to actions taken or decisions made in good faith and within the scope of her employment. The Superintendent shall give the Board of Education notice of any claim for defense and indemnification promptly upon knowledge of any possible claim. The Board of Education will have the right to appoint the attorney and conduct the defense of any such claim. If, in the opinion of the Board of Education, the Superintendent fails to fully cooperate in the defense of any claim, then this paragraph of the Contract shall become null and void. This paragraph survives the termination and expiration date of this Contract.
16. **TERMINATION** - The Superintendent may terminate this Contract by giving one calendar year's written notice to the President of the Board of Education, in which case, absent significant mitigating circumstances, the Superintendent shall forfeit any benefits or payments that she would otherwise be eligible to receive on retirement. The Board of Education may terminate this Contract during its term, and without further liability to the Superintendent under this Contract or otherwise, for reasonable and just cause, including: the Superintendent's failure to follow the Board of Education's policies, regulations, resolutions or directives; the Superintendent's material breach of this Contract; acts of moral turpitude or misconduct. For purposes of this Contract, two years of "unsatisfactory" evaluations conducted pursuant to Paragraph 11 shall constitute just cause. The Board of Education's determination in such event is final and binding. Prior to rendering such a decision, the Superintendent shall be entitled to meet with not less than a majority of the Board of Education to be apprised of such reasons and may answer thereto at such time. The Board of Education may elect not to renew this Contract in accordance with Section 1229 of the Revised School Code. In the event the Superintendent is terminated for cause, for acts of moral turpitude, or nonrenewed after unsatisfactory evaluation, she shall not be entitled to any of the benefits which are designated herein as payable upon retirement.
17. **DISPUTE RESOLUTION** - The Superintendent and the District agree that any and all disputes or claims arising from or relating to the Superintendent's employment, the termination or non-renewal of the Superintendent's employment or this Contract, including its negotiation and execution, will be submitted to final



and binding arbitration in Macomb County, Michigan, according to the American Arbitration Association's ("AAA's") National Rules for the Resolution of Employment Disputes. The parties hereby agree and acknowledge that this paragraph has been the subject of arms-length negotiations between them and hereby assert that the terms of this Paragraph 17 are not, and shall not be construed by the AAA, as an Employer Promulgated Plan, as that term is used by the AAA. The Superintendent or the District may move for entry of judgment on the arbitrator's award in any court of competent jurisdiction. The Superintendent and the District acknowledge and agree that this paragraph precludes them from filing a civil action concerning the disputes covered by this paragraph and this Contract and, therefore, waive their right to trial by jury concerning any and all such disputes.

- 18. LIMITATIONS OF CLAIMS OR ACTIONS** - The Superintendent and the District agree that any demand for arbitration, administrative complaint or civil action arising from or relating to the Superintendent's employment with the District, the termination of the Superintendent's employment with the District or this Contract, including its negotiation and execution, must be filed no later than 180 calendar days from the date on which it accrued or no later than 180 days from the termination of the Superintendent's employment with the District, whichever is sooner. The Superintendent and the District waive any longer limitations period. This paragraph is not intended to, and should not be construed to, extend any statutory or other limitations period shorter than 180 calendar days.

19. **WAIVER OF BREACH** - The Board of Education and the District will not waive any breach of any provision of this Contract except in writing. Such a waiver will not waive future breaches.
20. **SEVERABILITY** - If any paragraph or provision of this Contract is illegal or unenforceable under the laws of the United States or the State of Michigan, that paragraph or provision will not be enforceable without invalidating the remaining paragraphs and provisions of this Contract.
21. **ENTIRE AGREEMENT** - This Contract is the parties' entire agreement and supersedes any other understanding or agreement, verbal or written, and may not be modified or amended except by another written agreement signed by the Superintendent and approved by the District's Board of Education in a public meeting held in conformity with Michigan's Open Meetings Act.


IN WITNESS WHEREOF, the parties have executed this Contract this 9<sup>th</sup> day of April, 2009.

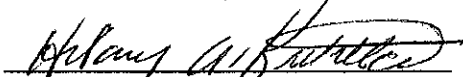
**FITZGERALD BOARD OF EDUCATION**


**SUPERINTENDENT**

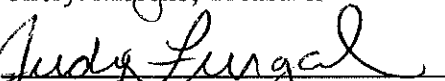
  
Thomas Owczarek, President


  
Barbara J. VanSweden

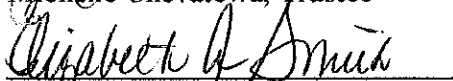
  
Donald Brewer II, Vice President

  
Hilary Kutella, Secretary

  
Cheryl Moreno, Treasurer

  
Judy Furgal, Trustee

  
Michelle Chevatowa, Trustee

  
Elizabeth Smith, Trustee

## EXHIBIT A

### Medical Insurance, Flexible Benefit Plan.

The Board shall provide, without cost to the employee, BC/BS, Plan A and B (or comparable). This plan will be called the Flexible Benefit Plan.

#### Plan A

- The Board shall provide without cost to the employee, coverage for the employee and his/her eligible dependents, as defined in the agreed upon specifications. The Board shall provide all insurance benefits for a full twelve-month period of each school year. Such benefits shall include health, dental, term life and vision insurance, except the XVA2 rider coverage will not be provided as an option.
- Blue Cross/Blue Shield Flex Blue 2 health insurance (or comparable) with 10/60 RX and \$1,250/\$2,500 deductible (funded by the district) with \$1,000/\$2,000 out-of-pocket max or Blue Cross/Blue Shield limited Medicare supplement (or comparable) or Medicare, Part B, premiums shall be paid on behalf of the employee, his/her spouse and/or dependents eligible for Medicare. Contribution of deductible not accrued/"rolled over" among plan years or upon separation of employee.
- Blue Cross/Blue Shield Dental Plan K-80-1500 Class I, II, III annual limit of \$1,500 and Class IV lifetime limit of \$2,000 (or comparable), with no coordination of benefits, OR  
  
Blue Cross/Blue Shield Dental Plan K-50-1500 Class I, II, III annual limit of \$1,500 and Class IV lifetime limit of \$2,000 (or comparable) with external coordination of benefits.
- Blue Cross/Blue Shield vision (or comparable).
- Term Life Insurance in the amount of forty-five thousand (\$45,000) dollars for the employee only. Such insurance protection shall be paid to the employee's designated beneficiary. In the event of accidental death, the insurance (AD&D) will pay double the specified amount; in the event of accidental dismemberment, the insurance will pay according to the schedule.

#### Plan B

- The Board shall provide the employee and his/her eligible dependents as defined in the agreed upon specifications, not electing insurance benefits, as described in Plan A, for a full twelve (12) month period of each school year an additional cash payment of one hundred eighty (\$180) dollars per month added to gross pay.

- Blue Cross/Blue Shield Dental Plan K-90-1500 Class I, II, III annual limit of \$1,500 and Class IV lifetime limit of \$2,000 (or comparable), with no coordination of benefits,

OR

Blue Cross/Blue Shield Dental Plan K-50-1500 Class I, II, III annual limit of \$1,500 and Class IV lifetime limit of \$2,000 (or comparable) with external coordination of benefits.

- Blue Cross/Blue Shield vision (or comparable).
- Term life insurance in the amount of sixty thousand (\$60,000) dollars for the employee only. Such insurance protection shall be paid to the employee's designated beneficiary. In the event of accidental death, the insurance (AD&D) will pay double the specified amount; in the event of accidental dismemberment, the insurance will pay according to the schedule.
- Dependent Term Life Insurance in the amount of ten thousand (\$10,000) dollars for each employee's spouse and five thousand (\$5,000) dollars for each dependent child as defined in the agreed upon specifications.