

**CONTRACT OF EMPLOYMENT**

**Jim Nielsen, Superintendent  
ORCHARD VIEW SCHOOLS  
July 1, 2016 – June 30, 2018**

**TERM OF EMPLOYMENT:**

It is hereby agreed by and between the Board of Education of the Orchard View School District (hereinafter "Board") and Jim Nielsen (hereinafter "Superintendent") that pursuant to Section 1229(1) of the Revised School Code, the Board in accordance with its action found in the minutes of its meeting held on May 26, 2015 has and does hereby employ the said Superintendent for a 2 year period commencing July 1, 2016 and ending June 30, 2018. *The Board shall also review this contract with the Superintendent annually and shall, on or before the regular April Board meeting of each ensuing year, take official action determining whether or not it is extended for an additional year, according to the terms and conditions as described and set forth herein as follows:*

**DUTIES:**

Superintendent shall perform the duties of Superintendent as prescribed by the Board and as may be established, modified and/or amended from time to time by the Board. Superintendent acknowledges the ultimate authority of the Board with respect to his responsibilities and directions related thereto. (Superintendent is subject to assignment and transfer to another administrative position of employment in the School District at the discretion of the Board.)

**CONTRACT VALIDITY:**

Superintendent represents that he possesses, holds and will maintain all certificates, credentials and qualifications required by law, including the regulations of the Department of Education, and those required by the Board to serve in the position assigned. Additionally, Superintendent agrees, as a condition of his continued employment, to meet all continuing education requirements for the position assigned, as are and may be required by law and/or by the State Board of Education. If at any time Superintendent fails to maintain all certificates, credentials, continuing education requirements and qualifications for the position assigned as required herein, this contract shall automatically terminate and the Board shall have no further obligation hereunder.

**RESPONSIBILITIES:**

Superintendent agrees to devote his talents, skills, efforts and abilities toward competently and proficiently fulfilling all duties and responsibilities of the position assigned. Superintendent agrees to faithfully perform those duties assigned by the Board and to comply with the directives of the Board with respect thereto. Further, Superintendent agrees to comply with and fulfill all responsibilities and tasks required by state and federal law and regulations and by the Board to carry out the educational programs and policies of the School District during the entire term of this contract. Superintendent pledges to use his best effort to maintain and improve the quality of the operation of the School District and constantly promote efficiency in all areas of his responsibility.

**COMPENSATION:**

The Board agrees to compensate the sum of \$110,000 base salary and \$2,900 longevity, for a total salary of \$112,900. Longevity will increase to \$3,100 when the Superintendent reaches 30 years of service. The Board hereby retains the right to increase or decrease the annual salary of the Superintendent during the term of this contract equal to increases or decreases (excluding steps) for members of the teacher's bargaining unit. These changes will be implemented at the time the teacher's bargaining unit contract is ratified. Any adjustment in salary made during the term of this contract shall be in the form of a written amendment and, when executed by the Superintendent and the Board, shall become a part of this contract. The addition of \$4,000.00 is to be paid to the Superintendent for an annuity in addition to this base pay. Payment is to be made according to the district's payroll policy governing payment of salary to other professional staff members.

**RIGHT OF ASSIGNMENT:**

Should Superintendent be assigned or transferred to another administrative position, the salary paid shall be as established by the Board for that position.

**WORK YEAR:**

Superintendent is employed on the basis of fifty-two (52) weeks of work per contract/fiscal year (July 1 through June 30) as scheduled by the Board. Superintendent shall be granted vacation time of (30) days per fiscal year. Vacation days must be used within the fiscal year for which they are made available. Superintendent may choose to receive up to fifteen (15) days of compensation in lieu of vacation annually (pending board approval). Superintendent shall schedule use of vacation days in a manner to minimize interference with the orderly operation and conduct of business of the School District. All scheduling of vacation is subject to the approval of the Board President.

**EVALUATION:**

Superintendent's performance shall be evaluated by the Board annually, *not later than March 31<sup>st</sup> of each contract year.*

**TERMINATION DURING TERM OF CONTRACT:**

The Board shall be entitled to terminate the Superintendent's employment at any time during the term of this contract for acts of moral turpitude, misconduct, dishonesty, fraud, insubordination, incompetence, just cause, or if Superintendent materially breaches the terms and conditions of the Agreement. Termination shall not be for reasons that are arbitrary and capricious.

- a) The foregoing standards for termination of this contract during its term shall not be applicable to non-renewal of this contract at the expiration of its term, which decision is discretionary with the Board of Education.
- b) In the event that the Board undertakes to dismiss Superintendent during the term of this contract, he shall be entitled to written notice of charges and an opportunity for a hearing before the Board. He shall be provided at least 10 days advance notice of the hearing and shall have right to be represented by legal counsel of his own choosing and expense. In the

event of termination of employment during the term of this contract, this contract shall automatically terminate and the Board shall have no further obligation hereunder.

**MEDICAL LEAVE:**

In the event of Superintendent's mental and/or physical incapacity to perform the duties of his office, he shall be granted an initial leave of ninety (90) workdays for purpose of recovery. The Superintendent shall first exhaust any accumulated sick leave and accrued vacation time, with the balance of the ninety (90) workday period to be unpaid. Health plan premium payments shall be made on behalf of Superintendent during this interval to the extent required by law. Upon utilizing leave under this provision, Superintendent shall furnish medical certification to the Board (or its designee) respecting the necessity for the leave.

- a) If the Board (or designee) has reason to doubt the validity of the medical certification supplied by Superintendent, it may require a second opinion, at Board expense.
- b) Superintendent may request a ninety (90) work day unpaid leave extension in the event of his physical and/or mental inability to return to work at the expiration of the initial leave interval, as described above, provided that there is a verified prognosis that Superintendent will be able to resume his duties at the conclusion of the extended leave interval. Medical certification shall be supplied by Superintendent as a condition to any leave extension. Any extensions of leave for this purpose shall be at the discretion of the Board.
- c) If Superintendent is unable to or does not resume work at the conclusion of a leave taken under this paragraph (or any extension thereof), his employment and this contract may be terminated at the option of the Board. However, no such termination shall occur where restoration after leave is required by the Family and Medical Leave Act.
- d) Prior to resumption of duty after an unpaid leave of absence for a serious health condition, Superintendent shall provide to the Board a fitness for duty certification from Superintendents' health care provider. The Board, at its expense, may require a second opinion unless the securing of the second opinion in this context is precluded by the Family and Medical Leave Act.

**TENURE:**

Superintendent agrees that he shall not be deemed to be granted continuing tenure in the position initially assigned or to which he may be assigned or transferred or in any capacity other than that of a classroom teacher, should the probationary period required for tenure as a teacher be fulfilled, by virtue of this contract or any employment assignment (requiring certification) with the School District. Nor shall the decision of the Board not to continue or renew the employment of Superintendent for any subsequent period in any capacity, other than as a classroom teacher, as may be required by the

Teachers' Tenure Act, be deemed a breach of this Agreement or a discharge or demotion within the provisions of the Michigan Teachers' Tenure Act.

### **HEALTH & WELL-BEING**

Superintendent shall submit to such medical examinations, supply such information and execute such documents as may be required by any underwriter, policyholder or third party administrator providing insurance programs specified under this Contract. Additionally, upon request of the Board, Superintendent shall authorize the release of medical information necessary to determine if Superintendent is capable of performing the essential job functions required by his assignment, with or without reasonable job accommodation(s). Any physical or mental examination or disclosure of such information required of Superintendent by the Board shall be job related and consistent with business necessity. Any medical or psychological examination under this section shall be at Board expense.

Any information obtained from medical or psychological examination or inquiries shall be considered and treated as confidential.

### **BENEFITS:**

Upon proper application and acceptance for enrollment by the appropriate insurance underwriter, policyholder and/or third party administrator, the Board shall make premium payments on behalf of Superintendent and his eligible dependents for the following insurance programs:

### **INSURANCE:**

The Superintendent, for the length of the contract period is eligible for the same package as provided other administrators of the district. He may elect from the following fringe benefits and may receive compensation, in lieu of full family health insurance coverage, equal to the annual premium of the negotiated teachers insurance. The following list (as allowed under current law) shall be available:

1. Medical
2. Dental Services
3. LTD
4. STD
5. Term Life Insurance (employee only - \$200,000.00 policy)
6. Vision Services
7. Dependent Care
8. Annuities
9. Medical Reimbursement

This list does not necessarily imply tax free or taxable benefits. Each individual must ascertain the tax liability according to their specific situation. In June each year, the Board shall determine its contribution toward health and prescription coverage, per the statutory cap, or 80% of the premium pursuant to the Publicly Funded Health Insurance Contribution Act, MCL 15.561-569. Superintendent shall be responsible for all premium amounts required to maintain coverage in excess of the Board premium (or premium equivalent) contribution. Superintendent hereby authorizes payroll deductions for these amounts.

**CHANGE IN INSURANCE CARRIER:**

The Board reserves the right to change the identity of the insurance carrier, policyholder or third party administrator for any of the above coverage's, provided that comparable coverage, as determined by the Board, is maintained during the term of this Agreement. The Board shall not be required to remit premiums for any insurance coverage(s) for Superintendent and his eligible dependents if enrollment or coverage is denied by the insurance underwriter, policyholder or third-party administrator. The terms of any contract or policy issued by any insurance company or third-party administrator shall be controlling as to all matters concerning benefits, eligibility, coverage, termination of coverage, and other related matters. Superintendent is responsible for assuring completion of all forms and documents needed to receive the above-described insurance coverage. The Board, by remitting the premium payments required to provide the above-described insurance coverage(s), shall be relieved from all liability with respect to insurance benefits.

**HOLIDAYS:**

Superintendent is entitled to the following holidays for which no service to the School District is required:

- |                                |                    |
|--------------------------------|--------------------|
| Day before Labor Day           |                    |
| Labor Day                      | New Year's Eve Day |
| Thanksgiving Day               | New Year's Day     |
| The Day after Thanksgiving Day | Good Friday        |
| Christmas Day                  | Memorial Day       |
| The Day before Christmas       | Fourth of July     |

**SICK/PERSONAL DAYS:**

If Superintendent is absent from duty on account of personal illness or disability, he shall be allowed full pay for a total of twelve (12) days per contract year and four (4) personal days per contract year. Unused paid personal days will move to sick days. Unused paid leave days hereunder may be used for absence due to personal illness or disability of Superintendent. Sick days shall accumulate to no more than (90) days, beginning with sick leave granted from the 2015-16 school year forward. Any unused sick days will be reimbursed at a rate of \$100/day at the time of retirement/resignation with the district.

**DUES/MEMBERSHIPS:**

Subject to express approval by the Board, the fees or dues for membership in appropriate professional organizations shall be paid by the Board. Subject to prior approval by the Board, the Superintendent may attend appropriate professional meetings at the local level, is authorized to attend up to two (2) state conferences and one (1) national conference annually, and shall be reimbursed for any registration fees, tuition, travel, lodging and/or reasonable meal expenses for himself in relation thereto not prepaid by the Board.

**ERRORS & OMISSIONS:**

The Board agrees to pay the premium amount for errors and omissions insurance coverage for Superintendent while engaged in the performance of a governmental function and while the Superintendent is acting within the scope of his authority. The policy limits for this coverage shall be not less than two million dollars (\$2,000,000). The terms of the errors and omissions insurance policy shall be controlling respecting defense and indemnity of Superintendent. The sole obligation undertaken by the Board shall be limited to the payment of premium amounts for the above errors and omissions coverage. In the event that such insurance coverage cannot be purchased in the above amounts and/or at a reasonable premium rate, the Board shall have the right to discontinue said coverage and shall so notify Superintendent. In that event, the Board agrees on a case-by-case basis to consider providing legal defense and/or indemnification to Superintendent as is authorized under MCLA 691.1408 and MCLA 380.1 1a(3)(d).

**TERMINATION OF CONTRACT:**

This contract contains the entire agreement and understanding by and between the Board and Superintendent with respect to the employment of Superintendent and no representations, promises, contracts or understandings, written or oral, not contained herein, shall be of any force or effect. All prior agreements pertaining to, connected with, or arising in any manner out of the employment of Superintendent by the Board, are hereby terminated and shall hereafter be of no force or effect whatsoever. Provided, that this contract is voidable pursuant to the provisions of the Revised School Code pertaining to criminal records checks. No change or modification of this Contract shall be valid or binding unless it is in writing and signed by Superintendent and the Board. No valid waiver of any provision of this contract, at any time, shall be deemed a waiver of any other provision of this contract at such time or at any other time.

In the event of any dispute between the parties relating to discharge of Superintendent during the term of this Contract, the parties hereby agree to submit such to binding arbitration. Selection of the arbitrator and the arbitration proceedings shall be conducted under the National Rules for the Resolution of Employment Disputes of, and administered by, the American Arbitration Association. Arbitration under this provision shall be conducted pursuant to the terms of the Michigan Arbitration Act, MCLA 600.5001 et seq and MCR 3.602.

The parties intend that this process of dispute resolution shall be inclusive of all contract and statutory claims advanced by Superintendent arising from Superintendent's discharge during the term of this Contract, including (but not limited to) claims of unlawful discrimination and all claims for damages or other relief. However, this agreement to arbitrate does not restrict Superintendent from filing a claim or charge with any state or federal agency (such as the Equal Employment Opportunity Commission or the Michigan Department of Civil Rights), and does not apply to any claims for unemployment compensation or workers' compensation which may be brought by Superintendent. Instead, this agreement to arbitrate claims applies to those matters which would otherwise be subject to state or federal court proceedings.

This agreement to arbitrate means the Superintendent is waiving his right to adjudicate discrimination claims in a judicial forum and is instead opting to arbitrate those claims. In any such arbitration proceeding, Superintendent shall have the right to representation by

counsel of his choice, the right to appointment of a neutral arbitrator, the right to reasonable discovery and the right to a fair hearing. However, Superintendent, through this agreement to arbitrate such claims, does not waive any statutory rights or remedies in the context of such arbitration proceedings.

The arbitrator's fee and the costs imposed by the American Arbitration Association shall be shared equally by the Board and Superintendent, subject to the right of Superintendent to seek to tax such fees as costs against the Board.

Any claims for arbitration under this provision must be filed with the American Arbitration Association, in writing, and served on the Board within one hundred eighty (180) days of the effective date of Superintendent's discharge during the term of this Contract. The Decision and Award of the arbitrator shall be final and binding and judgment thereon may be entered in the Circuit Court of the 60<sup>th</sup> Judicial Circuit of Michigan Muskegon County.

**SEVERABILITY OF PROVISIONS:**

If any provisions of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this contract shall continue in full force and effect without said provision(s).


**TERMS:**

Terms of this contract are contingent to the passing of a Michigan Criminal History Background Check, Unprofessional Conduct Check and passing a physical check-up by the school service.

**EXECUTION OF CONTRACT:**

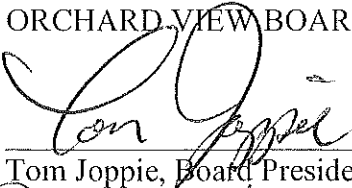
This Agreement is executed on behalf of the Orchard View School District pursuant to the authority granted as contained in the resolution of the board adopted on **May 26, 2015**, the same being incorporated herein by reference.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above written.

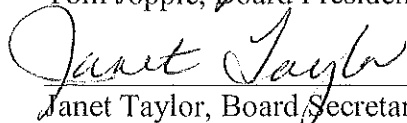
  
\_\_\_\_\_  
Jim Nielsen, Superintendent

6-29-16  
Date

ORCHARD VIEW BOARD OF EDUCATION

  
\_\_\_\_\_  
Tom Joppie, Board President

7/11/16  
Date

  
\_\_\_\_\_  
Janet Taylor, Board Secretary

7/11/16  
Date

