

SEPARATION AGREEMENT

This Separation Agreement ("Agreement") is entered into by and between the Fruitland School District No. 373 ("District") and Michael Fitch ("Fitch"), a certificated employee of the District. The District and Fitch are sometimes collectively referred to herein as the "Parties."

TERMS AND CONDITIONS

In consideration of the mutual covenants and conditions contained herein and for this good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Consideration.**

1.1 As part of the full execution of this Agreement, Fitch will sign and submit a letter of resignation, and the District's Board of Trustees will accept the letter of resignation, which shall be effective the same date as this Agreement.

1.2 Fitch hereby knowingly, intentionally, and voluntarily waives any and all rights, both procedural and substantive, he may have to any due process hearing as provided by Idaho Code §§33-513 or 33-515 before the District's Board of Trustees, as well as with regard to any other applicable statute or contractual term relating to his contract, or any other proceedings provided by federal law, state law, or District policy, on any matter related to his employment, whether or not it has been identified at this time.

1.3 In consideration of Fitch's resignation and release of any and all claims that may exist, the District will pay to Fitch the amount of \$23,771.86, which represents compensation based on Fitch's 2018-2019 Administrator's Contract and Supplemental Contract through April 30, 2019, including all prorated salary through said date, as calculated on Exhibit A attached hereto. Fitch will be responsible for any and all federal, state or other taxes on this amount. Such payment will be paid within five (5) business days of the Effective Date, as defined herein. The District will also pay Fitch for any outstanding reimbursable expenses for which Fitch may request reimbursement under District policy or Idaho law, provided that Fitch provides all receipts, invoices, etc. related to such reimbursable expenses to the District within three (3) days of the Effective Date, as defined herein.

1.4 In the event the District receives any inquiry concerning Fitch's employment, the District will limit its response to Fitch's period of employment, years of service, placement and attendance, unless a signed release for additional information is received, or the District is otherwise required by law to provide additional information.

1.5 In the event Fitch or his family members receive inquiries regarding his employment, the response will be limited to his period of employment, years of service, placement and attendance, unless he is otherwise required by law to provide additional information.

1.6 This Agreement shall not become part of Fitch's personnel file, and shall not be viewed as documentation related to Fitch's job performance or job related conduct, as defined in Idaho Code §33-1210. However, the Parties acknowledge and agree that all documents previously placed in Fitch's personnel file, and those placed in his file upon separation, all in accordance with District policy and/or Idaho Code §§33-518 and 33-1210, shall remain in Fitch's personnel file.

1.7 The District will not challenge or appeal any determination relating to any claim Fitch might make for unemployment insurance benefits.

1.8 This Agreement may be viewed as a public record, pursuant to Idaho Code §74-106(1).

1.9 Pursuant to Idaho Code §33-357, the District will document the expenditure of public funds set forth above on its website. Fitch will be identified as the recipient of the above-identified funds.

1.10 The District will notify Fitch of his COBRA rights in a timely manner.

1.11 The Parties understand and agree that this Agreement does not waive the District's mandatory reporting requirements as set forth in Idaho Code §33-1208A.

1.12 The Parties to this Agreement will each pay their own attorney fees and costs related to any legal services provided relative to this Agreement.

2. **Release.**

2.1 Fitch, for himself and his successors and assigns, forever releases and discharges any and all costs, claims, suits, contracts, promises, controversies, demands, damages, losses, liabilities, actions, and causes of action of every and whatever kind, name or nature, known or unknown, either in law or in equity, on account of, arising out of, resulting from, or in any manner connected with his employment with the District including, but not limited to, any claim or cause of action under Idaho Code §§67-5901 *et seq.*; Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000(e) *et seq.*, as amended by the Civil Rights Act of 1991; the Americans with Disabilities Act, 42 U.S.C. §§12101 *et seq.*, as amended by the Americans with Disabilities Act Amendments Act of 2008; the Age Discrimination in Employment Act and the Older Workers Benefit Protection Act, 29 U.S.C. §§621 *et seq.*; the Idaho Personnel System Act, Idaho Code §§67-5301 *et seq.*; the

Idaho Protection of Public Employees Act, Idaho Code §§6-2101 *et seq.*; and state law regarding claims for wrongful discharge or breach of employment contract.

2.2 Fitch's release of Claims expressly extends and inures to the benefit of the District's trustees, agents, employees, representatives, attorneys, parents, affiliates, predecessors, successors, transferees, assigns, and related entities thereof.

3. **Voluntary Agreement.**

3.1 The Parties acknowledge that they have entered into this Agreement voluntarily, and have not been coerced or threatened into signing this Agreement. The Parties acknowledge that except for the consideration and performance described in this Agreement, they have not been promised anything in exchange for signing this Agreement. Further, this Agreement is not made or entered into in reliance on any statement or representation of the opposing Party, except those expressly set forth in this Agreement.

3.2 The Parties acknowledge that they have read this Agreement and fully understand and voluntarily accept its terms. The Parties represent that there exists no physical or mental condition known to them, which would preclude them from executing this Agreement.

3.3 This Agreement shall not constitute an admission by either Party concerning the merits of claims against or differences between them.

4. **Entire Agreement; Amendments.**

4.1 This Agreement constitutes the entire agreement between the Parties hereto. The terms of this Agreement shall not be modified unless agreed to in writing and signed by the Parties hereto. The Parties do not agree to perform any act not herein expressly and specifically mentioned, and acknowledge that the above consideration is in full and final settlement of all matters mentioned herein.

4.2 The provisions of this Agreement are severable, and if any part of it is found to be unenforceable, the remaining paragraphs shall remain fully valid and enforceable.

5. **Miscellaneous.**

5.1 ***Binding Effect.*** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, successors and permitted assigns.

5.2 ***Severability.*** This Agreement does not violate any federal or state statute, rule, regulation or common law known, but any provision that is found to be in violation

of any statute, rule, regulation or common law shall be considered null and void with the remaining provisions remaining viable and in effect.

5.3 **Headings Not Controlling.** The paragraph headings included herein are for reference only and are not part of this Agreement. The headings shall not control or alter the meaning of this Agreement as set forth in the text.

5.4 **Equal Participation in Drafting.** The Parties have equally participated in the drafting of this Agreement. No ambiguity shall be construed against any Party based upon a claim that the Party drafted the ambiguous language.

5.5 **Waiver.** A waiver or any breach of, or failure to enforce, any of the terms or conditions of this Agreement shall not in any way affect, limit, or waive a Party's rights to enforce noncompliance thereafter with each and every term and condition of this Agreement.

5.6 **Compromise.** This Agreement is made as part of a compromise by the Parties with each other and shall not be construed as an admission of liability by any party; the same being hereby denied.

5.7 **Full Understanding; Independent Legal Counsel.** The Parties each acknowledge, represent and agree that they have read this Agreement; that they have been fully advised by their legal counsel with respect to the meaning and effect of the Agreement; and that this Agreement is executed by the Parties knowingly, willfully, and with an understanding of the terms, and that no additional promises, inducements or agreements, not stated in this Agreement, have been made.

5.8 **Governing Law.** This Agreement shall be interpreted and enforced in accordance with the laws of the State of Idaho without reference to any conflict of laws provisions.

5.9 **Effective Date.** This Agreement shall be effective upon the date signed by the District.

FRUITLAND SCHOOL DISTRICT NO. 373

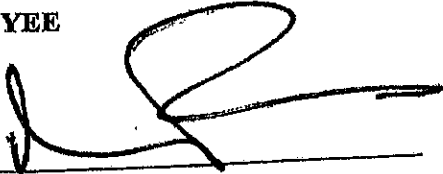
By: Kelly Henggeler
Kelly Henggeler, Chairman
Board of Trustees

Date: 4-18-19

EMPLOYEE

By: _____

Michael Fitch



Date: _____

4-18-19

Exhibit A

Michael Fitch Administrator Contract Total = \$77,609

Daily rate of pay = \$77,609 / 208 days = \$373.12

Total number of contract days from July 31, 2018 to April 30, 2019 = 180 days

180 days x \$373.12 = \$67,161.60

Supplemental Contract Total = \$4,517.00

Total Contract Pay Out to Michael Fitch = \$67,161.60 + \$4,517.00 = \$71,678.60

Total Paychecks to Date:

September 2018	\$6,843.82
October 2018	\$6,843.82
November 2018	\$6,843.82
December 2018	\$6,843.82
January 2019	\$6,843.82
February 2019	\$6,843.82
March 2019	<u>\$6,843.82</u>
Total	\$47,906.74

Balance of Contract Due to Michael Fitch as of April 30, 2019:

Total Contract Amount	\$71,678.60	
Paychecks already paid	<u>\$47,906.74</u>	
	\$23,771.86	Balance due - Final Paycheck