
**BOARD OF EDUCATION
BERKELEY UNIFIED SCHOOL DISTRICT
ALAMEDA COUNTY, STATE OF CALIFORNIA**

RESOLUTION NO. 17-054

**RESOLUTION OF THE BOARD OF EDUCATION OF THE BERKELEY UNIFIED
SCHOOL DISTRICT AUTHORIZING THE ISSUANCE AND SALE OF THE
DISTRICT'S 2017 GENERAL OBLIGATION REFUNDING BONDS**

Adopted February 22, 2017

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SCHOOL DISTRICT AUTHORIZING THE ISSUANCE AND SALE OF THE
DISTRICT'S 2017 GENERAL OBLIGATION REFUNDING BONDS**

RESOLVED, by the Board of Education (the "Board of Education") of the Berkeley Unified School District (the "District"), as follows:

WHEREAS, at the June 2, 1992, election, the District received authorization by a vote in excess of two-thirds of the voters voting, to issue \$158,000,000 of general obligation bonds (the "1992 Authorization") for the purpose of financing the acquisition or improvement of property for school purposes;

WHEREAS, the District has heretofore issued, on June 16, 2009, its Berkeley Unified School District (Alameda County, California) 2009 General Obligation Bonds (the "2009 Bonds"), in the original principal amount of \$17,774,222, pursuant to the 1992 Authorization, of which \$16,655,000 principal amount remains outstanding;

WHEREAS, at the November 7, 2010, election, the District received authorization by a vote in excess of 55% of the voters voting, to issue \$210,000,000 of general obligation bonds (the "2010 Authorization") for the purpose of financing the acquisition or improvement of property for school purposes;

WHEREAS, the District has heretofore issued, on May 26, 2011, its Berkeley Unified School District (Alameda County, California) General Obligation Bonds, Election of 2010, Series B (2011) (the "2011 Bonds"), in the original principal amount of \$10,000,000, pursuant to the 1992 Authorization, all of which remains outstanding;

WHEREAS, pursuant to Articles 9 and 11 of Chapter 3 (commencing with section 53550) of Division 2 of Title 5 of the California Government Code (the "Act"), the District is empowered to issue general obligation refunding bonds;

WHEREAS, the District has determined that it is in the best interests of the District to refund, on a crossover basis, (a) all 2009 Bonds maturing on and after August 1, 2017, in the principal amount of \$14,585,000 (the "Refunded 2009 Bonds"), and (b) all outstanding 2011 Bonds, and wishes at this time to authorize the issuance and sale of its Berkeley Unified School District (Alameda County, California) 2017 General Obligation Refunding Bonds (the "2017 Refunding Bonds") for such purposes; and

WHEREAS, pursuant to section 53558(b) of the California Government Code, the District is authorized to deposit the proceeds of sale of the 2017 Refunding Bonds in escrow in an amount sufficient to pay (a) the interest on the 2017 Refunding Bonds prior to designated dates before the maturity of the Refunded 2009 Bonds and the 2011 Bonds on which dates the Refunded 2009 Bonds and the 2011 Bonds are to be redeemed (the "Crossover Date"), (ii) the principal of and Refunded 2009 Bonds and the 2011 Bonds on the Crossover Dates, and (iii) the designated costs of issuing the 2017 Refunding Bonds;

NOW, THEREFORE, it is hereby RESOLVED, by the Board of Education of the Berkeley Unified School District, as follows:

ARTICLE I

DEFINITIONS; AUTHORITY

Section 1.01. Definitions. The terms defined in this Section 1.01, as used and capitalized herein, shall, for all purposes of this Resolution, have the meanings ascribed to them below, unless the context clearly requires some other meaning.

"1992 Authorization" means that certain authorization received by the District at the June 2, 1992, election, by a vote in excess of two-thirds of the voters voting, to issue \$158,000,000 of general obligation bonds.

"2010 Authorization" means that certain authorization received by the District at the November 7, 2010, election, by a vote in excess of 55% of the voters voting, to issue \$201,000,000 of general obligation bonds.

"Act" means Articles 9 and 11 of Chapter 3 (commencing with section 53550) of Division 2 of Title 5 of the California Government Code, and section 53558(b) of the California Government Code, as is in effect on the date of adoption hereof and as amended hereafter.

"Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Resolution, and the words "herein," "hereof," "hereunder" and other words of similar import refer to this Resolution as a whole and not to any particular Article, Section or subdivision hereof.

"Authorized Investments" means any investments permitted by law to be made with moneys belonging to, or in the custody of, the District, but only to the extent that the same are acquired at Fair Market Value.

"Board" means the Board of Education of the District.

"Bond Counsel" means any attorney or firm of attorneys nationally recognized for expertise in rendering opinions as to the legality and tax exempt status of securities issued by public entities.

"Bond Register" means the registration books for the 2017 Refunding Bonds maintained by the Paying Agent.

"Closing Date" means the date upon which there is an exchange of the 2017 Refunding Bonds for the proceeds representing the purchase of the Bonds by the Original Purchaser.

"Code" means the Internal Revenue Code of 1986 as in effect on the date of issuance of the 2017 Refunding Bonds or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of issuance of the 2017 Refunding Bonds, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

"Continuing Disclosure Certificate" shall mean that certain Continuing Disclosure Certificate executed by the District and dated the date of issuance and delivery of the 2017 Refunding Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“Costs of Issuance” means all items of expense directly or indirectly reimbursable to the District relating to the issuance, execution and delivery of the 2017 Refunding Bonds including, but not limited to, filing and recording costs, settlement costs, printing costs, reproduction and binding costs, legal fees and charges, fees and expenses of the Paying Agent, financial and other professional consultant fees, costs of obtaining credit ratings, fees for execution, transportation and safekeeping of the 2017 Refunding Bonds and charges and fees in connection with the foregoing.

“County” means Alameda County, California.

“Debt Service” means the scheduled amount of interest and amortization of principal payable on the 2017 Refunding Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

“District Representative” means the Superintendent, the Deputy Superintendent, the Chief Business Official or any other person authorized by resolution of the Board of Education of the District to act on behalf of the District with respect to this Resolution and the 2017 Refunding Bonds.

“Escrow Bank” means U.S. Bank National Association as escrow bank under the Escrow Agreements.

“Fair Market Value” means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term *“Fair Market Value”* means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security—State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the District and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

“Federal Securities” means United States Treasury Bonds, bills or certificates of indebtedness or those for which the full faith and credit of the United States are pledged for the payment of principal and interest.

“Financial Advisor” means KNN Public Finance, LLC, as financial advisor to the District in connection with the issuance of the 2017 Refunding Bonds.

“Interest Payment Date” means with respect to interest, February 1 and August 1 of each year commencing on August 1, 2017, and with respect to principal, August 1, of each year commencing on August 1 in such year as shall be set forth in the Notice of Sale.

“Net Proceeds,” when used with reference to the 2017 Refunding Bonds, means the face amount of the 2017 Refunding Bonds, plus accrued interest and premium, if any, less original issue discount, if any.

“Original Purchaser” means the first purchaser of the 2017 Refunding Bonds from the District.

“Outstanding” means, when used as of any particular time with reference to 2017 Refunding Bonds, all 2017 Refunding Bonds except:

(a) 2017 Refunding Bonds theretofore canceled by the Paying Agent or surrendered to the Paying Agent for cancellation;

(b) 2017 Refunding Bonds paid or deemed to have been paid within the meaning of Section 9.02 hereof; and

(c) 2017 Refunding Bonds in lieu of or in substitution for which other 2017 Refunding Bonds shall have been authorized, executed, issued and delivered by the District pursuant to this Resolution.

“Notices of Intention” means, collectively, the notices of intention to be used to advertise the offering of the Bonds as required by sections 53569 and 53692 of the California Government Code.

“Notice of Sale” means the official notice of sale relating to the 2017 Refunding Bonds.

“Owner” or *“Bondowner”* mean any person who shall be the registered owner of any Outstanding 2017 Refunding Bond.

“Participating Underwriter” shall have the meaning ascribed thereto in the Continuing Disclosure Certificate.

“Paying Agent” means U.S. Bank National Association, the Paying Agent appointed by the District and acting as paying agent, registrar and authenticating agent for the 2017 Refunding Bonds, or such other paying agent as shall be appointed by the District prior to the delivery of the 2017 Refunding Bonds, its successors and assigns, and any other corporation or association which may at any time be substituted in its place, as provided in Section 6.01 hereof.

“Paying Agent Agreement” means the Paying Agent/Bond Registrar/ Costs of Issuance Agreement, dated the Closing Date, by and between the District and the Paying Agent.

“Principal Office” means the principal corporate trust office of the Paying Agent in San Francisco, California.

“Record Date” means the 15th day of the month preceding each Interest Payment Date.

“Refunded 2009 Bonds” means the 2009 Bonds maturing on and after August 1, 2020, outstanding in the principal amount of \$14,585,000.

“Regulations” means temporary and permanent regulations promulgated under the Code.

“Resolution” means this Resolution, including all amendments hereto and supplements hereof which are duly adopted by the Board of Education from time to time in accordance herewith.

“Supplemental Resolution” means any resolution supplemental to or amendatory of this Resolution, adopted by the District in accordance with Article VIII hereof.

“Term Bonds” means those 2017 Refunding Bonds for which mandatory redemption dates have been established pursuant to the Notice of Sale.

“Treasurer-Tax Collector” means the County Treasurer-Tax Collector.

“2009 Bonds” means the Berkeley Unified School District (Alameda County, California) 2009 General Obligation Bonds, issued in the original principal amount of \$17,774,222, for authorized school purposes, of which \$16,655,000 principal amount remains outstanding.

“2009 Bonds Crossover Date” means August 1, 2019, being the first optional call date of the 2009 Bonds.

“2009 Escrow Agreement” means that certain Escrow Agreement, by and between the District and the Escrow Bank, relating to the defeasance of the Refunded 2009 Bonds.

“2011 Bonds” means the Berkeley Unified School District (Alameda County, California) General Obligation Bonds, Election of 2010, Series B (2011), issued in the original principal amount of \$10,000,000, for authorized school purposes, all of which remains outstanding.

“2011 Bonds Crossover Date” means August 1, 2020, being the first optional call date of the 2011 Bonds.

“2011 Escrow Agreement” means that certain Escrow Agreement, by and between the District and the Escrow Bank, relating to the defeasance of the 2011 Bonds.

“Written Request of the District” means an instrument in writing signed by the District Representative or by any other officer of the District duly authorized by the District and listed on a Written Request of the District for that purpose.

Section 1.02. Authority for this Resolution. This Resolution is entered into pursuant to the provisions of the Act.

ARTICLE II

THE 2017 REFUNDING BONDS

Section 2.01. Authorization. 2017 Refunding Bonds are hereby authorized to be issued by the District under and subject to the terms of the Act and this Resolution. The amount of 2017 Refunding Bonds shall be determined on the date of sale thereof in accordance with the Notice of Sale. This Resolution constitutes a continuing agreement with the Owners of all of the 2017 Refunding Bonds issued or to be issued hereunder and then Outstanding to secure the full and final payment of principal of and the interest on all 2017 Refunding Bonds which may from time to time be executed and delivered hereunder, subject to the covenants, agreements, provisions and conditions herein contained. The 2017 Refunding Bonds shall be designated the "Berkeley Unified School District (Alameda County, California) 2017 General Obligation Refunding Bonds."

Section 2.02. Terms of 2017 Refunding Bonds.

(a) *Form; Numbering.* The 2017 Refunding Bonds shall be issued as fully registered 2017 Refunding Bonds, without coupons, in the denomination of \$5,000 each or any integral multiple thereof, but in an amount not to exceed the aggregate principal amount of 2017 Refunding Bonds maturing in the year of maturity of the 2017 Refunding Bond for which the denomination is specified. 2017 Refunding Bonds shall be lettered and numbered as the Paying Agent shall prescribe.

(b) *Date of 2017 Refunding Bonds.* The 2017 Refunding Bonds shall be dated as of the Closing Date.

(c) *CUSIP Identification Numbers.* "CUSIP" identification numbers shall be imprinted on the 2017 Refunding Bonds, but such numbers shall not constitute a part of the contract evidenced by the 2017 Refunding Bonds and any error or omission with respect thereto shall not constitute cause for refusal of any purchaser to accept delivery of and pay for the 2017 Refunding Bonds. In addition, failure on the part of the District to use such CUSIP numbers in any notice to Owners of the 2017 Refunding Bonds shall not constitute an Event of Default (hereinafter defined) or any violation of the District's contract with such Owners and shall not impair the effectiveness of any such notice.

(d) *Maturities; Interest.* The 2017 Refunding Bonds shall mature (or, alternatively, be subject to mandatory sinking fund redemption as hereinafter provided) and become payable on August 1 in the years and in the amounts set forth in, and subject to the alteration thereof permitted by, the Notice of Sale. The 2017 Refunding Bonds shall bear interest at such rate or rates as shall be determined upon the sale thereof, payable semi-annually on each Interest Payment Date.

Each 2017 Refunding Bond shall bear interest from the Interest Payment Date next preceding the date of registration and authentication thereof unless (i) it is registered and authenticated as of an Interest Payment Date, in which event it shall bear interest from such date, or (ii) it is registered and authenticated prior to an Interest Payment Date and after the close of business on the fifteenth day of the month preceding such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or (iii) it is registered and authenticated prior to July 15, 2017, in which event it shall bear interest from the date described in paragraph (b) of this Section 2.02; *provided, however*, that if at the time of authentication of a 2017 Refunding Bond, interest is in default thereon, such 2017 Refunding Bond shall bear

interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

Interest on the 2017 Refunding Bonds shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

(e) *Payment.* Interest on the 2017 Refunding Bonds (including the final interest payment upon maturity or earlier redemption) is payable by check of the Paying Agent mailed via first-class mail to the Owner thereof at such Owner's address as it appears on the Bond Register on each Record Date or at such other address as the Owner may have filed with the Paying Agent for that purpose; provided however, that payment of interest may be by wire transfer in immediately available funds to an account in the United States of America to any Owner of 2017 Refunding Bonds in the aggregate principal amount of \$1,000,000 or more who shall furnish written wire instructions to the Paying Agent at least five (5) days before the applicable Record Date. Principal of the 2017 Refunding Bonds is payable in lawful money of the United States of America at the Principal Office.

Section 2.03. Redemption.

(a) *Optional Redemption.* The 2017 Refunding Bonds are subject to optional redemption on the dates and at the redemption prices set forth in the Notice of Sale. The District shall be required to give the Paying Agent written notice of its intention to redeem 2017 Refunding Bonds.

(b) *Mandatory Sinking Fund Redemption.* In the event and to the extent specified in the Notice of Sale, any maturity of 2017 Refunding Bonds may be designated as "Term Bonds" and shall be subject to mandatory sinking fund redemption. If some but not all of such Term Bonds have been redeemed pursuant to the preceding subsection (a) of this Section 2.03, the aggregate principal amount of such Term Bonds to be redeemed in each year pursuant to this subsection (b) shall be reduced on a *pro rata* basis in integral multiples of \$5,000, as shall be designated pursuant to written notice filed by the District with the Paying Agent.

(c) *Notice of Redemption.* The Paying Agent on behalf and at the expense of the District shall mail (by first class mail) notice of any redemption to: (i) the respective Owners of any 2017 Refunding Bonds designated for redemption, at least thirty (30) but not more than sixty (60) days prior to the redemption date, at their respective addresses appearing on the Bond Register, and (ii) the Securities Depositories and to one or more Information Services, at least thirty (30) but not more than sixty (60) days prior to the redemption; *provided, however,* that neither failure to receive any such notice so mailed nor any defect therein shall affect the validity of the proceedings for the redemption of such 2017 Refunding Bonds or the cessation of the accrual of interest thereon. Such notice shall state the date of the notice, the redemption date, the redemption place and the redemption price and shall designate the CUSIP numbers, the 2017 Refunding Bond numbers and the maturity or maturities (in the event of redemption of all of the 2017 Refunding Bonds of such maturity or maturities in whole) of the 2017 Refunding Bonds to be redeemed, and shall require that such 2017 Refunding Bonds be then surrendered at the Principal Office for redemption at the redemption price, giving notice also that further interest on such 2017 Refunding Bonds will not accrue from and after the redemption date.

Notwithstanding the foregoing, in the case of any optional redemption of the 2017 Refunding Bonds, the notice of redemption shall state that the redemption is conditioned upon receipt by the Paying Agent of sufficient moneys to redeem the 2017 Refunding Bonds on the scheduled redemption date, and that the optional redemption shall not occur if, by no later than the scheduled redemption date, sufficient moneys to redeem the 2017 Refunding Bonds have

not been deposited with the Paying Agent. In the event that the Paying Agent does not receive sufficient funds by the scheduled optional redemption date to so redeem the 2017 Refunding Bonds to be optionally redeemed, the Paying Agent shall send written notice to the Owners, to the Securities Depositories and to one or more of the Information Services to the effect that the redemption did not occur as anticipated, and the 2017 Refunding Bonds for which notice of optional redemption was given shall remain Outstanding for all purposes.

(d) *Selection of 2017 Refunding Bonds for Redemption.* Whenever provision is made for the redemption of 2017 Refunding Bonds of more than one maturity, the 2017 Refunding Bonds to be redeemed shall be selected by the District evidenced by a Written Request of the District filed with the Paying Agent or, absent such selection by the District, on a *pro rata* basis among the maturities subject to redemption; and in each case, the Paying Agent shall select the 2017 Refunding Bonds to be redeemed within any maturity by lot in any manner which the Paying Agent in its sole discretion shall deem appropriate and fair. For purposes of such selection, all 2017 Refunding Bonds shall be deemed to be comprised of separate \$5,000 portions and such portions shall be treated as separate 2017 Refunding Bonds which may be separately redeemed.

(e) *Partial Redemption of 2017 Refunding Bonds.* In the event only a portion of any 2017 Refunding Bond is called for redemption, then upon surrender of such 2017 Refunding Bond the District shall execute and the Paying Agent shall authenticate and deliver to the Owner thereof, at the expense of the District, a new 2017 Refunding Bond or Bonds of the same maturity date, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the 2017 Refunding Bond to be redeemed. 2017 Refunding Bonds need not be presented for mandatory sinking fund redemptions.

(f) *Effect of Redemption.* From and after the date fixed for redemption, if funds available for the payment of the principal of and interest (and premium, if any) on the 2017 Refunding Bonds so called for redemption shall have been duly provided, such 2017 Refunding Bonds so called shall cease to be entitled to any benefit under this Resolution other than the right to receive payment of the redemption price, and no interest shall accrue thereon from and after the redemption date specified in such notice. All 2017 Refunding Bonds redeemed pursuant to this Section 2.03 shall be canceled and shall be destroyed by the Paying Agent.

Section 2.04. Form of 2017 Refunding Bonds. The 2017 Refunding Bonds, the form of the Paying Agent's certificate of authentication and registration and the form of assignment to appear thereon shall be substantially in the forms, respectively, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Resolution, as are set forth in Exhibit A attached hereto.

Section 2.05. Execution of 2017 Refunding Bonds. The 2017 Refunding Bonds shall be executed on behalf of the District by the manual or facsimile signatures of the President of its Board of Education and its Clerk who are in office on the date of adoption of this Resolution or at any time thereafter. If any officer whose signature appears on any 2017 Refunding Bond ceases to be such officer before delivery of the 2017 Refunding Bonds to the purchaser, such signature shall nevertheless be as effective as if the officer had remained in office until the delivery of the 2017 Refunding Bonds to the purchaser. Any 2017 Refunding Bond may be signed and attested on behalf of the District by such persons as at the actual date of the execution of such 2017 Refunding Bond shall be the proper officers of the District although at the nominal date of such 2017 Refunding Bond any such person shall not have been such officer of the District.

Only such 2017 Refunding Bonds as shall bear thereon a certificate of authentication and registration in the form set forth in Exhibit A attached hereto, executed and dated by the Paying

Agent, shall be valid or obligatory for any purpose or entitled to the benefits of this Resolution, and such certificate of the Paying Agent shall be conclusive evidence that the 2017 Refunding Bonds so registered have been duly authenticated, registered and delivered hereunder and are entitled to the benefits of this Resolution.

Section 2.06. Transfer of 2017 Refunding Bonds. Any 2017 Refunding Bond may, in accordance with its terms, be transferred, upon the books required to be kept pursuant to the provisions of Section 2.08 hereof, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such 2017 Refunding Bond for cancellation at the Principal Office, accompanied by delivery of a written instrument of transfer in a form approved by the Paying Agent, duly executed. The Paying Agent shall require the payment by the Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer.

Whenever any 2017 Refunding Bond or Bonds shall be surrendered for transfer, the District shall execute and the Paying Agent shall authenticate and deliver a new 2017 Refunding Bond or Bonds, for like aggregate principal amount.

No transfers of 2017 Refunding Bonds shall be required to be made (a) fifteen days prior to the date established by the Paying Agent for selection of 2017 Refunding Bonds for redemption or (b) with respect to a 2017 Refunding Bond after such 2017 Refunding Bond has been selected for redemption.

Section 2.07. Exchange of 2017 Refunding Bonds. 2017 Refunding Bonds may be exchanged at the Principal Office for a like aggregate principal amount of 2017 Refunding Bonds of authorized denominations and of the same maturity. The Paying Agent shall require the payment by the Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange.

No exchanges of 2017 Refunding Bonds shall be required to be made (a) fifteen days prior to the date established by the Paying Agent for selection of 2017 Refunding Bonds for redemption or (b) with respect to a 2017 Refunding Bond after such 2017 Refunding Bond has been selected for redemption.

Section 2.08. Bond Register. The Paying Agent shall keep or cause to be kept sufficient books for the registration and transfer of the 2017 Refunding Bonds, which shall at all times be open to inspection by the District upon reasonable notice; and, upon presentation for such purpose, the Paying Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, 2017 Refunding Bonds as herein before provided.

Section 2.09. Temporary 2017 Refunding Bonds. The 2017 Refunding Bonds may be initially issued in temporary form exchangeable for definitive 2017 Refunding Bonds when ready for delivery. The temporary 2017 Refunding Bonds may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the District, and may contain such reference to any of the provisions of this Resolution as may be appropriate. Every temporary 2017 Refunding Bond shall be executed by the District upon the same conditions and in substantially the same manner as the definitive 2017 Refunding Bonds. If the District issues temporary 2017 Refunding Bonds it will execute and furnish definitive 2017 Refunding Bonds without delay, and thereupon the temporary 2017 Refunding Bonds may be surrendered, for cancellation, in exchange therefor at the Principal Office and the Paying Agent shall deliver in exchange for such temporary 2017 Refunding Bonds an equal aggregate principal amount of definitive 2017 Refunding Bonds of authorized denominations. Until so exchanged, the

temporary 2017 Refunding Bonds shall be entitled to the same benefits pursuant to this Resolution as definitive 2017 Refunding Bonds executed and delivered hereunder.

Section 2.10. 2017 Refunding Bonds Mutilated, Lost, Destroyed or Stolen. If any 2017 Refunding Bond shall become mutilated the District, at the expense of the Owner of said 2017 Refunding Bond, shall execute, and the Paying Agent shall thereupon authenticate and deliver, a new 2017 Refunding Bond of like maturity and principal amount in exchange and substitution for the 2017 Refunding Bond so mutilated, but only upon surrender to the Paying Agent of the 2017 Refunding Bond so mutilated. Every mutilated 2017 Refunding Bond so surrendered to the Paying Agent shall be canceled by it and delivered to, or upon the order of, the District. If any 2017 Refunding Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the District and, if such evidence be satisfactory to the District and indemnity satisfactory to it shall be given, the District, at the expense of the Owner, shall execute, and the Paying Agent shall thereupon authenticate and deliver, a new 2017 Refunding Bond of like maturity and principal amount in lieu of and in substitution for the 2017 Refunding Bond so lost, destroyed or stolen. The District may require payment of a sum not exceeding the actual cost of preparing each new 2017 Refunding Bond issued under this Section and of the expenses which may be incurred by the District and the Paying Agent in the premises. Any 2017 Refunding Bond issued under the provisions of this Section 2.10 in lieu of any 2017 Refunding Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the District whether or not the 2017 Refunding Bond so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Resolution with all other 2017 Refunding Bonds issued pursuant to this Resolution.

Section 2.11. Book Entry System. Except as provided below, the owner of all of the 2017 Refunding Bonds shall be The Depository Trust Company, New York, New York ("DTC"), and the 2017 Refunding Bonds shall be registered in the name of Cede & Co., as nominee for DTC. The 2017 Refunding Bonds shall be initially executed and delivered in the form of a single fully registered 2017 Refunding Bond for each maturity date of the 2017 Refunding Bonds in the full aggregate principal amount of the 2017 Refunding Bonds maturing on such date. The Paying Agent and the District may treat DTC (or its nominee) as the sole and exclusive owner of the 2017 Refunding Bonds registered in its name for all purposes of this Resolution, and neither the Paying Agent nor the District shall be affected by any notice to the contrary. The Paying Agent and the District shall not have any responsibility or obligation to any participant of DTC (a "Participant"), any person claiming a beneficial ownership interest in the 2017 Refunding Bonds under or through DTC or a Participant, or any other person which is not shown on the register of the District as being an owner, with respect to the accuracy of any records maintained by DTC or any Participant or the payment by DTC or any Participant by DTC or any Participant of any amount in respect of the principal or interest with respect to the 2017 Refunding Bonds. The Paying Agent shall cause to be paid all principal and interest with respect to the 2017 Refunding Bonds received from the District only to DTC, and all such payments shall be valid and effective to fully satisfy and discharge the District's obligations with respect to the principal and interest with respect to the 2017 Refunding Bonds to the extent of the sum or sums so paid. Except under the conditions noted below, no person other than DTC shall receive a 2017 Refunding Bond. Upon delivery by DTC to the District of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the term "Cede & Co." in this Resolution shall refer to such new nominee of DTC.

If the District determines that it is in the best interest of the beneficial owners that they be able to obtain 2017 Refunding Bonds and delivers a written certificate to DTC to that effect, DTC shall notify the Participants of the availability through DTC of 2017 Refunding Bonds. In such event, the District shall issue, transfer and exchange 2017 Refunding Bonds as requested

by DTC and any other owners in appropriate amounts. DTC may determine to discontinue providing its services with respect to the 2017 Refunding Bonds at any time by giving notice to the District and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is no successor securities depository), the District shall be obligated to deliver 2017 Refunding Bonds as described in this Resolution. Whenever DTC requests the District to do so, the District will cooperate with DTC in taking appropriate action after reasonable notice to (a) make available one or more separate 2017 Refunding Bonds evidencing the 2017 Refunding Bonds to any DTC Participant having 2017 Refunding Bonds credited to its DTC account or (b) arrange for another securities depository to maintain custody of certificates evidencing the 2017 Refunding Bonds.

Notwithstanding any other provision of this Resolution to the contrary, so long as any 2017 Refunding Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal and interest with respect to such 2017 Refunding Bond and all notices with respect to such 2017 Refunding Bond shall be made and given, respectively, to DTC as provided as in the representation letter delivered on the date of issuance of the 2017 Refunding Bonds.

ARTICLE III

ISSUE OF 2017 REFUNDING BONDS; APPLICATION OF 2017 REFUNDING BOND PROCEEDS; SECURITY FOR THE 2017 REFUNDING BONDS

Section 3.01. Issuance, Award and Delivery of 2017 Refunding Bonds. At any time after the execution of this Resolution the District may issue and deliver 2017 Refunding Bonds in any principal amount, subject to the savings requirements set forth in Sections 4.01(e) and (f).

The District Representatives shall be, and are hereby, directed to cause the 2017 Refunding Bonds to be printed, signed and delivered to the Original Purchaser on receipt of the purchase price therefor and upon performance of the conditions contained in the Notice of Sale.

The Paying Agent is hereby authorized to deliver the 2017 Refunding Bonds to the Original Purchaser, upon receipt of a Written Request of the District.

Section 3.02. Funds and Accounts.

(a) *Interest and Sinking Fund.* The fund, known as the "Berkeley Unified School District, General Obligation Bonds Interest and Sinking Fund" (the "Interest and Sinking Fund"), previously established and maintained by the Treasurer-Tax Collector for the District is hereby continued for the 2017 Refunding Bonds. Moneys deposited therein shall be used only for payment of principal and interest on all General Obligation Bonds of the District. If, after payment in full of the 2017 Refunding Bonds, there remain excess proceeds, any such excess amounts shall be transferred to the general fund of the District. Notwithstanding the foregoing provisions of this Section 3.02(a), any excess proceeds of the 2017 Refunding Bonds not needed for the authorized purposes set forth herein for which the 2017 Refunding Bonds are being issued shall be applied solely in a manner which is consistent with the requirements of applicable state and federal tax law, including but not limited to the requirements of federal tax law (if any) relating to the yield at which such proceeds are permitted to be invested. The interest earned on the moneys deposited to the Interest and Sinking Fund shall be retained in the Interest and Sinking Fund and used for the purposes thereof. By receipt of a copy of this resolution, the Treasurer-Tax Collector is hereby requested to continue and maintain the Interest and Sinking Fund.

(b) *Costs of Issuance Account.* A fund, to be known as the "Berkeley Unified School District, 2017 General Obligation Refunding Bonds Costs of Issuance Account" (the "Costs of Issuance Account"), is hereby created and established with the Paying Agent, acting as costs of issuance custodian (the "Custodian") for the 2017 Refunding Bonds. Moneys deposited therein shall be used solely for the payment of costs of issuance of the 2017 Refunding Bonds, as provided in the Paying Agent Agreement (hereinafter defined).

(c) *Investment of Moneys in the Interest and Sinking Fund.* Moneys held in the Interest and Sinking Fund shall be invested at the Treasurer-Tax Collector's discretion, unless otherwise directed in writing by the District, pursuant to law and the investment policy of the County.

Section 3.03. Application of Proceeds of Sale of 2017 Refunding Bonds. On the Closing Date, the proceeds of sale of the 2017 Refunding Bonds shall be paid by the Underwriter as follows:

(a) to the Custodian, an amount equal to the amounts required for the payment of Costs of Issuance, for deposit in the Costs of Issuance Fund;

(b) to the Escrow Bank, the amount required for the defeasance of the Refunded 2009 Bonds; and

(c) to the Escrow Bank, the amount required for the defeasance of the 2011 Bonds

Section 3.04. Security for the Refunded 2009 Bonds, the 2011 Bonds and the 2017 Refunding Bonds.

(a) Prior to the 2009 Bonds Crossover Date, the portion of the Bonds allocable to the Refunded 2009 Bonds will be secured solely by the securities, the investment earnings thereon and the cash deposited in the 2009 Escrow Fund.

(b) Prior to the 2009 Bonds Crossover Date, there shall be levied by the County on all the taxable property in the District, in addition to all other taxes, a continuing direct and *ad valorem* tax annually during the period the Refunded 2009 Bonds are outstanding in an amount sufficient to pay the principal of and interest on the Refunded 2009 Bonds when due, which moneys when collected will be placed in the Interest and Sinking Fund of the District, which fund is irrevocably pledged for the payment of the principal of and interest on the Refunded 2009 Bonds when and as the same fall due. The moneys in the Interest and Sinking Fund, to the extent necessary to pay the principal of and interest on the Refunded 2009 Bonds as the same become due and payable, shall be transferred by the County to the Paying Agent, as paying agent for the Refunded 2009 Bonds, as necessary to pay the principal of and interest on the Refunded 2009 Bonds. The property taxes and amounts held in the Interest and Sinking Fund of the District shall immediately be subject to this pledge, and the pledge shall constitute a lien and security interest which shall be effective, binding, and enforceable against the District, its successors, creditors and all others irrespective of whether those parties have notice of the pledge and without the need of any physical delivery, recordation, filing, or further act. The pledge is an agreement between the District and the Owners of the Refunded 2009 Bonds in addition to any statutory lien that may exist, and the Refunded 2009 Bonds were issued to finance one or more projects specified in the 1992 Authorization and not to finance the general purposes of the District.

Additionally, prior to the 2009 Bonds Crossover Date, in accordance with section 53515(a) of the California Government Code, the Refunded 2009 Bonds shall be secured by a statutory lien on all revenues received pursuant to the levy and collection of the tax for the 1992 Authorization. The lien shall automatically attach without further action or authorization by the District or the County. The lien shall be valid and binding from the time the Refunded 2009 Bonds were issued. The revenues received pursuant to the levy and collection of the tax shall be immediately subject to the lien, and the lien shall automatically attach to the revenues and be effective, binding, and enforceable against the District, its successors, transferees, and creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act.

(c) Prior to the 2011 Bonds Crossover Date, the portion of the Bonds allocable to the 2011 Bonds will be secured solely by the securities, the investment earnings thereon and the cash deposited in the 2011 Escrow Fund.

(d) Prior to the 2011 Bonds Crossover Date, there shall be levied by the County on all the taxable property in the District, in addition to all other taxes, a continuing direct and *ad valorem* tax annually during the period the 2011 Bonds are outstanding in an amount sufficient to pay the principal of and interest on the 2011 Bonds when due, which moneys when collected will be placed in the Interest and Sinking Fund of the District, which fund is irrevocably pledged for

the payment of the principal of and interest on the 2011 Bonds when and as the same fall due. The moneys in the Interest and Sinking Fund, to the extent necessary to pay the principal of and interest on the 2011 Bonds as the same become due and payable, shall be transferred by the County to the Paying Agent, as paying agent for the 2011 Bonds, as necessary to pay the principal of and interest on the 2011 Bonds. The property taxes and amounts held in the Interest and Sinking Fund of the District shall immediately be subject to this pledge, and the pledge shall constitute a lien and security interest which shall be effective, binding, and enforceable against the District, its successors, creditors and all others irrespective of whether those parties have notice of the pledge and without the need of any physical delivery, recordation, filing, or further act. The pledge is an agreement between the District and the Owners of the 2011 Bonds in addition to any statutory lien that may exist, and the 2011 Bonds were issued to finance one or more projects specified in the 2010 Authorization and not to finance the general purposes of the District.

Additionally, prior to the 2009 Bonds Crossover Date, in accordance with section 53515(a) of the California Government Code, the 2011 Bonds shall be secured by a statutory lien on all revenues received pursuant to the levy and collection of the tax for the 2010 Authorization. The lien shall automatically attach without further action or authorization by the District or the County. The lien shall be valid and binding from the time the 2011 Bonds were issued. The revenues received pursuant to the levy and collection of the tax shall be immediately subject to the lien, and the lien shall automatically attach to the revenues and be effective, binding, and enforceable against the District, its successors, transferees, and creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act.

(e) On and after the 2009 Bonds Crossover Date, there shall be levied by the County on all the taxable property in the District, in addition to all other taxes, a continuing direct and *ad valorem* tax annually during the period the 2017 Refunding Bonds are outstanding in an amount sufficient to pay the principal of and interest on the portion of the 2017 Refunding Bonds relating to the Refunded 2009 Bonds when due, which moneys when collected will be placed in the Interest and Sinking Fund of the District, which fund is irrevocably pledged for the payment of the principal of and interest on the 2017 Refunding Bonds relating to the Refunded 2009 Bonds when and as the same fall due. The moneys in the Interest and Sinking Fund, to the extent necessary to pay the principal of and interest on the 2017 Refunding Bonds relating to the Refunded 2009 Bonds as the same become due and payable, shall be transferred by the County to the Paying Agent, as paying agent for the 2017 Refunding Bonds, as necessary to pay the principal of and interest on the 2017 Refunding Bonds relating to the Refunded 2009 Bonds. The property taxes and amounts held in the Interest and Sinking Fund of the District shall immediately be subject to this pledge, and the pledge shall constitute a lien and security interest which shall be effective, binding, and enforceable against the District, its successors, creditors and all others irrespective of whether those parties have notice of the pledge and without the need of any physical delivery, recordation, filing, or further act. The pledge is an agreement between the District and the Owners of the 2017 Refunding Bonds relating to the Refunded 2009 Bonds in addition to any statutory lien that may exist, and the 2017 Refunding Bonds were issued to refinance one or more projects specified in the 1992 Authorization and not to finance the general purposes of the District.

Additionally, on and after the 2009 Bonds Crossover Date, in accordance with section 53515(a) of the California Government Code, the 2017 Refunding Bonds relating to the Refunded 2009 Bonds shall be secured by a statutory lien on all revenues received pursuant to the levy and collection of the tax for the 1992 Authorization. The lien shall automatically attach without further action or authorization by the District or the County. The lien shall be valid and binding from the time the 2017 Refunding Bonds were issued. The revenues received pursuant

to the levy and collection of the tax shall be immediately subject to the lien, and the lien shall automatically attach to the revenues and be effective, binding, and enforceable against the District, its successors, transferees, and creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act.

(f) On and after the 2011 Bonds Crossover Date, there shall be levied by the County on all the taxable property in the District, in addition to all other taxes, a continuing direct and *ad valorem* tax annually during the period the 2017 Refunding Bonds are outstanding in an amount sufficient to pay the principal of and interest on the portion of the 2017 Refunding Bonds relating to the 2011 Bonds when due, which moneys when collected will be placed in the Interest and Sinking Fund of the District, which fund is irrevocably pledged for the payment of the principal of and interest on the 2017 Refunding Bonds relating to the 2011 Bonds when and as the same fall due. The moneys in the Interest and Sinking Fund, to the extent necessary to pay the principal of and interest on the 2017 Refunding Bonds relating to the 2011 Bonds as the same become due and payable, shall be transferred by the County to the Paying Agent, as paying agent for the 2017 Refunding Bonds, as necessary to pay the principal of and interest on the 2017 Refunding Bonds relating to the 2011 Bonds. The property taxes and amounts held in the Interest and Sinking Fund of the District shall immediately be subject to this pledge, and the pledge shall constitute a lien and security interest which shall be effective, binding, and enforceable against the District, its successors, creditors and all others irrespective of whether those parties have notice of the pledge and without the need of any physical delivery, recordation, filing, or further act. The pledge is an agreement between the District and the Owners of the 2017 Refunding Bonds relating to the 2011 Bonds in addition to any statutory lien that may exist, and the 2017 Refunding Bonds were issued to refinance one or more projects specified in the 2010 Authorization and not to finance the general purposes of the District.

Additionally, on and after the 2011 Bonds Crossover Date, in accordance with section 53515(a) of the California Government Code, the 2017 Refunding Bonds relating to the 2011 Bonds shall be secured by a statutory lien on all revenues received pursuant to the levy and collection of the tax for the 2010 Authorization. The lien shall automatically attach without further action or authorization by the District or the County. The lien shall be valid and binding from the time the 2017 Refunding Bonds were issued. The revenues received pursuant to the levy and collection of the tax shall be immediately subject to the lien, and the lien shall automatically attach to the revenues and be effective, binding, and enforceable against the District, its successors, transferees, and creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act.

ARTICLE IV

SALE OF BONDS; APPROVAL OF PAYING AGENT AGREEMENT; APPROVAL OF OFFICIAL STATEMENT

Section 4.01. Sale of the 2017 Refunding Bonds.

(a) *Notices of Intention to Sell 2017 Refunding Bonds.*

(i) The national Notice of Intention, in the form attached hereto as Exhibit B-1 and by this reference incorporated herein, is hereby approved. The Clerk of the Board is hereby authorized and directed to cause to be published, once at least fifteen (15) days prior to the date to receive bids, the Notice of Intention in the *Bond Buyer*, a financial publication reasonably expected to be disseminated among prospective bidders for the 2017 Refunding Bonds.

(ii) The local Notice of Intention, in the form attached hereto as Exhibit B-2 and by this reference incorporated herein, is hereby approved. The Clerk of the Board is hereby authorized and directed to cause to be published, once at least ten (10) days prior to the date to receive bids, the Notice of Intention in the *Intermountain News* and in the *Mountain Echo*, each a newspaper of general circulation circulated within the boundaries of the District.

(b) *Notice of Sale.* The Notice of Sale, in the form attached hereto as Exhibit C and by this reference incorporated herein, is hereby approved.

(c) *Terms and Conditions of Sale.* The terms and conditions of the offering and the sale of the 2017 Refunding Bonds shall be as specified in said Notice of Sale.

(d) *Furnishing of Official Notice of Sale.* The Clerk of the Board and the Financial Advisor are hereby authorized to cause to be furnished to prospective bidders a reasonable number of copies of the Notice of Sale.

(e) *Receipt of Bids.* The Financial Advisor is hereby authorized and directed, on behalf of the Board, to receive the bids at the time and place specified in the Notice of Sale, to examine said bids for compliance with the Notice of Sale and to verify the bid with the lowest true interest cost as provided in the Notice of Sale. In the event two or more bids setting forth identical true interest cost are received, a District Representative may award the 2017 Refunding Bonds on a *pro rata* basis in such denominations as he or she shall determine. A District Representative may reject any and all bids and waive any irregularity or informality in any bid. A District Representative shall award the 2017 Refunding Bonds or reject all bids not later than 26 hours after the expiration of the time prescribed for the receipt of bids unless such time of award is waived by the successful bidder. The maximum true interest cost on the 2017 Refunding Bonds shall not exceed 8% per annum. The aggregate present value savings to be realized by the District with respect to the Refunded 2007 Bonds as a result of the issuance of the 2017 Refunding Bonds, shall not be less than 3%.

(f) *Option for a Negotiated Sale.* If, at any time, it is determined by a District Representative, or the designee thereof, that the competitive sale of the 2017 Refunding Bonds is not in the best interest of the District or, if at the time of the competitive sale of the 2017 Refunding Bonds, no bids are received or it is determined by a District Representative, or the designee thereof, that all received bids are unsatisfactory, the Board hereby authorizes the sale

of the 2017 Refunding Bonds to an underwriter identified by the Financial Advisor and approved by a District Representative, or the designee thereof. In such event, the Board hereby authorizes the preparation of a 2017 Refunding Bond purchase agreement between such underwriter and the District, with such terms and conditions as shall be approved by a District Representative, or the designee thereof. In such case, a District Representative, or the designee thereof, is hereby authorized and directed to execute a 2017 Refunding Bond purchase agreement for and in the name and on behalf of the District; *provided, however*, that in connection with such negotiated sale of the 2017 Refunding Bonds, the net underwriter's discount, excluding reimbursable expenses of the Underwriter, shall not exceed 1% of the aggregate principal amount of 2017 Refunding Bonds issued. The maximum true interest cost on the 2017 Refunding Bonds shall not exceed 8% per annum. The aggregate present value savings to be realized by the District with respect to the Refunded 2007 Bonds, as a result of the issuance of the 2017 Refunding Bonds, shall not be less than 3%.

Section 4.02. Approval of Paying Agent Agreement. The Paying Agent Agreement, in the form attached hereto as Exhibit D, together with any additions thereto or changes therein deemed necessary or advisable by a District Representative, is hereby approved by the Board. The District Representatives are hereby authorized and directed to execute the Paying Agent Agreement for and in the name and on behalf of the District. The Board hereby authorizes the delivery and performance of the Paying Agent Agreement.

Section 4.03. Approval of Escrow Agreements.

(a) The 2009 Escrow Agreement, in the form attached hereto as Exhibit E, together with any additions thereto or changes therein deemed necessary or advisable by a District Representative, is hereby approved by the Board. The District Representatives are hereby authorized and directed to execute the 2009 Escrow Agreement for and in the name and on behalf of the District. The Board hereby authorizes the delivery and performance of the 2009 Escrow Agreement.

(b) The 2011 Escrow Agreement, in the form attached hereto as Exhibit F, together with any additions thereto or changes therein deemed necessary or advisable by a District Representative, is hereby approved by the Board. The District Representatives are hereby authorized and directed to execute the 2011 Escrow Agreement for and in the name and on behalf of the District. The Board hereby authorizes the delivery and performance of the 2011 Escrow Agreement.

Section 4.03. Official Statement. The Board of Education hereby approves a preliminary official statement describing the financing (the "Preliminary Official Statement") in the form on file with the Clerk of the Board of Education, together with any changes therein or additions thereto deemed advisable by a District Representative. The Board of Education authorizes and directs the District Representatives, on behalf of the District, to deem "final" pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule") the Preliminary Official Statement prior to its distribution to prospective purchasers of the 2017 Refunding Bonds.

The Financial Advisor, on behalf of the District, is authorized and directed to cause the Preliminary Official Statement to be distributed to such persons as may be interested in purchasing the 2017 Refunding Bonds therein offered for sale.

The District Representatives are authorized and directed to cause the Preliminary Official Statement to be brought into the form of a final official statement (the "Final Official Statement") and to execute the Final Official Statement, dated as of the date of the sale of the 2017 Refunding Bonds, and a statement that the facts contained in the Final Official Statement,

and any supplement or amendment thereto (which shall be deemed an original part thereof for the purpose of such statement) were, at the time of sale of the 2017 Refunding Bonds, true and correct in all material respects and that the Final Official Statement did not, on the date of sale of the 2017 Refunding Bonds, and does not, as of the date of delivery of the 2017 Refunding Bonds, contain any untrue statement of a material fact with respect to the District or omit to state material facts with respect to the District required to be stated where necessary to make any statement made therein not misleading in light of the circumstances under which it was made. The District Representatives shall take such further actions prior to the signing of the Final Official Statement as are deemed necessary or appropriate to verify the accuracy thereof. The execution of the Final Official Statement, which shall include such changes and additions thereto deemed advisable by the District Representatives, and such information permitted to be excluded from the Preliminary Official Statement pursuant to the Rule, shall be conclusive evidence of the approval of the Final Official Statement by the District.

The Final Official Statement, when prepared, is approved for distribution in connection with the offering and sale of the 2017 Refunding Bonds.

Section 4.04. Official Action. All actions heretofore taken by the officers and agents of the District with respect to the sale and issuance of the 2017 Refunding Bonds are hereby approved, and each District Representative is hereby authorized and directed for and in the name and on behalf of the District, to do any and all things and take any and all actions relating to the execution and delivery of any and all certificates, requisitions, agreements and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the 2017 Refunding Bonds in accordance with this resolution.

ARTICLE V

OTHER COVENANTS OF THE DISTRICT

Section 5.01. Punctual Payment. The District will punctually pay, or cause to be paid, the principal of and interest on the 2017 Refunding Bonds, in strict conformity with the terms of the 2017 Refunding Bonds and of this Resolution, and it will faithfully observe and perform all of the conditions, covenants and requirements of this Resolution and of the 2017 Refunding Bonds. Nothing herein contained shall prevent the District from making advances of its own moneys, howsoever derived, to any of the uses or purposes permitted by law.

Section 5.02. Extension of Time for Payment. In order to prevent any accumulation of claims for interest after maturity, the District will not, directly or indirectly, extend or consent to the extension of the time for the payment of any claim for interest on any of the 2017 Refunding Bonds and will not, directly or indirectly, approve any such arrangement by purchasing or funding said claims for interest or in any other manner. In case any such claim for interest shall be extended or funded, whether or not with the consent of the District, such claim for interest so extended or funded shall not be entitled, in case of default hereunder, to the benefits of this Resolution, except subject to the prior payment in full of the principal of all of the 2017 Refunding Bonds then Outstanding and of all claims for interest which shall not have so extended or funded.

Section 5.03. Protection of Security and Rights of Bondowners. The District will preserve and protect the security of the 2017 Refunding Bonds and the rights of the Bondowners, and will warrant and defend their rights against all claims and demands of all persons. From and after the sale and delivery of any of the 2017 Refunding Bonds by the District, the 2017 Refunding Bonds shall be incontestable by the District.

Section 5.04. Further Assurances. The District will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Resolution, and for the better assuring and confirming unto the Owners of the 2017 Refunding Bonds of the rights and benefits provided in this Resolution.

Section 5.05. Tax Covenants.

(a) *Private Activity 2017 Refunding Bond Limitation*. The District shall assure that the proceeds of the 2017 Refunding Bonds are not so used as to cause the 2017 Refunding Bonds to satisfy the private business tests of section 141(b) of the Code or the private loan financing test of section 141(c) of the Code.

(b) *Federal Guarantee Prohibition*. The District shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of the 2017 Refunding Bonds to be "federally guaranteed" within the meaning of section 149(b) of the Code.

(c) *Rebate Requirement*. The District shall take any and all actions necessary to assure compliance with section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the 2017 Refunding Bonds.

(d) *No Arbitrage*. The District shall not take, or permit or suffer to be taken, any action with respect to the proceeds of the 2017 Refunding Bonds which, if such action had been

reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the 2017 Refunding Bonds would have caused the 2017 Refunding Bonds to be “arbitrage bonds” within the meaning of section 148 of the Code.

(e) *Maintenance of Tax-Exemption.* The District shall take all actions necessary to assure the exclusion of interest on the 2017 Refunding Bonds from the gross income of the Owners of the 2017 Refunding Bonds to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of issuance of the 2017 Refunding Bonds.

Section 5.06. Acquisition, Disposition and Valuation of Investments.

(a) Except as otherwise provided in subsection (b) of this Section 5.06, the District covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Resolution, or otherwise containing gross proceeds of the 2017 Refunding Bonds (within the meaning of section 148 of the Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Resolution or the Code) at Fair Market Value.

(b) Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Code shall be valued at their present value (within the meaning of section 148 of the Code).

Section 5.07. Continuing Disclosure. The District hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate, substantially in the form attached hereto as Exhibit G. Notwithstanding any other provision of this Resolution, failure of the District to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; however, any holder or beneficial owner of the 2017 Refunding Bonds may take such actions as may be necessary and appropriate to compel performance, including seeking mandate of specific performance by court order.

ARTICLE VI

THE PAYING AGENT

Section 6.01. Appointment of Paying Agent. U.S. Bank National Association is hereby appointed Paying Agent for the 2017 Refunding Bonds. The Paying Agent undertakes to perform such duties, and only such duties, as are specifically set forth in this Resolution, and, even during the continuance of an Event of Default, no implied covenants or obligations shall be read into this Resolution against the Paying Agent. The Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this Resolution by executing and delivering to the District the Paying Agent Agreement.

The District may remove the Paying Agent initially appointed, and any successor thereto, and may appoint a successor or successors thereto, but any such successor shall be a bank or trust company doing business in the State of California, having a combined capital (exclusive of borrowed capital) and surplus of at least fifty million dollars (\$50,000,000), and subject to supervision or examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section 6.01 the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

The Paying Agent may at any time resign by giving written notice to the District and the Bondowners of such resignation. Upon receiving notice of such resignation, the District shall promptly appoint a successor Paying Agent by an instrument in writing. Any resignation or removal of the Paying Agent and appointment of a successor Paying Agent shall become effective upon acceptance of appointment by the successor Paying Agent.

Section 6.02. Paying Agent May Hold 2017 Refunding Bonds. The Paying Agent may become the owner of any of the 2017 Refunding Bonds in its own or any other capacity with the same rights it would have if it were not Paying Agent.

Section 6.03. Liability of Agents. The recitals of facts, covenants and agreements herein and in the 2017 Refunding Bonds contained shall be taken as statements, covenants and agreements of the District, and the Paying Agent assumes no responsibility for the correctness of the same, nor makes any representations as to the validity or sufficiency of this Resolution or of the 2017 Refunding Bonds, nor shall incur any responsibility in respect thereof, other than as set forth in this Resolution. The Paying Agent shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful default.

In the absence of bad faith, the Paying Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Paying Agent and conforming to the requirements of this Resolution; but in the case of any such certificates or opinions by which any provision hereof are specifically required to be furnished to the Paying Agent, the Paying Agent shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Resolution.

The Paying Agent shall not be liable for any error of judgment made in good faith by a responsible officer unless it shall be proved that the Paying Agent was negligent in ascertaining the pertinent facts.

No provision of this Resolution shall require the Paying Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

The Paying Agent may execute any of the powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Paying Agent shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

Section 6.04. Notice to Agents. The Paying Agent may rely and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The Paying Agent may consult with counsel, who may be of counsel to the District, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

Whenever in the administration of its duties under this Resolution the Paying Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Paying Agent, be deemed to be conclusively proved and established by a certificate of the District, and such certificate shall be full warrant to the Paying Agent for any action taken or suffered under the provisions of this Resolution upon the faith thereof, but in its discretion the Paying Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

Section 6.05. Compensation, Indemnification.

(a) The District shall pay to the Paying Agent from time to time reasonable compensation for all services rendered under this Resolution, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of their attorneys, agents and employees, incurred in and about the performance of their powers and duties under this Resolution. Any District Representative is hereby authorized to execute an agreement or agreements with the Paying Agent in connection with such fees and expenses. The District further agrees to indemnify and save the Paying Agent harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder which are not due to its negligence or bad faith.

(b) The District shall indemnify and hold harmless, to the extent permitted by law, the County and its officers and employees ("Indemnified Parties"), against any and all losses, claims, damages or liabilities, joint or several, to which such Indemnified Parties may become subject related to the proceedings for sale, award, issuance and delivery of the 2017 Refunding Bonds in accordance therewith and herewith. The District shall also reimburse any such Indemnified Parties for any legal or other expenses incurred in connection with investigating or defending any such claims or actions.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES OF BONDOWNERS

Section 7.01. Events of Default. The following events (“Events of Default”) shall be events of default hereunder:

(a) if default shall be made in the due and punctual payment of the principal of on any 2017 Refunding Bond when and as the same shall become due and payable, whether at maturity as therein expressed, by declaration or otherwise;

(b) if default shall be made in the due and punctual payment of any installment of interest on any 2017 Refunding Bond when and as such interest installment shall become due and payable;

(c) if default shall be made by the District in the observance of any of the covenants, agreements or conditions on its part in this Resolution or in the 2017 Refunding Bonds contained, and such default shall have continued for a period of thirty (30) days after written notice thereof to the District; or

(d) ifa filing by or on behalf of the District shall file of a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America, or if a court of competent jurisdiction shall approve a petition, seeking reorganization of the District under the federal bankruptcy laws or any other applicable law of the United States of America, or if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the District or of the whole or any substantial part of its property.

Section 7.02. Remedies of Bondowners. Any Bondowner shall have the right, for the equal benefit and protection of all Bondowners similarly situated:

(a) by mandamus, suit, action or proceeding, to compel the District and its members, officers, agents or employees to perform each and every term, provision and covenant contained in this Resolution and in the 2017 Refunding Bonds, and to require the carrying out of any or all such covenants and agreements of the District and the fulfillment of all duties imposed upon it;

(b) by suit, action or proceeding in equity, to enjoin any acts or things which are unlawful, or the violation of any of the Bondowners’ rights; or

(c) upon the happening of any Event of Default, by suit, action or proceeding in any court of competent jurisdiction, to require the District and its members and employees to account as if it and they were the trustees of an express trust.

Section 7.03. Non-Waiver. Nothing in this Article VII or in any other provision of this Resolution, or in the 2017 Refunding Bonds, shall affect or impair the obligation of the District, which is absolute and unconditional, to pay the principal of and interest on the 2017 Refunding Bonds to the respective Owners of the 2017 Refunding Bonds at the respective dates of maturity, as herein provided, or affect or impair the right of action, which is also absolute and unconditional, of such Owners to institute suit to enforce such payment by virtue of the contract embodied in the 2017 Refunding Bonds.

A waiver of any default by any Bondowner shall not affect any subsequent default or impair any rights or remedies on the subsequent default. No delay or omission of any Owner of any of the 2017 Refunding Bonds to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy conferred upon the Bondowners by this Article VI may be enforced and exercised from time to time and as often as shall be deemed expedient by the Owners of the 2017 Refunding Bonds.

If a suit, action or proceeding to enforce any right or exercise any remedy be abandoned or determined adversely to the Bondowners, the District and the Bondowners shall be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.

Section 7.04. Remedies Not Exclusive. No remedy herein conferred upon the Owners of 2017 Refunding Bonds shall be exclusive of any other remedy and that each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or thereafter conferred on the Bondowners.

ARTICLE VIII

SUPPLEMENTAL RESOLUTIONS

Section 8.01. Supplemental Resolutions Effective Without Consent of the Owners. For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution of the District may be adopted, which, without the requirement of consent of the Owners of the 2017 Refunding Bonds, shall be fully effective in accordance with its terms:

(a) to add to the covenants and agreements of the District in this Resolution, other covenants and agreements to be observed by the District which are not contrary to or inconsistent with this Resolution as theretofore in effect;

(b) to add to the limitations and restrictions in this Resolution, other limitations and restrictions to be observed by the District which are not contrary to or inconsistent with this Resolution as theretofore in effect;

(c) to confirm, as further assurance, any pledge under, and the subjection to any lien or pledge created or to be created by, this Resolution, of any moneys, securities or funds, or to establish any additional funds or accounts to be held under this Resolution;

(d) to cure any ambiguity, supply and omission, or cure or correct any defect or inconsistent provision in this Resolution; or

(e) to make such additions, deletions or modifications as may be necessary or desirable to assure exemption from federal income taxation of interest on the 2017 Refunding Bonds.

Section 8.02. Supplemental Resolutions Effective With Consent to the Owners. Any modification or amendment of this Resolution and of the rights and obligations of the District and of the Owners of the 2017 Refunding Bonds, in any particular, may be made by a Supplemental Resolution, with the written consent of the Owners of at least two-thirds in aggregate principal amount of the 2017 Refunding Bonds Outstanding at the time such consent is given. No such modification or amendment shall permit a change in the terms of maturity of the principal of any Outstanding 2017 Refunding Bonds or of any interest payable thereon or a reduction in the principal amount thereof or in the rate of interest thereon, or shall reduce the percentage of 2017 Refunding Bonds the consent of the Owners of which is required to effect any such modification or amendment, or shall change any of the provisions in Section 7.01 hereof relating to Events of Default, or shall reduce the amount of moneys pledged for the repayment of the 2017 Refunding Bonds without the consent of all the Owners of such 2017 Refunding Bonds, or shall change or modify any of the rights or obligations of any Paying Agent without its written assent thereto.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Benefits of Resolution Limited to Parties. Nothing in this Resolution, expressed or implied, is intended to give to any person other than the District, the Paying Agent and the Owners of the 2017 Refunding Bonds, any right, remedy, claim under or by reason of this Resolution. Any covenants, stipulations, promises or agreements in this Resolution contained by and on behalf of the District shall be for the sole and exclusive benefit of the Owners of the 2017 Refunding Bonds.

Section 9.02. Defeasance.

(a) *Discharge of Resolution.* 2017 Refunding Bonds may be paid by the District in any of the following ways, provided that the District also pays or causes to be paid any other sums payable hereunder by the District:

(i) by paying or causing to be paid the principal or redemption price of and interest on 2017 Refunding Bonds Outstanding, as and when the same become due and payable;

(ii) by depositing, in trust, at or before maturity, money or securities in the necessary amount (as provided in Section 9.02(c) to pay or redeem 2017 Refunding Bonds Outstanding; or

(iii) by delivering to the Paying Agent, for cancellation by it, 2017 Refunding Bonds Outstanding.

If the District shall pay all 2017 Refunding Bonds Outstanding and shall also pay or cause to be paid all other sums payable hereunder by the District, then and in that case, at the election of the District (evidenced by a certificate of a District Representative, filed with the Paying Agent, signifying the intention of the District to discharge all such indebtedness and this Resolution), and notwithstanding that any 2017 Refunding Bonds shall not have been surrendered for payment, this Resolution and other assets made under this Resolution and all covenants, agreements and other obligations of the District under this Resolution shall cease, terminate, become void and be completely discharged and satisfied, except only as provided in Section 9.02(b). In such event, upon request of the District, the Paying Agent shall cause an accounting for such period or periods as may be requested by the District to be prepared and filed with the District and shall execute and deliver to the District all such instruments as may be necessary to evidence such discharge and satisfaction, and the Paying Agent shall pay over, transfer, assign or deliver to the District all moneys or securities or other property held by it pursuant to this Resolution which are not required for the payment or redemption of 2017 Refunding Bonds not theretofore surrendered for such payment or redemption.

(b) *Discharge of Liability on 2017 Refunding Bonds.* Upon the deposit, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 9.02(c) to pay or redeem any Outstanding 2017 Refunding Bond (whether upon or prior to its maturity or the redemption date of such 2017 Refunding Bond), provided that, if such 2017 Refunding Bond is to be redeemed prior to maturity, notice of such redemption shall have been given as in Section 2.03 provided or provision satisfactory to the Paying Agent shall have been made for the giving of such notice, then all liability of the District in respect of such 2017 Refunding Bond shall cease and be completely discharged, except only that thereafter the Owner thereof shall be entitled

only to payment of the principal of and interest on such 2017 Refunding Bond by the District, and the District shall remain liable for such payment, but only out of such money or securities deposited with the Paying Agent as aforesaid for such payment, provided further, however, that the provisions of Section 9.02(d) shall apply in all events.

The District may at any time surrender to the Paying Agent for cancellation by it any 2017 Refunding Bonds previously issued and delivered, which the District may have acquired in any manner whatsoever, and such 2017 Refunding Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

(c) *Deposit of Money or Securities with Paying Agent.* Whenever in this Resolution it is provided or permitted that there be deposited with or held in trust by the Paying Agent money or securities in the necessary amount to pay or redeem any 2017 Refunding Bonds, the money or securities so to be deposited or held may include money or securities held by the Paying Agent in the funds and accounts established pursuant to this Resolution and shall be:

(i) lawful money of the United States of America in an amount equal to the principal amount of such 2017 Refunding Bonds and all unpaid interest thereon to maturity, except that, in the case of 2017 Refunding Bonds which are to be redeemed prior to maturity and in respect of which notice of such redemption shall have been given as in Section 2.03 provided or provision satisfactory to the Paying Agent shall have been made for the giving of such notice, the amount to be deposited or held shall be the principal amount or redemption price of such 2017 Refunding Bonds and all unpaid interest thereon to the redemption date; or

(ii) Federal Securities (not callable by the issuer thereof prior to maturity) the principal of and interest on which when due, in the opinion of a certified public accountant delivered to the District, will provide money sufficient to pay the principal or redemption price of and all unpaid interest to maturity, or to the redemption date, as the case may be, on the 2017 Refunding Bonds to be paid or redeemed, as such principal or redemption price and interest become due, provided that, in the case of 2017 Refunding Bonds which are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Section 2.03 provided or provision satisfactory to the Paying Agent shall have been made for the giving of such notice;

provided, in each case, that the Paying Agent shall have been irrevocably instructed (by the terms of this Resolution or by request of the District) to apply such money to the payment of such principal or redemption price and interest with respect to such 2017 Refunding Bonds.

(d) *Payment of 2017 Refunding Bonds After Discharge of Resolution.* Notwithstanding any provisions of this Resolution, any moneys held by the Paying Agent in trust for the payment of the principal or redemption price of, or interest on, any 2017 Refunding Bonds and remaining unclaimed for one year after the principal of all of the 2017 Refunding Bonds has become due and payable (whether at maturity or upon call for redemption or by acceleration as provided in this Resolution), if such moneys were so held at such date, or one year after the date of deposit of such moneys if deposited after said date when all of the 2017 Refunding Bonds became due and payable, shall, upon request of the District, be repaid to the District free from the trusts created by this Resolution, and all liability of the Paying Agent with respect to such moneys shall thereupon cease; *provided, however,* that before the repayment of such moneys to the District as aforesaid, the Paying Agent may (at the cost of the District) first mail to the Owners of all 2017 Refunding Bonds which have not been paid at the addresses shown on the registration books maintained by the Paying Agent a notice in such form as may be deemed appropriate by the Paying Agent, with respect to the 2017 Refunding Bonds so payable and not

presented and with respect to the provisions relating to the repayment to the District of the moneys held for the payment thereof.

Section 9.03. Execution of Documents and Proof of Ownership by Bondowners. Any request, declaration or other instrument which this Resolution may require or permit to be executed by Bondowners may be in one or more instruments of similar tenor, and shall be executed by Bondowners in person or by their attorneys appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Bondowner or his attorney of such request, declaration or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

Except as otherwise herein expressly provided, the ownership of registered 2017 Refunding Bonds and the amount, maturity, number and date of holding the same shall be proved by the registry books.

Any request, declaration or other instrument or writing of the Owner of any 2017 Refunding Bond shall bind all future Owners of such 2017 Refunding Bond in respect of anything done or suffered to be done by the District or the Paying Agent in good faith and in accordance therewith.

Section 9.04. Waiver of Personal Liability. No boardmember, officer, agent or employee of the District shall be individually or personally liable for the payment of the principal of or interest on the 2017 Refunding Bonds; but nothing herein contained shall relieve any such boardmember, officer, agent or employee from the performance of any official duty provided by law.

Section 9.05. Destruction of Canceled 2017 Refunding Bonds. Whenever in this Resolution provision is made for the surrender to the District of any 2017 Refunding Bonds which have been paid or canceled pursuant to the provisions of this Resolution, a certificate of destruction duly executed by the Paying Agent shall be deemed to be the equivalent of the surrender of such canceled 2017 Refunding Bonds and the District shall be entitled to rely upon any statement of fact contained in any certificate with respect to the destruction of any such 2017 Refunding Bonds therein referred to.

Section 9.06. Partial Invalidity. If any Section, paragraph, sentence, clause or phrase of this Resolution shall for any reason be held illegal or unenforceable, such holding shall not affect the validity of the remaining portions of this Resolution. The District hereby declares that it would have adopted this Resolution and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issue of the 2017 Refunding Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Resolution may be held illegal, invalid or unenforceable. If, by reason of the judgment of any court, the District is rendered unable to perform its duties hereunder, all such duties and all of the rights and powers of the District hereunder shall be assumed by and vest in the District in trust for the benefit of the Bondowners.

Section 9.07. Effective Date of Resolution. This Resolution shall take effect from and after the date of its passage and adoption.

* * * * *

THE FOREGOING RESOLUTION is approved and adopted by the Board of Education of the Berkeley Unified School District this 22nd day of February, 2017.

President of the Board of Education

ATTEST:

Clerk of the Board of Education

Board of Education of the District) and the Act for a description of the terms on which the Bonds are issued and the rights thereunder of the owners of the Bonds and the rights, duties and immunities of the Paying Agent and the rights and obligations of the District thereunder, to all of the provisions of which Resolution the Owner of this Bond, by acceptance hereof, assents and agrees.

The Bonds are being issued to (a) refund, on a current basis, the District's outstanding Berkeley Unified School District (Alameda County, California) General Obligation Bonds, Election of 2000, Series 2007, and (b) pay for costs of issuance of the Bonds.

This Bond and the interest hereon and on all other Bonds and the interest thereon (to the extent set forth in the Resolution) are general obligations of the District and do not constitute an obligation of Alameda County. The District has the power and is obligated to cause the Alameda County Treasurer-Tax Collector to levy *ad valorem* taxes for the payment of the Bonds and the interest thereon upon all property within the District subject to taxation by the District. No part of any fund of the County is pledged or obligated to the payment of the Bonds.

The Bonds maturing on August 1, ____, or any time thereafter, are callable for redemption prior to their stated maturity date at the option of the District, as a whole, or in part on or after August 1, ____ (in such maturities as are designated by the District, or, if the District fails to designate such maturities, on a proportional basis), and may be redeemed prior to the maturity thereof by payment of all principal, plus accrued interest to date of redemption, without premium.

[If applicable:] The Bonds maturing on August 1, 20__ (the "Term Bonds") are also subject to mandatory sinking fund redemption on August 1 in the years, and in the amounts, as set forth in the following table, at a redemption price equal to one hundred percent (100%) of the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption; provided, however, that if some but not all of the Term Bonds have been redeemed pursuant to the preceding paragraph, the aggregate principal amount of Term Bonds to be redeemed under this paragraph shall be reduced on a pro rata basis in integral multiples of \$5,000, as shall be designated pursuant to written notice filed by the District with the Paying Agent:

Sinking Fund Redemption Date (August 1)	Principal Amount to be Redeemed
---	---------------------------------------

The Paying Agent shall give notice of the redemption of the Bonds at the expense of the District. Such notice shall specify: (a) that the Bonds or a designated portion thereof are to be redeemed, (b) the numbers and CUSIP numbers of the Bonds to be redeemed, (c) the date of notice and the date of redemption, (d) the place or places where the redemption will be made, and (e) descriptive information regarding the Bonds including the dated date, interest rate and stated maturity date. Such notice shall further state that on the specified date there shall become due and payable upon each Bond to be redeemed, the portion of the principal amount of such Bond to be redeemed, together with interest accrued to said date, and that from and after such date interest with respect thereto shall cease to accrue and be payable.

If an Event of Default, as defined in the Resolution, shall occur, the principal of all Bonds may be declared due and payable upon the conditions, in the manner and with the effect provided in the Resolution, but such declaration and its consequences may be rescinded and annulled as further provided in the Resolution.

The Bonds are issuable as fully registered Bonds, without coupons, in denominations of \$5,000 and any integral multiple thereof. Subject to the limitations and conditions and upon payment of the charges, if any, as provided in the Resolution. Bonds may be exchanged for a like aggregate principal amount of Bonds of other authorized denominations and of the same maturity.

This Bond is transferable by the Owner hereof, in person or by his attorney duly authorized in writing, at said office of the Paying Agent in San Francisco, California, but only in the manner and subject to the limitations provided in the Resolution, and upon surrender and cancellation of this Bond. Upon registration of such transfer a new Bond or Bonds, of authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor.

The District and the Paying Agent may treat the Owner hereof as the absolute owner hereof for all purposes, and the District and the Paying Agent shall not be affected by any notice to the contrary.

The Resolution may be amended without the consent of the Owners of the Bonds to the extent set forth in the Resolution.

It is hereby certified that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond do exist, have happened or have been performed in due and regular time and manner as required by the laws of the State of California, and that the amount of this Bond, together with all other indebtedness of the District, does not exceed any limit prescribed by any laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Resolution.

This Bond shall not be entitled to any benefit under the Resolution or become valid or obligatory for any purpose until the Certificate of Authentication hereon shall have been signed manually by the Paying Agent.

Unless this certificate is presented by an authorized representative of The Depository Trust Company; a New York corporation ("DTC"), to the District or the Paying Agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

IN WITNESS WHEREOF, the Berkeley Unified School District has caused this Bond to be executed in its name and on its behalf with the manual or facsimile signatures of the President of its Board of Education and the Clerk of the Board of Education, all as of the Issue Date stated above.

BERKELEY UNIFIED SCHOOL DISTRICT

By _____
President of the Board of Education

ATTEST:

Clerk of the Board of Education

CERTIFICATE OF AUTHENTICATION

This is one of the 2017 Refunding Bonds described in the within-mentioned Resolution.

Authentication Date:

U.S. BANK NATIONAL ASSOCIATION, as
Paying Agent

By _____
Authorized Signatory

ASSIGNMENT

For value received, the undersigned do(es) hereby sell, assign and transfer unto

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within 2017 Refunding Bond and do(es) hereby irrevocably constitute(s) and appoint(s)

attorney, to transfer the same on the registration books of the Paying Agent with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Notice: Signature(s) must be guaranteed by a qualified guarantor institution.

Notice: The signature on this assignment must correspond with the name(s) as written on the face of the within bond in every particular without alteration or enlargement or any change whatsoever."

EXHIBIT B TO RESOLUTION
FORMS OF NOTICES OF INTENTION

NOTICE OF INTENTION TO SELL BONDS (NATIONAL)

\$ _____
(Preliminary, subject to change)
BERKELEY UNIFIED SCHOOL DISTRICT
(Alameda County, California)
2017 General Obligation Refunding Bonds

NOTICE IS HEREBY GIVEN, pursuant to section 53692 of the California Government Code, that the Berkeley Unified School District (the "District") invites bids for the purchase of \$ _____ (preliminary, subject to change) aggregate principal amount of Berkeley Unified School District (Alameda County, California) 2017 General Obligation Refunding Bonds (the "Bonds"). Bids will be received on

WEDNESDAY, MARCH 8, 2017

until 10:00 A.M., Pacific Standard time, *electronically only* through the I-Deal LLC BiDCOMP/PARITY® system, and the sale will be awarded by the District within 26 hours after the expiration of the time prescribed for the receipt of bids. The sale of the Bonds will be conducted upon the terms and conditions set forth in the Official Notice of Sale for the Bonds. Such Official Notice of Sale and the Preliminary Official Statement describing the Bonds will be distributed to prospective bidders by the financial advisor to the District, KNN Public Finance, LLC, 1300 Clay Street, Suite 1000, Oakland, CA 94612, telephone (510) 208-8202. Bids will be entertained only from bidders to whom such Official Notice of Sale and Preliminary Official Statement have been distributed. Legal opinion: Quint & Thimmig LLP, Larkspur, California.

NOTICE OF INTENTION TO SELL BONDS (LOCAL)

\$ _____
(Preliminary, subject to change)
BERKELEY UNIFIED SCHOOL DISTRICT
(Alameda County, California)
2017 General Obligation Refunding Bonds

NOTICE IS HEREBY GIVEN, pursuant to section 53569 of the California Government Code, that the Berkeley Unified School District (the "District") invites bids for the purchase of \$ _____ (preliminary, subject to change) aggregate principal amount of Berkeley Unified School District (Alameda County, California) 2017 General Obligation Refunding Bonds (the "Bonds"). Bids will be received on

WEDNESDAY, MARCH 8, 2017

until 10:00 A.M., Pacific Standard time, *electronically only* through the I-Deal LLC BiDCOMP/PARITY® system, and the sale will be awarded by the District within 26 hours after the expiration of the time prescribed for the receipt of bids. The sale of the Bonds will be conducted upon the terms and conditions set forth in the Official Notice of Sale for the Bonds. Such Official Notice of Sale and the Preliminary Official Statement describing the Bonds will be distributed to prospective bidders by the financial advisor to the District, KNN Public Finance, LLC, 1300 Clay Street, Suite 1000, Oakland, CA 94612, telephone (510) 208-8202. Bids will be entertained only from bidders to whom such Official Notice of Sale and Preliminary Official Statement have been distributed. Legal opinion: Quint & Thimmig LLP, Larkspur, California.

EXHIBIT C TO RESOLUTION

FORM OF NOTICE OF SALE

OFFICIAL NOTICE OF SALE

\$ _____*
BERKELEY UNIFIED SCHOOL DISTRICT
(Alameda County, California)
2017 General Obligation Refunding Bonds

NOTICE IS HEREBY GIVEN that *electronic bids only* for the purchase of \$ _____* aggregate principal amount of Berkeley Unified School District (Alameda County, California) 2017 General Obligation Refunding Bonds (the "Bonds"), will be received by the Berkeley Unified School District (the "District") at the time and in the form below specified:

DATE AND TIME: WEDNESDAY, March 8, 2017, until 10:00 A.M. (Pacific Standard time).

SUBMISSION OF BIDS: Bids may be submitted (for receipt not later than the time set forth above) *electronically only* through the I-Deal LLC BiDCOMP/PARITY® system ("PARITY®"). See "FORM OF BID" herein.

Bidders should be aware that the par amount of the Bonds may be reduced. See "ADJUSTMENT OF PRINCIPAL AMOUNTS AND OF MATURITIES" BELOW.

ISSUE; BOOK ENTRY: \$ _____* consisting of fully registered bonds. The Bonds will be dated as of their date of delivery, expected to be March 30, 2017, and will be issued in minimum denominations of \$5,000. The Bonds will be issued in a book entry only system with no physical distribution of the Bonds made to the public. The Depository Trust Company, New York, New York ("DTC"), will act as depository for the Bonds which will be immobilized in its custody. The Bonds will be registered in the name of Cede & Co., as nominee for DTC, on behalf of the participants in the DTC system and the subsequent beneficial owners of the Bonds.

MATURITIES: The Bonds will mature, or be subject to mandatory sinking fund redemption, on the dates and in the amounts, as set forth in the following table. *Each bidder is required to specify in its bid whether, for any particular year, the Bonds will mature or, alternately, be subject to mandatory sinking fund redemption in such year:*

<u>Maturity Date (August 1)</u>	<u>Principal Amount*</u>	<u>Maturity Date (August 1)</u>	<u>Principal Amount*</u>
2020		2028	
2021		2029	
2022		2030	
2023		2031	
2024		2032	
2025		2033	
2026		2034	
2027		2035	

ADJUSTMENT OF PRINCIPAL AMOUNTS AND OF MATURITIES: The maturity amounts set forth above for the Bonds may be adjusted either upward or downward in order to achieve the savings structure desired by the District and to adjust par amounts to appropriately size the refunding bonds including reduction to eliminate any excess proceeds due to a bid premium. The successful bidder will be notified of the actual principal amounts and maturity schedule relating to the Bonds within 26 hours after the expiration of the time prescribed for the receipt of proposals. Any increase or decrease will be in

\$5,000 increments of principal amounts. In the event of any such adjustment, no re-bidding or recalculation of the bids submitted will be required or permitted and no successful bid may be withdrawn. The successful bidder will not be permitted to change the interest rates in its bid.

INTEREST: The Bonds shall bear interest, calculated on a 30/360 day basis, at a rate or rates to be fixed upon the sale thereof but not to exceed 8% per annum, payable semiannually on each February 1 and August 1, commencing August 1, 2017.

PAYMENT: Principal of the Bonds will be payable upon surrender at U.S. Bank National Association, San Francisco, California (the "Paying Agent"). Interest on the Bonds will be payable by check or draft mailed by first class mail to the owner at the address listed on the registration books maintained by the Paying Agent for such purpose.

REGISTRATION: The Bonds will be issued as fully registered bonds as to both principal and interest. The Bonds will be issued in the book-entry system of The Depository Trust Company of New York ("DTC"), and the ownership of the Bonds will be registered to the nominee of DTC.

OPTIONAL REDEMPTION: The Bonds maturing on August 1, ____, or any time thereafter, are callable for redemption prior to their stated maturity date at the option of the District, as a whole, or in part on or after August 1, ____ (in such maturities as are designated by the District, or, if the District fails to designate such maturities, on a proportional basis), and may be redeemed prior to the maturity thereof by payment of all principal, plus accrued interest to date of redemption, together with a redemption premium as follows:

Redemption Period	Redemption Premium
August 1, ____, through July 31, ____	1%
August 1, ____, and thereafter	0

SINKING FUND REDEMPTION: Any bidder may, at its option, specify that one or more maturities of the Bonds will consist of term Bonds which are subject to mandatory sinking fund redemption in consecutive years immediately preceding the maturity thereof, as designated in the bid of such bidder. In the event that the bid of the successful bidder specifies that any maturity of Bonds will be term Bonds, such term Bonds will be subject to mandatory sinking fund redemption on August 1 in each year so designated in the bid, in the respective amounts for such years as set forth above under the heading "MATURITIES," at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium.

PURPOSE: The Bonds are being issued to (a) refund, on a crossover basis, the District's outstanding Berkeley Unified School District (Alameda County, California) 2009 General Obligation Bonds maturing on and after August 1, 2020 (the "2009 Bonds"), (b) refund, on a crossover basis, the District's outstanding Berkeley Unified School District (Alameda County, California) General Obligation Bonds, Election of 2010, Series B (2011) (the "2011 Bonds"), and (c) pay for costs of issuance of the Bonds.

SECURITY: Prior to August 1, 2019 (the "2009 Bonds Crossover Date"), the Bonds allocable to the 2009 Bonds will be secured by and payable solely from a portion of the proceeds of the Bonds deposited in an escrow account established therefor. From and after the 2009 Bonds Crossover Date, the portion of the Bonds allocable to the 2009 Bonds will be general obligations of the District and the Alameda County Board of Supervisors has the power and will be obligated to levy *ad valorem* taxes for the payment of the Bonds allocable to the 2009 Bonds and the interest thereon without limitation as to rate or amount upon all property within the District subject to taxation (except for certain classes of personal property).

Prior to August 1, 2020 (the "2011 Bonds Crossover Date"), the Bonds allocable to the 2011 Bonds will be secured by and payable solely from a portion of the proceeds of the Bonds deposited in an escrow account established therefor. From and after the 2011 Bonds Crossover Date, the portion of the Bonds allocable to the 2011 Bonds will be general obligations of the District and the Alameda County Board of Supervisors has the power and will be obligated to levy *ad valorem* taxes for the payment of the Bonds

allocable to the 2011 Bonds and the interest thereon without limitation as to rate or amount upon all property within the District subject to taxation (except for certain classes of personal property).

RATING: S&P Global Ratings, a Standard & Poor's Financial Services LLC business, have assigned the rating of "___" to the Bonds. **The cost of obtaining such rating will be borne entirely by the District and not by the successful bidder.**

TERMS OF SALE

INTEREST RATE: No rate of interest may be bid which exceeds 8% per annum. Each rate bid must be a multiple of one-twentieth of one percent (1/20%) or one-eighth of one percent (1/8%). No Bond shall bear more than one interest rate, and all Bonds of the same maturity shall bear the same rate. Each Bond must bear interest at the rate specified in the bid from its date to its fixed maturity date. The rate on any maturity or group of maturities shall not be more than 4% higher than the interest rate on any other maturity or group of maturities.

FORM OF BID: All bids must be for not less than all of the Bonds hereby offered for sale and for not less than the aggregate par amount thereof.

To the extent any instructions or directions set forth in BiDCOMP/PARITY® conflict with this Official Notice of Sale, the terms of this Official Notice of Sale shall control. For further information about BiDCOMP/PARITY®, bidders may contact KNN Public Finance, LLC (the "Financial Advisor"), at (510) 208-8202 or BiDCOMP/PARITY® at (212) 404-8102.

THE DISTRICT RETAINS ABSOLUTE DISCRETION TO DETERMINE WHETHER ANY BID IS TIMELY AND COMPLETE. NONE OF THE DISTRICT, THE FINANCIAL ADVISOR, OR QUINT & THIMMIG LLP ("BOND COUNSEL") TAKES ANY RESPONSIBILITY FOR INFORMING ANY BIDDER PRIOR TO THE TIME FOR RECEIVING BIDS THAT ITS BID IS INCOMPLETE OR NOT RECEIVED.

EACH BIDDER SUBMITTING AN ELECTRONIC BID UNDERSTANDS AND AGREES BY DOING SO THAT IT IS SOLELY RESPONSIBLE FOR ALL ARRANGEMENTS WITH BiDCOMP/PARITY® AND THAT BiDCOMP/PARITY® IS NOT ACTING AS AN AGENT OF THE DISTRICT. INSTRUCTIONS AND FORMS FOR SUBMITTING ELECTRONIC BIDS MUST BE OBTAINED FROM BiDCOMP/PARITY® AND THE DISTRICT ASSUMES NO RESPONSIBILITY FOR ENSURING OR VERIFYING BIDDER COMPLIANCE WITH THE PROCEDURES OF BiDCOMP/PARITY®. THE DISTRICT SHALL ASSUME THAT ANY BID RECEIVED THROUGH BiDCOMP/PARITY® HAS BEEN MADE BY A DULY AUTHORIZED AGENT OF THE BIDDER.

THE DISTRICT WILL MAKE ITS BEST EFFORTS TO ACCOMMODATE ELECTRONIC BIDS; HOWEVER THE DISTRICT, THE FINANCIAL ADVISOR AND BOND COUNSEL ASSUME NO RESPONSIBILITY FOR ANY ERROR CONTAINED IN ANY BID SUBMITTED ELECTRONICALLY, OR FOR FAILURE OF ANY BID TO BE TRANSMITTED, RECEIVED OR ACCEPTED AT THE OFFICIAL TIME FOR RECEIPT OF BIDS. THE OFFICIAL TIME FOR RECEIPT OF BIDS WILL BE DETERMINED BY THE DISTRICT AND THE DISTRICT SHALL NOT BE REQUIRED TO ACCEPT THE TIME KEPT BY BiDCOMP/PARITY® AS THE OFFICIAL TIME.

BEST BID: The Bonds will be awarded to the responsible bidder or bidders offering to purchase the Bonds at the *lowest true interest cost* to the District. The true interest cost of each bid will be determined on the basis of the present value of the aggregate future semiannual payments resulting from the interest rates specified by the bidder. The present value will be calculated to the dated date of the Bonds (assumed to be March 30, 2017) and will be based on the proposed bid amount (par value less any discount or plus any premium). For the purpose of making such determination, it shall be assumed that any Bond designated as term bonds by the bidder shall be deemed to be payable on the dates and in the amounts as shown under the section entitled "MATURITIES" herein. Each bidder is requested, but not required, to state in his bid the percentage true interest cost to the District, which shall be considered as informative only and shall not be binding on either the bidder or the District. The determination of the best bid by the District's financial advisor shall be binding and conclusive on all bidders.

RIGHT OF CANCELLATION OF SALE BY DISTRICT: The District reserves the right, in its sole discretion, at any time to cancel the public sale of the Bonds. In such event, the District shall cause notice of cancellation of this invitation for bids and the public sale of the Bonds to be communicated through PARITY® as promptly as practicable. However, no failure to publish such notice or any defect or omission therein shall affect the cancellation of the public sale of the Bonds.

RIGHT TO MODIFY OR AMEND: The District reserves the right, in its sole discretion, to modify or amend this official Notice of Sale including, but not limited to, the right to adjust and change the principal amount and principal amortization schedule of the Bonds being offered, at any time prior to the date and time for the receipt of bids, communicated through PARITY®.

RIGHT OF POSTPONEMENT BY DISTRICT: The District reserves the right, in its sole discretion, to postpone, from time to time, the date established for the receipt of bids. Any such postponement will be communicated through the PARITY® prior to the date and time for the receipt of bids. If any date is postponed, any alternative sale date will be announced through PARITY® at least 24 hours prior to such alternative sale date. On any such alternative sale date, any bidder may submit a bid for the purchase of the Bonds in conformity in all respects with the provisions of this Official Notice of Sale, except for the date of sale and except for the changes announced by through PARITY® at the time the sale date and time are announced.

RIGHT OF REJECTION: The District reserves the right, in its sole discretion, to reject any and all bids and to waive any irregularity or informality in any bid except that no bids will be accepted later than 10:00 A.M. on the date set for receipt of bids.

PROMPT AWARD: Pursuant to authority granted by the Board of Education of the District (the "Board"), the Superintendent, or the Superintendent's designee, will take action awarding the Bonds or rejecting all bids not later than twenty-six (26) hours after the expiration of the time herein prescribed for the receipt of proposals; provided, that the award may be made after the expiration of the specified time if the bidder shall not have given to said Board notice in writing of the withdrawal of such proposal.

PLACE OF DELIVERY; CANCELLATION FOR LATE DELIVERY: It is expected that said Bonds will be delivered to DTC for the account of the successful bidder within forty-five (45) days from the date of sale thereof. The successful bidder shall have the right, at his option, to cancel its obligation to purchase the Bonds if the Bonds are not tendered for delivery within sixty (60) days from the date of the sale thereof, and in such event the successful bidder shall be entitled to the return of the deposit accompanying his bid.

GOOD FAITH DEPOSIT: A good faith deposit ("Deposit") in the form of a certified or cashier's check or a wire transfer, in the amount of \$100,000, payable to the order of U.S. Bank National Association, as paying agent, must be remitted by the winning bidder within 48 hours after the acceptance of its bid. The Deposit shall be cashed by the Paying Agent on behalf of the District and shall then be applied toward the purchase price of the Bonds. If after the award of the Bonds the successful bidder or bidders fail to complete their purchase on the terms stated in their bid, the Deposit will be retained by the District. No interest on the Deposit will accrue to any bidder.

CHANGE IN TAX EXEMPT STATUS: At any time before the Bonds are tendered for delivery, the successful bidder may disaffirm and withdraw his proposal if the interest received by private holders from Bonds of the same type and character shall be declared to be taxable income under present federal income tax laws, either by a ruling of the Internal Revenue Service or by a decision of any federal court, or shall be declared taxable, or be required to be taken into account in computing federal income taxes (except alternative minimum taxes and environmental taxes payable by corporations) by any federal income tax law enacted subsequent to the date of this notice.

CLOSING PAPERS; BOND PRINTING: Each proposal will be understood to be conditioned upon the District furnishing to the purchaser, without charge, concurrently with payment for and delivery of the Bonds, the following closing papers, each dated the date of delivery:

(a) The opinion of Quint & Thimmig LLP, Larkspur, California, Bond Counsel, approving the validity of the Bonds and stating that, subject to the District's compliance with certain covenants, interest on the Bonds is excludable from gross income of the owners thereof for federal income tax purposes and is not included as an item of tax preference in computing the alternative minimum tax for individuals and corporations under the Internal Revenue Code of 1986, as amended, but is taken into account in computing an adjustment used in determining the federal alternative minimum tax for certain corporations and interest on the Bonds is exempt from personal income taxes of the State of California. Other tax consequences to holders of the Bonds, if any, are not addressed in the opinion;

(b) A certificate of the District certifying that on the basis of the facts, estimates and circumstances in existence on the date of issue, it is not expected that the proceeds of the Bonds will be used in a manner that would cause the Bonds to be arbitrage bonds;

(c) A certificate of the District, signed by officers and representatives of the District, certifying that the officers and representatives have signed the Bonds whether by facsimile or manual signature, and that they were respectively duly authorized to execute the same;

(d) The receipt of the District evidencing the receipt of the purchase price of the Bonds;

(e) A certificate of the District, certifying that there is no known litigation threatened or pending affecting the validity of the Bonds; and

(f) A certificate of the District, signed by an officer of the District, acting in his official capacity, to the effect that the Official Statement relating to the Bonds did not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading and further certifying that the signatory knows of no material adverse change in the condition of the District which would make it unreasonable for the purchaser of the Bonds to rely upon the Official Statement in connection with the resale of the Bonds.

CUSIP NUMBERS: It is anticipated that CUSIP numbers will be printed on the Bonds, but neither the failure to print such numbers on any Bond nor error with respect thereto shall constitute cause for a failure or refusal by the purchaser thereof to accept delivery of and pay for the Bonds in accordance with the terms of the purchase contract. All expenses of printing CUSIP numbers on the Bonds and the CUSIP Service Bureau charge for the assignment of said numbers shall be paid by the successful bidder.

CERTIFICATION OF REOFFERING PRICE: The successful bidder shall be required, as a condition to the issuance of the Bonds, to deliver to the District a certificate, in form and substance satisfactory to Bond Counsel, stating (i) that, as of the date of award, the Bonds were expected to be reoffered in a bona fide public offering, (ii) the initial offering price at which a substantial amount (at least 10%) of each maturity of the Bonds were sold to the public, and (iii) that no Bonds of a single maturity were offered at one price to the general public and at a discount from that price to institutional or other investors.

CALIFORNIA DEBT AND INVESTMENT ADVISORY COMMISSION: The successful bidder will be required, pursuant to State law, to pay any fees to the California Debt and Investment Advisory Commission when due.

DTC FEES: All fees due DTC with respect to the Bonds shall be paid by the successful bidder or bidders.

OFFICIAL STATEMENT: The District has caused to be prepared a Preliminary Official Statement describing the Bonds in a form deemed final by the District within the meaning of Rule 15c2-12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended, except for certain information which is permitted under said Rule 15c2-12 to be omitted from the Preliminary Official Statement. A copy of the Preliminary Official Statement will be furnished upon request to KNN Public Finance, LLC, 1300 Clay Street, Suite 1000, Oakland, CA 94612, telephone (510) 208-8202. The District plans to prepare and close only with a PDF version of the final Official Statement

but will furnish to the successful bidder, upon request, within seven business days following the date of award, at no charge, not in excess of 25 copies of the Official Statement for use in connection with any resale of the Bonds.

CONTINUING DISCLOSURE: In order to assist bidders in complying with S.E.C. Rule 15c2-12(b)(5), the District will undertake, pursuant to the resolution authorizing issuance of the Bonds and a Continuing Disclosure Certificate, to provide annual reports and notices of certain events. A description of this undertaking is set forth in the preliminary Official Statement and will also be set forth in the final Official Statement.

EXHIBIT D TO RESOLUTION
FORM OF PAYING AGENT AGREEMENT

\$ _____
BERKELEY UNIFIED SCHOOL DISTRICT
(Alameda County, California)
2017 General Obligation Refunding Bonds

PAYING AGENT/BOND REGISTRAR/COSTS OF ISSUANCE AGREEMENT

THIS PAYING AGENT/BOND REGISTRAR/COSTS OF ISSUANCE AGREEMENT (this "Agreement"), is entered into as of March 30, 2017, by and between the BERKELEY UNIFIED SCHOOL DISTRICT (the "District") and U.S. BANK NATIONAL ASSOCIATION (the "Bank"), relating to the \$ _____ Berkeley Unified School District (Alameda County, California) 2017 General Obligation Refunding Bonds (the "Bonds"). The District hereby appoints the Bank to act as Paying Agent, Transfer Agent and Bond Registrar for the Bonds and as Custodian and Disbursing Agent for the payment of costs of issuance relating to the Bonds.

RECITALS

WHEREAS, the District has duly authorized and provided for the issuance of the Bonds as fully registered bonds without coupons;

WHEREAS, the District will ensure all things necessary to make the Bonds the valid obligations of the District, in accordance with their terms, will be done upon the issuance and delivery thereof;

WHEREAS, the District and the Bank wish to provide the terms under which the Bank will act as Paying Agent to pay the principal, redemption premium (if any) and interest on the Bonds, in accordance with the terms thereof, and under which the Bank will act as Bond Registrar for the Bonds;

WHEREAS, the District and the Bank also wish to provide the terms under which the Bank will act as Custodian and Disbursing Agent for the payment of costs of issuance relating to the Bonds;

WHEREAS, the Bank has agreed to serve in such capacities for and on behalf of the District and has full power and authority to perform and serve as Paying Agent, Transfer Agent and Bond Registrar for the Bonds and as Custodian and Disbursing Agent for the payment of costs of issuance relating to the Bonds; and

WHEREAS, the District has duly authorized the execution and delivery of this Agreement; and all things necessary to make this Agreement a valid agreement have been done.

NOW, THEREFORE, it is mutually agreed as follows:

ARTICLE ONE

DEFINITIONS

Section 1.01. Definitions.

For all purposes of this Agreement except as otherwise expressly provided or unless the context otherwise requires:

"Bank" means U.S. Bank National Association, a national banking association organized and existing under the laws of the United States of America.

"Bond Register" means the book or books of registration kept by the Bank in which are maintained the names and addresses and principal amounts registered to each Registered Owner.

"Bond Registrar" means the Bank when it is performing the function of registrar for the Bonds.

"Bond Resolution" means the resolution of the District pursuant to which the Bonds were issued.

"Bond" or *"Bonds"* means any one or all of the \$_____ Berkeley Unified School District (Alameda County, California) 2017 General Obligation Refunding Bonds.

"Custodian and Disbursing Agent" means the Bank when it is performing the function of custodian and disbursing agent for the payment of costs of issuance relating to the Bonds.

"District" means Berkeley Unified School District.

"District Request" means a written request signed in the name of the District and delivered to the Bank.

"Fiscal Year" means the fiscal year of the District ending on June 30 of each year.

"Paying Agent" means the Bank when it is performing the function of paying agent for the Bonds.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government or any entity whatsoever.

"Purchaser" means _____.

"Registered Owner" means a Person in whose name a Bond is registered in the Bond Register.

"Stated Maturity" when used with respect to any Bond means the date specified in the Bond Resolution as the date on which the principal of such Bond is due and payable.

"Transfer Agent" means the Bank when it is performing the function of transfer agent for the Bonds.

ARTICLE TWO

APPOINTMENT OF BANK AS PAYING AGENT, TRANSFER AGENT, BOND REGISTRAR AND CUSTODIAN AND DISBURSING AGENT

Section 2.01. Appointment and Acceptance. The District hereby appoints the Bank to act as Paying Agent and Transfer Agent with respect to the Bonds, to pay to the Registered Owners in accordance with the terms and provisions of this Agreement and the Bond Resolution, the principal of, redemption premium (if any), and interest on all or any of the Bonds.

The District hereby appoints the Bank as Bond Registrar with respect to the Bonds. As Bond Registrar, the Bank shall keep and maintain for and on behalf of the District, books and records as to the ownership of the Bonds and with respect to the transfer and exchange thereof as provided herein and in the Bond Resolution.

The District hereby appoints the Bank as Custodian and Disbursing Agent.

The Bank hereby accepts its appointment, and agrees to act as Paying Agent, Transfer Agent, Bond Registrar and Custodian and Disbursing Agent.

Section 2.02. Compensation. As compensation for the Bank's services as Paying Agent and Bond Registrar, the District hereby agrees to pay the Bank the fees and amounts set forth in a separate agreement between the District and the Bank.

In addition, the District agrees to reimburse the Bank, upon its request, for all reasonable and necessary out-of-pocket expenses, disbursements, and advances, including without limitation the reasonable fees, expenses, and disbursements of its agents and attorneys, made or incurred by the Bank in connection with entering into and performing under this Agreement and in connection with investigating and defending itself against any claim or liability in connection with its performance hereunder.

ARTICLE THREE

PAYING AGENT

Section 3.01. Duties of Paying Agent. As Paying Agent, the Bank, provided sufficient collected funds have been provided to it for such purpose by or on behalf of the District, shall pay on behalf of the District the principal of, and interest on each Bond in accordance with the provisions of the Bond Resolution.

Section 3.02. Payment Dates. The District hereby instructs the Bank to pay the principal of, redemption premium (if any) and interest on the Bonds on the dates specified in the the debt service schedule attached hereto as Exhibit A.

ARTICLE FOUR

BOND REGISTRAR

Section 4.01. Initial Delivery of Bonds. The Bonds will be initially registered and delivered to the purchaser designated by the District as one Bond for each maturity. If such purchaser delivers a written request to the Bank not later than five business days prior to the date of initial delivery, the Bank will, on the date of initial delivery, deliver Bonds of authorized denominations, registered in accordance with the instructions in such written request.

Section 4.02. Duties of Bond Registrar. The Bank shall provide for the proper registration of transfer, exchange and replacement of the Bonds. Every Bond surrendered for transfer or exchange shall

be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an eligible guarantor institution, in form acceptable to the Bank, duly executed by the Registered Owner thereof or his attorney duly authorized in writing. The Bond Registrar may request any supporting documentation it deems necessary or appropriate to effect a re-registration.

Section 4.03. Unauthenticated Bonds. The District shall provide to the Bank on a continuing basis, an adequate inventory of unauthenticated Bonds to facilitate transfers. The Bank agrees that it will maintain such unauthenticated Bonds in safekeeping.

Section 4.04. Form of Bond Register. The Bank as Bond Registrar will maintain its records as Bond Registrar in accordance with the Bank's general practices and procedures in effect from time to time.

Section 4.05. Reports. The District may request the information in the Bond Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing and to convert the information into written form.

The Bank will not release or disclose the content of the Bond Register to any person other than to the District at its written request, except upon receipt of a subpoena or court order or as may otherwise be required by law. Upon receipt of a subpoena or court order the Bank will notify the District.

Section 4.06. Cancelled Bonds. All Bonds surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Bank, shall be promptly cancelled by it and, if surrendered to the District, shall be delivered to the Bank and, if not already cancelled, shall be promptly cancelled by the Bank. The District may at any time deliver to the Bank for cancellation any Bonds previously authenticated and delivered which the District may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the Bank. All cancelled Bonds held by the Bank for its retention period then in effect and shall thereafter be destroyed and evidence of such destruction furnished to the District upon its written request.

ARTICLE FIVE

CUSTODIAN AND DISBURSING AGENT

Section 5.01. Receipt of Moneys.

(a) On March 8, 2017, the date of sale of the Bonds (the "Sale Date"), the Paying Agent, in its capacity as custodian, received the sum of \$100,000.00 from the Underwriter, representing the good faith deposit paid by the Underwriter, and deposited such amount in a good faith account (the "Good Faith Account"), established pursuant to that certain Good Faith Deposit Custody Agreement, dated the Sale Date, by and between the District and the Paying Agent as custodian. The Paying Agent, as custodian, is hereby directed to deposit such amount to a special fund to be held and maintained by the Custodian and Disbursing Agent in the name of the District (the "Costs of Issuance Account") for the payment of Costs of Issuance.

(b) In addition, on the date hereof, the Paying Agent, in its capacity as custodian, has received from the Underwriter, the sum of \$_____. Of such amount, the Paying Agent, in its capacity as custodian, is hereby directed to (i) transfer \$_____ to U.S. Bank National Association, as escrow bank (the "Escrow Bank"), to be applied, initially, to the payment of interest on a portion of the Bonds and subsequently to the redemption the District's outstanding Berkeley Unified School District (Alameda County, California) 2009 General Obligation Bonds maturing on and after August 1, 2020, (ii) transfer \$_____ to the Escrow Bank to be applied, initially, to the payment of interest on a portion of the Bonds and subsequently to the redemption the District's outstanding Berkeley Unified School District (Alameda County, California) General Obligation Bonds, Election of 2010, Series B (2011), and (iii) transfer \$_____ to the Costs of Issuance Account.

Section 5.02. Investment. The Custodian and Disbursing Agent will hold funds in the Costs of Issuance Account until June 30, 2017, or such earlier date upon prior written order of the District. The Custodian and Disbursing Agent shall have no obligation to invest and reinvest any cash held by it hereunder in the absence of timely and specific written investment direction from the District. In no event shall the Custodian and Disbursing Agent be liable for the selection of investments or for investment losses incurred thereon.

Section 5.03. Payment of Costs of Issuance. The Custodian and Disbursing Agent will pay costs of issuance of the Bonds as directed by the District from time to time via a written requisition of the District.

Section 5.04. Transfer of Remaining Amounts. Any balances remaining in the Costs of Issuance Account (including any earnings) on June 30, 2017, will be transferred to The Alameda County Treasurer-Tax Collector for deposit in the Interest and Sinking Fund maintained for the District.

Section 5.05. Limited Liability. The liability of the Custodian and Disbursing Agent as custodian and disbursing agent is limited to the duties listed above. The Custodian and Disbursing Agent will not be liable for any action taken or neglected to be taken by it in good faith in any exercise of reasonable care and believed by it to be within the discretion of power conferred upon it by this Agreement.

ARTICLE SIX

THE BANK

Section 6.01. Duties of Bank. The Bank undertakes to perform the duties set forth herein. No implied duties or obligations shall be read into this Agreement against the Bank. The Bank hereby agrees to use the funds deposited with it for payment of the principal of and interest on the Bonds to pay the same as it shall become due and further agrees to establish and maintain such accounts and funds as may be required for the Bank to function as Paying Agent.

Section 6.02. Reliance on Documents, Etc.

(a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions expressed therein, on certificates or opinions furnished to the Bank by the District.

(b) The Bank shall not be liable for any error of judgment made in good faith. The Bank shall not be liable for other than its negligence or willful misconduct in connection with any act or omission hereunder.

(c) No provision of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(d) The Bank may rely, or be protected in acting or refraining from acting, upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Bank need not examine the ownership of any Bond, but shall be protected in acting upon receipt of Bonds containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Registered Owner or agent of the Registered Owner.

(e) The Bank may consult with counsel, and the written advice or opinion of counsel shall be full authorization and protection with respect to any action taken, suffered or omitted by it hereunder in good faith and reliance thereon.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys and shall not be liable for the actions of such agent or attorney if appointed by it with reasonable care.

(g) The Paying Agent shall not be responsible or liable for any failure or delay in the performance of its obligation under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; wars; terrorism; military disturbances; sabotage; epidemic; riots; interruptions; loss or malfunctions of utilities; computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that Paying Agent shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

(h) The Paying Agent agrees to accept and act upon instructions or directions pursuant to this Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the District shall provide to the Paying Agent an incumbency certificate listing designated persons authorized to provide such instructions, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the District elects to give the Paying Agent e-mail or facsimile instructions (or instructions by a similar electronic method) and the Paying Agent in its discretion elects to act upon such instructions, the Paying Agent's understanding of such instructions shall be deemed controlling. The Paying Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Paying Agent's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The District agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Paying Agent, including without limitation the risk of the Paying Agent acting on unauthorized instructions, and the risk or interception and misuse by third parties.

Section 6.03. Recitals of District. The recitals contained in the Bond Resolution and the Bonds shall be taken as the statements of the District, and the Bank assumes no responsibility for their correctness.

Section 6.04. May Own Bonds. The Bank, in its individual or any other capacity, may become the owner or pledgee of Bonds with the same rights it would have if it were not the Paying Agent and Bond Registrar for the Bonds.

Section 6.05. Money Held by Bank. Money held by the Bank hereunder need not be segregated from other funds. The Bank shall have no duties with respect to investment of funds deposited with it and shall be under no obligation to pay interest on any money received by it hereunder.

Any money deposited with or otherwise held by the Bank for the payment of the principal, redemption premium (if any) or interest on any Bond and remaining unclaimed for two years after such deposit will be paid by the Bank to the District, and the District and the Bank agree that the Registered Owner of such Bond shall thereafter look only to the District for payment thereof, and that all liability of the Bank with respect to such moneys shall thereupon cease.

Section 6.06. Other Transactions. The Bank may engage in or be interested in any financial or other transaction with the District.

Section 6.07. Interpleader. The District and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in a court of competent jurisdiction. The District and the Bank further agree that the Bank has the right to file an action in interpleader in any court of competent jurisdiction to determine the rights of any person claiming any interest herein.

Section 6.08. Indemnification. To the extent permitted by law, the District shall indemnify the Bank, its officers, directors, employees and agents ("Indemnified Parties") for, and hold them harmless against any loss, cost, claim, liability or expense arising out of or in connection with the Bank's acceptance

or administration of the Bank's duties hereunder or under the Bond Resolution (except any loss, liability or expense as may be adjudged by a court of competent jurisdiction to be attributable to the Bank's negligence or willful misconduct), including the cost and expense (including its counsel fees) of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement. Such indemnity shall survive the termination or discharge of this Agreement or discharge of the Bonds.

ARTICLE SEVEN

MISCELLANEOUS PROVISIONS

Section 7.01. Amendment. This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

Section 7.02. Assignment. This Agreement may not be assigned by either party without the prior written consent of the other party.

Section 7.03. Notices. Any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted hereby to be given or furnished to the District or the Bank shall be mailed or delivered to the District or the Bank, respectively, at the address shown herein, or such other address as may have been given by one party to the other by fifteen (15) days written notice.

Section 7.04. Effect of Headings. The Article and Section headings herein are for convenience of reference only and shall not affect the construction hereof.

Section 7.05. Successors and Assigns. All covenants and agreements herein by the District and the Bank shall bind their successors and assigns, whether so expressed or not.

Section 7.06. Severability. If any provision of this Agreement shall be determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

Section 7.07. Benefits of Agreement. Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy or claim hereunder.

Section 7.08. Entire Agreement. This Agreement and the Bond Resolution constitute the entire agreement between the parties hereto relative to the Bank acting as Paying Agent, Transfer Agent and Bond Registrar for the Bonds and as Custodian and Disbursing Agent for the payment of costs of issuance relating to the Bonds.

Section 7.09. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

Section 7.10. Term and Termination. This Agreement shall be effective from and after its date and until the Bank resigns or is removed in accordance with the Bond Resolution; provided, however, that no such termination shall be effective until a successor has been appointed and has accepted the duties of the Bank hereunder.

The Bank may resign at any time by giving written notice thereof to the District and the Registered Owners of the Bonds. If the Bank shall resign, be removed or become incapable of acting, the District shall promptly appoint a successor Paying Agent and Bond Registrar. If an instrument of acceptance by a successor Paying Agent and Bond Registrar shall not have been delivered to the Bank within thirty 30 days after the Bank gives notice of resignation, the Bank may petition any court of competent jurisdiction at the expense of the District for the appointment of a successor Paying Agent and Bond Registrar. In the event of resignation or removal of the Bank as Paying Agent and Bond Registrar, upon the written request of the District and upon payment of all amounts owing to the Bank hereunder

the Bank shall deliver to the District or its designee all funds and unauthenticated Bonds, and a copy of the Bond Register. The provisions of Section 2.02 and Section 6.08 hereof shall survive and remain in full force and effect following the termination of this Agreement.

Section 7.11. Governing Law. This Agreement shall be construed in accordance with and shall be governed by the laws of the State of California.

Section 7.12. Documents to be Filed with Bank. At the time of the Bank's appointment as Paying Agent and Bond Registrar, the District shall file with the Bank the following documents: (a) a certified copy of the Bond Resolution and a specimen Bond; (b) a copy of the opinion of bond counsel provided to the District in connection with the issuance of the Bonds; and (c) a District Request containing written instructions to the Bank with respect to the issuance and delivery of the Bonds, including the name of the Registered Owners and the denominations of the Bonds.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

BERKELEY UNIFIED SCHOOL DISTRICT

By _____
Javetta Cleveland
Deputy Superintendent,
Business Services

U.S. BANK NATIONAL ASSOCIATION, as
Paying Agent

By _____
Authorized Officer

EXHIBIT A TO PAYING AGENT AGREEMENT

DEBT SERVICE SCHEDULE

Interest Payment Date`	Principal	Interest	Period Total	Annual Total
08/01/2017				
02/01/2017				
08/01/2017				
02/01/2018				
08/01/2018				
02/01/2019				
08/01/2019				
02/01/2020				
08/01/2020				
02/01/2021				
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08/01/2031				
02/01/2032				
08/01/2032				
02/01/2033				
08/01/2033				
02/01/2034				
08/01/2034				
02/01/2035				
08/01/2035				
TOTAL	=====	=====	=====	=====

EXHIBIT E TO RESOLUTION
FORM OF 2009 ESCROW AGREEMENT

ESCROW AGREEMENT

This Escrow Agreement (this "Escrow Agreement"), dated March 30, 2017, is by and between the BERKELEY UNIFIED SCHOOL DISTRICT, a school district duly created and existing pursuant to the laws of the State of California (the "District"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as escrow agent (the "Escrow Bank").

WITNESSETH:

WHEREAS, the District has heretofore issued, on June 16, 2009, its Berkeley Unified School District (Alameda County, California) 2009 General Obligation Bonds (the "2009 Bonds"), in the original principal amount of \$17,774,222, for the purpose of financing the acquisition or improvement of property for school purposes, of which \$16,655,000 principal amount remains outstanding;

WHEREAS, the 2009 Bonds were issued under and pursuant to a resolution of the Board of Education of the District, adopted on April 29, 2009 (the "2009 Bond Resolution");

WHEREAS, pursuant to Article 9 of Chapter 3 (commencing with section 53550) of Division 2 of Title 5 of the California Government Code (the "Act"), the District is empowered to issue general obligation refunding bonds;

WHEREAS, the District has determined that it is in the best interests of the District to provide for the redemption of the 2009 Bonds maturing on and after August 1, 2017, in the principal amount of \$14,585,000 (the "Refunded 2009 Bonds"), and it is desirable to enter into this Escrow Agreement to do so;

WHEREAS, the Board, by resolution adopted on February 22, 2017 (the "Refunding Bond Resolution"), has authorized the issuance and sale of the District's \$_____ 2017 General Obligation Refunding Bonds (the "2017 Refunding Bonds"), and has determined to use a portion of the proceeds of the 2017 Refunding Bonds to provide for the payment of interest on the 2017 Refunding Bonds allocable to the Refunded 2009 Bonds to and including August 1, 2019, and for the redemption of the Refunded 2009 Bonds in full on August 1, 2019 (the "Redemption Date"), at a redemption price equal to 100% of the principal amount thereof (the "Redemption Price");

WHEREAS, the District, in the Refunding Bond Resolution, has directed that a portion of the proceeds of the sale of the 2017 Refunding Bonds be deposited hereunder, and that such amount will be in an amount sufficient to provide for the payment of interest on the 2017 Refunding Bonds allocable to the Refunded 2009 Bonds to and including August 1, 2019, and for the redemption of the Refunded 2009 Bonds in full on the Redemption Date at the Redemption Price;

WHEREAS, the Escrow Bank has full powers to perform the duties and obligations to be undertaken by it pursuant to this Escrow Agreement; and

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants herein set forth, the parties hereto do hereby agree as follows:

Section 1. Escrow Fund.

(a) There is hereby established a special fund, to be held by the Escrow Bank for the benefit of the owners of the 2017 Refunding Bonds and the Refunded 2009 Bonds, to be known as the "Escrow Fund."

Upon the issuance of the 2017 Refunding Bonds, there shall be deposited into the Escrow Fund an amount equal to \$_____, derived from the proceeds of the 2017 Refunding Bonds.

(b) The Escrow Bank shall invest \$_____ of the moneys deposited into the Escrow Fund pursuant to the preceding paragraph in the securities set forth in Exhibit A attached hereto and by this reference incorporated herein (the "Escrowed Federal Securities") and shall hold the remaining \$_____ in cash, uninvested. The Escrowed Federal Securities and such cash shall be deposited with and held by the Escrow Bank in the Escrow Fund solely for the uses and purposes set forth herein.

If the Escrow Bank learns that the Department of the Treasury or the Bureau of Public Debt will not, for any reason, accept a SLGS subscription, the Escrow Bank shall promptly request alternative written investment instructions from the District with respect to escrowed funds which were to be invested in the Escrowed Federal Securities. The Escrow Bank shall follow such instructions and, upon the maturity of any such alternative investment, the Escrow Bank shall hold funds uninvested and without liability for interest until receipt of further written instructions from the District. In the absence of investment instructions from the District the Escrow Bank shall not be responsible for the investment of such funds or interest thereon. The Escrow Bank may conclusively rely upon the District selection of an alternative investment as a determination of the alternative investment's legality and suitability and shall not be liable for any losses related to the alternative investments or for compliance with any yield restriction applicable thereto.

(c) The Escrow Bank may rely upon the conclusion of Causey Demgen & Moore P.C., as contained in its opinion and accompanying schedules (the "Report") dated March 30, 2017, that the Escrowed Federal Securities mature and bear interest payable in such amounts and at such times as, together with cash on deposit in the Escrow Fund, will be sufficient to provide for the payment of interest on the 2017 Refunding Bonds allocable to the Refunded 2009 Bonds to and including August 1, 2019, and for the redemption of the Refunded 2009 Bonds in full on the Redemption Date at the Redemption Price.

(d) The Escrow Bank shall not be liable or responsible for any loss resulting from its full compliance with the provisions of this Escrow Agreement.

(e) Any money left on deposit in the Escrow Fund after payment in full of the Refunded 2009 Bonds, and the payment of all amounts due to the Escrow Bank hereunder, shall be paid to the District.

Section 2. Instructions as to Application of Deposit.

(a) The moneys deposited in the Escrow Fund pursuant to Section 1 shall be applied by the Escrow Bank for the sole purpose of paying the interest on the 2017 Refunding Bonds allocable to the Refunded 2009 Bonds to and including August 1, 2019, and to redeem the Refunded 2009 Bonds in full on the Redemption Date at the Redemption Price, all as set forth in Exhibit B attached hereto and by this reference incorporated herein.

(c) The Escrow Bank, in its capacity as paying agent for the 2009 Bonds is hereby requested, and the Escrow Bank, as paying agent for the 2009 Bonds, hereby agrees to give timely notice of the redemption of the Refunded 2009 Bonds on the Redemption Date in accordance with the applicable provisions of the Refunded 2009 Bond Resolution and the form of redemption notice attached hereto as Exhibit C.

Section 3. Investment of Any Remaining Moneys. The Escrow Bank shall invest and reinvest the proceeds received from any of the Escrowed Federal Securities, and the cash originally deposited into the Escrow Fund, for a period ending not later than the next succeeding interest payment date relating to the Refunded 2009 Bonds, in Federal Securities pursuant to written directions of the District; *provided, however,* that (a) such written directions of the District shall be accompanied by (i) a certification of an independent certified public accountant or firm of certified public accountants of favorable national reputation experienced in the refunding of obligations of political subdivisions that the Federal Securities then to be so deposited in the Escrow Fund, together with the cash then on deposit in the Escrow Fund, together with the interest to be derived therefrom, shall be in an amount at all times at least sufficient to make the payments specified in Section 2 hereof, and (ii) an opinion of nationally recognized bond

counsel ("Bond Counsel") that investment in accordance with such directions will not affect, for Federal income tax purposes, the exclusion from gross income of interest due with respect to the Refunded 2009 Bonds, and (b) if the District directs such investment or reinvestment to be made in United States Treasury Securities-State and Local Government Series, the District shall, at its cost, cause to be prepared all necessary subscription forms therefor in sufficient time to enable the Escrow Bank to acquire such securities. In the event that the District shall fail to file any such written directions with the Escrow Bank concerning the reinvestment of any such proceeds, such proceeds shall be held uninvested by the Escrow Bank. Any interest income resulting from investment or reinvestment of moneys pursuant to this Section 3 and not required for the purposes set forth in Section 1, as indicated by such verification, shall, promptly upon the receipt of such interest income by the Escrow Bank, be paid to the District.

Section 4. Substitution or Withdrawal of Federal Securities. The District may, at any time, direct the Escrow Bank in writing to substitute Federal Securities for any or all of the Escrowed Federal Securities then deposited in the Escrow Fund, or to withdraw and transfer to the District any portion of the Federal Securities then deposited in the Escrow Fund, provided that any such direction and substitution or withdrawal shall be simultaneous and shall be accompanied by (a) a certification of an independent certified public accountant or firm of certified public accountants of favorable national reputation experienced in the refunding of obligations of political subdivisions that the Federal Securities then to be so deposited in the Escrow Fund together with interest to be derived therefrom, or in the case of withdrawal, the Federal Securities to be remaining in the Escrow Fund following such withdrawal together with the interest to be derived therefrom, together with the cash then on deposit in the Escrow Fund, shall be in an amount at all times at least sufficient to make the payments specified in Section 2 hereof; and (b) an opinion of Bond Counsel that the substitution or withdrawal will not affect, for Federal income tax purposes, the exclusion from gross income of interest on the Refunded 2009 Bonds. In the event that, following any such substitution of Federal Securities pursuant to this Section 4, there is an amount of moneys or Federal Securities in excess of an amount sufficient to make the payments required by Section 1 hereof, as indicated by such verification, such excess shall be paid to the District.

Section 5. Compensation to Escrow Bank. The District shall pay the Escrow Bank full compensation for its duties under this Escrow Agreement, including out-of-pocket costs such as publication costs, prepayment or redemption expenses, legal fees and other costs and expenses relating hereto. Under no circumstances shall amounts deposited in the Escrow Fund be deemed to be available for said purposes.

Section 6. Liabilities and Obligations of Escrow Bank. The Escrow Bank shall have no obligation to make any payment or disbursement of any type or incur any financial liability in the performance of its duties under this Escrow Agreement unless the District shall have deposited sufficient funds with the Escrow Bank. The Escrow Bank may rely and shall be protected in acting upon the written instructions of the District or its agents relating to any matter or action as Escrow Bank under this Escrow Agreement.

The Escrow Bank and its respective successors, assigns, agents and servants shall not be held to any personal liability whatsoever, in tort, contract, or otherwise, in connection with the execution and delivery of this Escrow Agreement, the establishment of the Escrow Fund, the acceptance of the moneys deposited therein, the sufficiency of the uninvested moneys held hereunder to accomplish the purposes set forth herein, or any payment, transfer or other application of moneys by the Escrow Bank in accordance with the provisions of this Escrow Agreement or by reason of any non-negligent act, non-negligent omission or non-negligent error of the Escrow Bank made in good faith in the conduct of its duties. The recitals of fact contained in the "whereas" clauses herein shall be taken as the statement of the District, and the Escrow Bank assumes no responsibility for the correctness thereof. The Escrow Bank makes no representations as to the sufficiency of the uninvested moneys to accomplish the purposes set forth herein or to the validity of this Escrow Agreement as to the District and, except as otherwise provided herein, the Escrow Bank shall incur no liability in respect thereof. The Escrow Bank shall not be liable in connection with the performance of its duties under this Escrow Agreement except for its own negligence, willful misconduct or default, and the duties and obligations of the Escrow Bank shall be determined by the express provisions of this Escrow Agreement. The Escrow Bank may consult with counsel, who may or may not be counsel to the District, and in reliance upon the written opinion of such counsel shall have full and complete authorization and protection in respect of any action taken, suffered or omitted by it in good faith in accordance therewith. Whenever the Escrow Bank shall deem it necessary

or desirable that a matter be proved or established prior to taking, suffering, or omitting any action under this Escrow Agreement, such matter (except the matters set forth herein as specifically requiring a certificate of a nationally recognized firm of independent certified public accountants or an opinion of counsel) may be deemed to be conclusively established by a written certification of the District. The Escrow Bank may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

Anything in this Escrow Agreement to the contrary notwithstanding, in no event shall the Escrow Bank be liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Escrow Bank has been advised of the likelihood of such loss or damage and regardless of the form of action.

The Escrow Bank agrees to accept and act upon instructions or directions pursuant to this Escrow Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Escrow Bank shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the District elects to give the Escrow Bank e-mail or facsimile instructions (or instructions by a similar electronic method) and the Escrow Bank in its discretion elects to act upon such instructions, the Escrow Bank's understanding of such instructions shall be deemed controlling. The Escrow Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Escrow Bank's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The District agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Escrow Bank, including without limitation the risk of the Escrow Bank acting on unauthorized instructions, and the risk of interception and misuse by third parties.

The District hereby assumes liability for, and hereby agrees (whether or not any of the transactions contemplated hereby are consummated), to the extent permitted by law, to indemnify, protect, save and hold harmless the Escrow Bank and its respective successors, assigns, agents, servants, employees, directors and officers from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including legal fees and disbursements) of whatsoever kind and nature which may be imposed on, incurred by, or asserted against, at any time, the Escrow Bank (whether or not also indemnified against by any other person under any other agreement or instrument) and in any way relating to or arising out of the execution and delivery of this Escrow Agreement, the establishment of the Escrow Fund, the retention of the moneys therein and any payment, transfer or other application of moneys by the Escrow Bank in accordance with the provisions of this Escrow Agreement, or as may arise by reason of any act, omission or error of the Escrow Bank made in good faith in the conduct of its duties; provided, however, that the District shall not be required to indemnify the Escrow Bank against its own negligence or misconduct. The indemnities contained in this Section 6 shall survive the termination of this Escrow Agreement or the resignation or removal of the Escrow Bank.

The District acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the District the right to receive brokerage confirmations of security transactions as they occur, the District specifically waives receipt of such confirmations to the extent permitted by law. The Escrow Bank will furnish the District monthly cash transaction statements which include detail for all investment transactions made by the Escrow Bank hereunder.

No provision of this Escrow Agreement shall require the Escrow Bank to expend or risk its own funds or otherwise incur any financial liability in the performance or exercise of any of its duties hereunder, or in the exercise of its rights or powers.

The Escrow Bank may execute any of the duties or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees appointed with due

care and shall not be responsible for any willful misconduct or negligence on the part of any agent, attorney, custodian or nominee so appointed.

The Escrow Bank may at any time resign by giving 30 days written notice of resignation to the District. Upon receiving such notice of resignation, the District shall promptly appoint a successor and, upon the acceptance by the successor of such appointment, release the resigning Escrow Bank from its obligations hereunder by written instrument, a copy of which instrument shall be delivered to each of the District, the resigning Escrow Bank and the successor. If no successor shall have been so appointed and have accepted appointment within 30 days after the giving of such notice of resignation, the resigning Escrow Bank may petition any court of competent jurisdiction for the appointment of a successor

Section 7. Amendment. This Escrow Agreement may be modified or amended at any time by a supplemental agreement which shall become effective when the written consents of the owners of one hundred percent (100%) in aggregate principal amount of the Refunded 2009 Bonds shall have been filed with the Escrow Bank. This Escrow Agreement may be modified or amended at any time by a supplemental agreement, without the consent of any such owners, but only (1) to add to the covenants and agreements of any party, other covenants to be observed, or to surrender any right or power herein or therein reserved to the District, (2) to cure, correct or supplement any ambiguous or defective provision contained herein, or (3) in regard to questions arising hereunder or thereunder, as the parties hereto or thereto may deem necessary or desirable and which, in the opinion of counsel, shall not materially adversely affect the interests of the owners of the Refunded 2009 Bonds or the 2017 Refunding Bonds, and that such amendment will not cause interest on the Refunded 2009 Bonds or the 2017 Refunding Bonds to become subject to federal income taxation. In connection with any contemplated amendment or revocation of this Escrow Agreement, prior written notice thereof and draft copies of the applicable legal documents shall be provided by the District to each rating agency then rating the 2009 Bonds.

Section 8. Severability. If any section, paragraph, sentence, clause or provision of this Escrow Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, sentence clause or provision shall not affect any of the remaining provisions of this Escrow Agreement. Notice of any such invalidity or unenforceability shall be provided to each rating agency then rating the 2009 Bonds.

Section 9. Notice of Escrow Bank and District. Any notice to or demand upon the Escrow Bank may be served and presented, and such demand may be made, at the principal corporate trust office of the Escrow Bank as specified by the Escrow Bank as paying agent for the 2009 Bonds in accordance with the provisions of the Refunded 2009 Bond Resolution. Any notice to or demand upon the District shall be deemed to have been sufficiently given or served for all purposes by being mailed by first class mail, and deposited, postage prepaid, in a post office letter box, addressed to such party as provided in the Refunded 2009 Bond Resolution (or such other address as may have been filed in writing by the District with the Escrow Bank).

Section 10. Merger or Consolidation of Escrow Bank. Any company into which the Escrow Bank may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Escrow Bank may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible to act as trustee under the Refunded 2009 Bond Resolution, shall be the successor hereunder to the Escrow Bank without the execution or filing of any paper or any further act.

Section 11. Unclaimed Moneys. Anything contained herein to the contrary notwithstanding, any moneys held by the Escrow Bank for the payment and discharge of the principal and interest with respect to the Refunded 2009 Bonds which remains unclaimed for two (2) years after the date when the payment of such principal and interest have become payable, if such moneys were held by the Escrow Bank at such date, shall be repaid by the Escrow Bank to the District as its absolute property free from any trust, and the Escrow Bank shall thereupon be released and discharged with respect thereto and the owners of such Refunded 2009 Bonds shall look only to the District for the payment of the principal and interest with respect to such Refunded 2009 Bonds. Any right of the owner of any Refunded 2009 Bond to look to the District for such payment shall survive only so long as required under applicable law.

Section 12. Business Days. Whenever any act is required by this Escrow Agreement to be done on a specified day or date, and such day or date shall be a day other than a business day for the Escrow Bank, then such act may be done on the next succeeding business day.

Section 13. Counterparts. This Escrow Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and such counterparts, or as many of them as the District and the Escrow Bank shall preserve undestroyed, shall together constitute but one and the same instrument.

Section 14. Governing Law. This Escrow Agreement shall be construed and governed in accordance with the laws of the State of California.

IN WITNESS WHEREOF the parties hereto have caused this Escrow Agreement to be executed in their respective names by their respective duly authorized officers, all as of the day and year first above written.

BERKELEY UNIFIED SCHOOL DISTRICT

By _____
Javetta Cleveland
Deputy Superintendent,
Business Services

U.S. BANK NATIONAL ASSOCIATION, as
Escrow Bank

By _____
Authorized Officer

EXHIBIT A TO 2009 ESCROW AGREEMENT

SCHEDULE OF ESCROWED FEDERAL SECURITIES

Type	Maturity	Coupon	Principal	Price	Cost	Accrued	Total
SLGS	08/01/17						
SLGS	02/01/18						
SLGS	08/01/18						
SLGS	02/01/19						

EXHIBIT B TO 2009 ESCROW AGREEMENT

PAYMENT AND REDEMPTION SCHEDULE

<u>Date</u>	<u>Refunded 2009 Bonds Maturing Principal</u>	<u>Refunded 2009 Bonds Called Principal</u>	<u>2017 Refunding Bonds Interest</u>	<u>Redemption Premium</u>	<u>Total Payment</u>
08/01/17	—	—	\$143,668.17	—	\$ 143,668.17
02/01/18	—	—	213,721.25	—	213,721.25
08/01/18	—	—	213,721.25	—	213,721.25
02/01/19	—	—	213,721.25	—	213,721.25
08/01/19	—	\$14,585,000	213,721.25	—	14,798,721.25

EXHIBIT C TO 2009 ESCROW AGREEMENT

FORM OF REDEMPTION NOTICE

NOTICE OF FULL/FINAL REDEMPTION OF

**Berkeley Unified School District
2009 General Obligation Bonds**

Original Issue Date	Maturity Date	Amount Redeemed	Interest Rate	Redemption Premium	Redemption Price	CUSIP Number
6/16/09	8/1/20	\$ 765,000	4.000%	—	\$ 765,000	084154 SP9
6/16/09	8/1/21	795,000	4.000	—	795,000	084154 SQ7
6/16/09	8/1/22	830,000	4.000	—	830,000	084154 SR5
6/16/09	8/1/23	865,000	5.000	—	865,000	084154 SS3
6/16/09	8/1/24	905,000	5.000	—	905,000	084154 ST1
6/16/09	8/1/25	945,000	5.000	—	945,000	084154 SU8
6/16/09	8/1/26	990,000	5.000	—	990,000	084154 SV6
6/16/09	8/1/27	1,040,000	5.000	—	1,040,000	084154 SW4
6/16/09	8/1/28	1,090,000	5.000	—	1,090,000	084154 SX2
6/16/09	8/1/29	1,145,000	5.000	—	1,145,000	084154 SY0
6/16/09	8/1/31	2,475,000	5.000	—	2,475,000	084154 SZ7
6/16/09	8/1/33	2,740,000	5.000	—	2,740,000	084154 TA1

NOTICE is hereby given that the Berkeley Unified School District (the "District") has called for redemption on August 1, 2019 (the "Redemption Date"), the outstanding 2009 General Obligation Bonds as described above (the "Bonds"), at a price equal to 100% of the principal amount thereof, plus accrued interest to the date fixed for redemption (the "Redemption Price").

On the Redemption Date, the Redemption Price will become due and payable upon each Bond and interest with respect thereto shall cease to accrue from and after the Redemption Date.

Payment of principal will be made upon presentation on and after the Redemption Date, at the following addresses:

U.S. Bank National Association
Global Corporate Trust Services
111 Fillmore Avenue E.
St Paul, MN 55107

Owners of Bonds presenting their certificates in person for the same day payment must surrender their certificate by 1:00 p.m. on the prepayment date and a check will be available for pickup after 2:00 p.m. Checks not picked up by 4:30 p.m. will be mailed to the Bondholder by first class mail.

Interest with respect to the principal amount designated to be redeemed shall cease to accrue on and after the Redemption Date.

If payment of the Redemption Price is to be made to the registered owner of the Bond you are not required to endorse the Bond to collect the Redemption Price.

Under the Economic Growth and Tax Relief Reconciliation Act of 2003 (the "Act") 28% will be withheld if tax identification number is not properly certified. The Form W-9 may be obtained from the Internal Revenue Service.

Neither the District nor U.S. Bank National Association, as paying agent shall be held responsible for the selection or use of the CUSIP number, nor is any representation made as to its correctness as shown in the Redemption Notice. It is included solely for convenience of the Holders.

Dated: _____ __, 2019

U.S. BANK NATIONAL
ASSOCIATION, as Paying Agent and
Escrow Bank

EXHIBIT F TO RESOLUTION
FORM OF 2011 ESCROW AGREEMENT

ESCROW AGREEMENT

This Escrow Agreement (this "Escrow Agreement"), dated March 30, 2017, is by and between the BERKELEY UNIFIED SCHOOL DISTRICT, a school district duly created and existing pursuant to the laws of the State of California (the "District"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as escrow agent (the "Escrow Bank").

WITNESSETH:

WHEREAS, the District has heretofore issued, on May 26, 2011, its Berkeley Unified School District (Alameda County, California) General Obligation Bonds, Election of 2010, Series B (2011) (the "2011 Bonds"), in the original principal amount of \$10,000,000, for the purpose of financing the acquisition or improvement of property for school purposes, all of which remains outstanding;

WHEREAS, the 2011 Bonds were issued under and pursuant to a resolution of the Board of Education of the District, adopted on April 13, 2011 (the "2011 Bond Resolution");

WHEREAS, pursuant to Article 9 of Chapter 3 (commencing with section 53550) of Division 2 of Title 5 of the California Government Code (the "Act"), the District is empowered to issue general obligation refunding bonds;

WHEREAS, the District has determined that it is in the best interests of the District to provide for the redemption of the 2011 Bonds and it is desirable to enter into this Escrow Agreement to do so;

WHEREAS, the Board, by resolution adopted on February 22, 2017 (the "Refunding Bond Resolution"), has authorized the issuance and sale of the District's \$_____ 2017 General Obligation Refunding Bonds (the "2017 Refunding Bonds"), and has determined to use a portion of the proceeds of the 2017 Refunding Bonds to provide for the payment of interest on the 2017 Refunding Bonds allocable to the 2011 Bonds to and including August 1, 2020, and for the redemption of the 2011 Bonds in full on August 1, 2020 (the "Redemption Date"), at a redemption price equal to 100% of the principal amount thereof (the "Redemption Price);"

WHEREAS, the District, in the Refunding Bond Resolution, has directed that a portion of the proceeds of the sale of the 2017 Refunding Bonds be deposited hereunder, and that such amount will be in an amount sufficient to provide for the payment of interest on the 2017 Refunding Bonds allocable to the 2011 Bonds to and including August 1, 2020, and for the redemption of the 2011 Bonds in full on the Redemption Date at the Redemption Price;

WHEREAS, the Escrow Bank has full powers to perform the duties and obligations to be undertaken by it pursuant to this Escrow Agreement; and

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants herein set forth, the parties hereto do hereby agree as follows:

Section 1. Escrow Fund.

(a) There is hereby established a special fund, to be held by the Escrow Bank for the benefit of the owners of the 2017 Refunding Bonds and the 2011 Bonds, to be known as the "Escrow Fund." Upon the

issuance of the 2017 Refunding Bonds, there shall be deposited into the Escrow Fund an amount equal to \$_____, derived from the proceeds of the 2017 Refunding Bonds.

(b) The Escrow Bank shall invest \$_____ of the moneys deposited into the Escrow Fund pursuant to the preceding paragraph in the securities set forth in Exhibit A attached hereto and by this reference incorporated herein (the "Escrowed Federal Securities") and shall hold the remaining \$_____ in cash, uninvested. The Escrowed Federal Securities and such cash shall be deposited with and held by the Escrow Bank in the Escrow Fund solely for the uses and purposes set forth herein.

If the Escrow Bank learns that the Department of the Treasury or the Bureau of Public Debt will not, for any reason, accept a SLGS subscription, the Escrow Bank shall promptly request alternative written investment instructions from the District with respect to escrowed funds which were to be invested in the Escrowed Federal Securities. The Escrow Bank shall follow such instructions and, upon the maturity of any such alternative investment, the Escrow Bank shall hold funds uninvested and without liability for interest until receipt of further written instructions from the District. In the absence of investment instructions from the District the Escrow Bank shall not be responsible for the investment of such funds or interest thereon. The Escrow Bank may conclusively rely upon the District selection of an alternative investment as a determination of the alternative investment's legality and suitability and shall not be liable for any losses related to the alternative investments or for compliance with any yield restriction applicable thereto.

(c) The Escrow Bank may rely upon the conclusion of Causey Demgen & Moore P.C., as contained in its opinion and accompanying schedules (the "Report") dated March 30, 2017, that the Escrowed Federal Securities mature and bear interest payable in such amounts and at such times as, together with cash on deposit in the Escrow Fund, will be sufficient to provide for the payment of interest on the 2017 Refunding Bonds allocable to the 2011 Bonds to and including August 1, 2020, and for the redemption of the 2011 Bonds in full on the Redemption Date at the Redemption Price.

(d) The Escrow Bank shall not be liable or responsible for any loss resulting from its full compliance with the provisions of this Escrow Agreement.

(e) Any money left on deposit in the Escrow Fund after payment in full of the 2011 Bonds, and the payment of all amounts due to the Escrow Bank hereunder, shall be paid to the District.

Section 2. Instructions as to Application of Deposit.

(a) The moneys deposited in the Escrow Fund pursuant to Section 1 shall be applied by the Escrow Bank for the sole purpose of paying the interest on the 2017 Refunding Bonds allocable to the 2011 Bonds to and including August 1, 2020, and to redeem the 2011 Bonds in full on the Redemption Date at the Redemption Price, all as set forth in Exhibit B attached hereto and by this reference incorporated herein.

(c) The Escrow Bank, in its capacity as paying agent for the 2011 Bonds is hereby requested, and the Escrow Bank, as paying agent for the 2011 Bonds, hereby agrees to give timely notice of the redemption of the 2011 Bonds on the Redemption Date in accordance with the applicable provisions of the 2011 Bond Resolution and the form of redemption notice attached hereto as Exhibit C.

Section 3. Investment of Any Remaining Moneys. The Escrow Bank shall invest and reinvest the proceeds received from any of the Escrowed Federal Securities, and the cash originally deposited into the Escrow Fund, for a period ending not later than the next succeeding interest payment date relating to the 2011 Bonds, in Federal Securities pursuant to written directions of the District; *provided, however*, that (a) such written directions of the District shall be accompanied by (i) a certification of an independent certified public accountant or firm of certified public accountants of favorable national reputation experienced in the refunding of obligations of political subdivisions that the Federal Securities then to be so deposited in the Escrow Fund, together with the cash then on deposit in the Escrow Fund, together with the interest to be derived therefrom, shall be in an amount at all times at least sufficient to make the payments specified in Section 2 hereof, and (ii) an opinion of nationally recognized bond counsel ("Bond Counsel") that investment in accordance with such directions will not affect, for Federal income tax

purposes, the exclusion from gross income of interest due with respect to the 2011 Bonds, and (b) if the District directs such investment or reinvestment to be made in United States Treasury Securities-State and Local Government Series, the District shall, at its cost, cause to be prepared all necessary subscription forms therefor in sufficient time to enable the Escrow Bank to acquire such securities. In the event that the District shall fail to file any such written directions with the Escrow Bank concerning the reinvestment of any such proceeds, such proceeds shall be held uninvested by the Escrow Bank. Any interest income resulting from investment or reinvestment of moneys pursuant to this Section 3 and not required for the purposes set forth in Section 1, as indicated by such verification, shall, promptly upon the receipt of such interest income by the Escrow Bank, be paid to the District.

Section 4. Substitution or Withdrawal of Federal Securities. The District may, at any time, direct the Escrow Bank in writing to substitute Federal Securities for any or all of the Escrowed Federal Securities then deposited in the Escrow Fund, or to withdraw and transfer to the District any portion of the Federal Securities then deposited in the Escrow Fund, provided that any such direction and substitution or withdrawal shall be simultaneous and shall be accompanied by (a) a certification of an independent certified public accountant or firm of certified public accountants of favorable national reputation experienced in the refunding of obligations of political subdivisions that the Federal Securities then to be so deposited in the Escrow Fund together with interest to be derived therefrom, or in the case of withdrawal, the Federal Securities to be remaining in the Escrow Fund following such withdrawal together with the interest to be derived therefrom, together with the cash then on deposit in the Escrow Fund, shall be in an amount at all times at least sufficient to make the payments specified in Section 2 hereof; and (b) an opinion of Bond Counsel that the substitution or withdrawal will not affect, for Federal income tax purposes, the exclusion from gross income of interest on the 2011 Bonds. In the event that, following any such substitution of Federal Securities pursuant to this Section 4, there is an amount of moneys or Federal Securities in excess of an amount sufficient to make the payments required by Section 1 hereof, as indicated by such verification, such excess shall be paid to the District.

Section 5. Compensation to Escrow Bank. The District shall pay the Escrow Bank full compensation for its duties under this Escrow Agreement, including out-of-pocket costs such as publication costs, prepayment or redemption expenses, legal fees and other costs and expenses relating hereto. Under no circumstances shall amounts deposited in the Escrow Fund be deemed to be available for said purposes.

Section 6. Liabilities and Obligations of Escrow Bank. The Escrow Bank shall have no obligation to make any payment or disbursement of any type or incur any financial liability in the performance of its duties under this Escrow Agreement unless the District shall have deposited sufficient funds with the Escrow Bank. The Escrow Bank may rely and shall be protected in acting upon the written instructions of the District or its agents relating to any matter or action as Escrow Bank under this Escrow Agreement.

The Escrow Bank and its respective successors, assigns, agents and servants shall not be held to any personal liability whatsoever, in tort, contract, or otherwise, in connection with the execution and delivery of this Escrow Agreement, the establishment of the Escrow Fund, the acceptance of the moneys deposited therein, the sufficiency of the uninvested moneys held hereunder to accomplish the purposes set forth herein, or any payment, transfer or other application of moneys by the Escrow Bank in accordance with the provisions of this Escrow Agreement or by reason of any non-negligent act, non-negligent omission or non-negligent error of the Escrow Bank made in good faith in the conduct of its duties. The recitals of fact contained in the "whereas" clauses herein shall be taken as the statement of the District, and the Escrow Bank assumes no responsibility for the correctness thereof. The Escrow Bank makes no representations as to the sufficiency of the uninvested moneys to accomplish the purposes set forth herein or to the validity of this Escrow Agreement as to the District and, except as otherwise provided herein, the Escrow Bank shall incur no liability in respect thereof. The Escrow Bank shall not be liable in connection with the performance of its duties under this Escrow Agreement except for its own negligence, willful misconduct or default, and the duties and obligations of the Escrow Bank shall be determined by the express provisions of this Escrow Agreement. The Escrow Bank may consult with counsel, who may or may not be counsel to the District, and in reliance upon the written opinion of such counsel shall have full and complete authorization and protection in respect of any action taken, suffered or omitted by it in good faith in accordance therewith. Whenever the Escrow Bank shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering, or omitting any action under

this Escrow Agreement, such matter (except the matters set forth herein as specifically requiring a certificate of a nationally recognized firm of independent certified public accountants or an opinion of counsel) may be deemed to be conclusively established by a written certification of the District. The Escrow Bank may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

Anything in this Escrow Agreement to the contrary notwithstanding, in no event shall the Escrow Bank be liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Escrow Bank has been advised of the likelihood of such loss or damage and regardless of the form of action.

The Escrow Bank agrees to accept and act upon instructions or directions pursuant to this Escrow Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Escrow Bank shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the District elects to give the Escrow Bank e-mail or facsimile instructions (or instructions by a similar electronic method) and the Escrow Bank in its discretion elects to act upon such instructions, the Escrow Bank's understanding of such instructions shall be deemed controlling. The Escrow Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Escrow Bank's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The District agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Escrow Bank, including without limitation the risk of the Escrow Bank acting on unauthorized instructions, and the risk of interception and misuse by third parties.

The District hereby assumes liability for, and hereby agrees (whether or not any of the transactions contemplated hereby are consummated), to the extent permitted by law, to indemnify, protect, save and hold harmless the Escrow Bank and its respective successors, assigns, agents, servants, employees, directors and officers from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including legal fees and disbursements) of whatsoever kind and nature which may be imposed on, incurred by, or asserted against, at any time, the Escrow Bank (whether or not also indemnified against by any other person under any other agreement or instrument) and in any way relating to or arising out of the execution and delivery of this Escrow Agreement, the establishment of the Escrow Fund, the retention of the moneys therein and any payment, transfer or other application of moneys by the Escrow Bank in accordance with the provisions of this Escrow Agreement, or as may arise by reason of any act, omission or error of the Escrow Bank made in good faith in the conduct of its duties; provided, however, that the District shall not be required to indemnify the Escrow Bank against its own negligence or misconduct. The indemnities contained in this Section 6 shall survive the termination of this Escrow Agreement or the resignation or removal of the Escrow Bank.

The District acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the District the right to receive brokerage confirmations of security transactions as they occur, the District specifically waives receipt of such confirmations to the extent permitted by law. The Escrow Bank will furnish the District monthly cash transaction statements which include detail for all investment transactions made by the Escrow Bank hereunder.

No provision of this Escrow Agreement shall require the Escrow Bank to expend or risk its own funds or otherwise incur any financial liability in the performance or exercise of any of its duties hereunder, or in the exercise of its rights or powers.

The Escrow Bank may execute any of the duties or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees appointed with due care and shall not be responsible for any willful misconduct or negligence on the part of any agent, attorney, custodian or nominee so appointed.

The Escrow Bank may at any time resign by giving 30 days written notice of resignation to the District. Upon receiving such notice of resignation, the District shall promptly appoint a successor and, upon the acceptance by the successor of such appointment, release the resigning Escrow Bank from its obligations hereunder by written instrument, a copy of which instrument shall be delivered to each of the District, the resigning Escrow Bank and the successor. If no successor shall have been so appointed and have accepted appointment within 30 days after the giving of such notice of resignation, the resigning Escrow Bank may petition any court of competent jurisdiction for the appointment of a successor

Section 7. Amendment. This Escrow Agreement may be modified or amended at any time by a supplemental agreement which shall become effective when the written consents of the owners of one hundred percent (100%) in aggregate principal amount of the 2011 Bonds shall have been filed with the Escrow Bank. This Escrow Agreement may be modified or amended at any time by a supplemental agreement, without the consent of any such owners, but only (1) to add to the covenants and agreements of any party, other covenants to be observed, or to surrender any right or power herein or therein reserved to the District, (2) to cure, correct or supplement any ambiguous or defective provision contained herein, or (3) in regard to questions arising hereunder or thereunder, as the parties hereto or thereto may deem necessary or desirable and which, in the opinion of counsel, shall not materially adversely affect the interests of the owners of the 2011 Bonds or the 2017 Refunding Bonds, and that such amendment will not cause interest on the 2011 Bonds or the 2017 Refunding Bonds to become subject to federal income taxation. In connection with any contemplated amendment or revocation of this Escrow Agreement, prior written notice thereof and draft copies of the applicable legal documents shall be provided by the District to each rating agency then rating the 2011 Bonds.

Section 8. Severability. If any section, paragraph, sentence, clause or provision of this Escrow Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, sentence clause or provision shall not affect any of the remaining provisions of this Escrow Agreement. Notice of any such invalidity or unenforceability shall be provided to each rating agency then rating the 2011 Bonds.

Section 9. Notice of Escrow Bank and District. Any notice to or demand upon the Escrow Bank may be served and presented, and such demand may be made, at the principal corporate trust office of the Escrow Bank as specified by the Escrow Bank as paying agent for the 2011 Bonds in accordance with the provisions of the 2011 Bond Resolution. Any notice to or demand upon the District shall be deemed to have been sufficiently given or served for all purposes by being mailed by first class mail, and deposited, postage prepaid, in a post office letter box, addressed to such party as provided in the 2011 Bond Resolution (or such other address as may have been filed in writing by the District with the Escrow Bank).

Section 10. Merger or Consolidation of Escrow Bank. Any company into which the Escrow Bank may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Escrow Bank may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible to act as trustee under the 2011 Bond Resolution, shall be the successor hereunder to the Escrow Bank without the execution or filing of any paper or any further act.

Section 11. Unclaimed Moneys. Anything contained herein to the contrary notwithstanding, any moneys held by the Escrow Bank for the payment and discharge of the principal and interest with respect to the 2011 Bonds which remains unclaimed for two (2) years after the date when the payment of such principal and interest have become payable, if such moneys were held by the Escrow Bank at such date, shall be repaid by the Escrow Bank to the District as its absolute property free from any trust, and the Escrow Bank shall thereupon be released and discharged with respect thereto and the owners of such 2011 Bonds shall look only to the District for the payment of the principal and interest with respect to such 2011 Bonds. Any right of the owner of any 2011 Bond to look to the District for such payment shall survive only so long as required under applicable law.

Section 12. Business Days. Whenever any act is required by this Escrow Agreement to be done on a specified day or date, and such day or date shall be a day other than a business day for the Escrow Bank, then such act may be done on the next succeeding business day.

Section 13. Counterparts. This Escrow Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and such counterparts, or as many of them as the District and the Escrow Bank shall preserve undestroyed, shall together constitute but one and the same instrument.

Section 14. Governing Law. This Escrow Agreement shall be construed and governed in accordance with the laws of the State of California.

IN WITNESS WHEREOF the parties hereto have caused this Escrow Agreement to be executed in their respective names by their respective duly authorized officers, all as of the day and year first above written.

BERKELEY UNIFIED SCHOOL DISTRICT

By _____
Javetta Cleveland
Deputy Superintendent,
Business Services

U.S. BANK NATIONAL ASSOCIATION, as
Escrow Bank

By _____
Authorized Officer

EXHIBIT A TO 2011 ESCROW AGREEMENT

SCHEDULE OF ESCROWED FEDERAL SECURITIES

Type	Maturity	Coupon	Principal	Price	Cost	Accrued	Total
SLGS	08/01/17						
SLGS	02/01/18						
SLGS	08/01/18						
SLGS	02/01/19						
SLGS	08/01/19						
SLGS	08/01/20						
SLGS	08/01/20						

EXHIBIT B TO 2011 ESCROW AGREEMENT

PAYMENT AND REDEMPTION SCHEDULE

<u>Date</u>	<u>Refunded 2011 Bonds Maturing Principal</u>	<u>Refunded 2011 Bonds Called Principal</u>	<u>2017 Refunding Bonds Interest</u>	<u>Redemption Premium</u>	<u>Total Payment</u>
08/01/17	—	—	\$116,496.95	—	\$ 116,496.95
02/01/18	—	—	173,301.25	—	173,301.25
08/01/18	—	—	173,301.25	—	173,301.25
02/01/19	—	—	173,301.25	—	173,301.25
08/01/19	—	—	173,301.25	—	173,301.25
08/01/20	—	—	173,301.25	—	173,301.25

EXHIBIT C TO 2011 ESCROW AGREEMENT

FORM OF REDEMPTION NOTICE

NOTICE OF FULL/FINAL REDEMPTION OF

**Berkeley Unified School District
General Obligation Bonds
Election of 2010, Series B (2011)**

Original Issue Date	Maturity Date	Amount Redeemed	Interest Rate	Redemption Premium	Redemption Price	CUSIP Number
5/26/11	8/1/29	\$2,775,000	5.375%	—	\$2,775,000	084154 UC5
5/26/11	8/1/31	2,135,000	5.000	—	2,135,000	084154 UD3
5/26/11	8/1/35	5,090,000	5.375	—	5,090,000	084154 UE1

NOTICE is hereby given that the Berkeley Unified School District (the "District") has called for redemption on August 1, 2020 (the "Redemption Date"), the outstanding General Obligation Bonds, Election of 2010, Series B (2011) as described above (the "Bonds"), at a price equal to 100% of the principal amount thereof, plus accrued interest to the date fixed for redemption (the "Redemption Price").

On the Redemption Date, the Redemption Price will become due and payable upon each Bond and interest with respect thereto shall cease to accrue from and after the Redemption Date.

Payment of principal will be made upon presentation on and after the Redemption Date, at the following addresses:

U.S. Bank National Association
Global Corporate Trust Services
111 Fillmore Avenue E.
St Paul, MN 55107

Owners of Bonds presenting their certificates in person for the same day payment must surrender their certificate by 1:00 p.m. on the prepayment date and a check will be available for pickup after 2:00 p.m. Checks not picked up by 4:30 p.m. will be mailed to the Bondholder by first class mail.

Interest with respect to the principal amount designated to be redeemed shall cease to accrue on and after the Redemption Date.

If payment of the Redemption Price is to be made to the registered owner of the Bond you are not required to endorse the Bond to collect the Redemption Price.

Under the Economic Growth and Tax Relief Reconciliation Act of 2003 (the "Act") 28% will be withheld if tax identification number is not properly certified. The Form W-9 may be obtained from the Internal Revenue Service.

Neither the District nor U.S. Bank National Association, as paying agent shall be held responsible for the selection or use of the CUSIP number, nor is any representation made as to its correctness as shown in the Redemption Notice. It is included solely for convenience of the Holders.

Dated: _____, 2020

U.S. BANK NATIONAL
ASSOCIATION, as Paying Agent and
Escrow Bank

EXHIBIT G TO RESOLUTION
FORM OF CONTINUING DISCLOSURE CERTIFICATE

CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the "Disclosure Certificate") is executed and delivered by the BERKELEY UNIFIED SCHOOL DISTRICT (the "District") in connection with the issuance by the District of its \$_____ Berkeley Unified School District (Alameda County, California) 2017 General Obligation Refunding Bonds (the "Bonds"). The Bonds are being issued pursuant to a resolution adopted by the Board of Education of the District on February 22, 2017 (the "Resolution"). The District covenants and agrees as follows:

Section 1. Definitions. In addition to the definitions set forth in the Resolution, which apply to any capitalized term used in this Disclosure Certificate, unless otherwise defined in this Section 1, the following capitalized terms shall have the following meanings when used in this Disclosure Certificate:

"*Annual Report*" shall mean any Annual Report provided by the District pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"*Beneficial Owner*" shall mean any person who (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

"*Dissemination Agent*" shall mean KNN Public Finance, LLC, or any successor Dissemination Agent designated in writing by the District and which has filed with the District a written acceptance of such designation. In the absence of such a designation, the District shall act as the Dissemination Agent.

"*EMMA*" or "*Electronic Municipal Market Access*" means the centralized on-line repository for documents to be filed with the MSRB, such as official statements and disclosure information relating to municipal bonds, notes and other securities as issued by state and local governments.

"*Listed Events*" shall mean any of the events listed in Section 5(a) or 5(b) of this Disclosure Certificate.

"*MSRB*" means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule, or any other repository of disclosure information which may be designated by the Securities and Exchange Commission as such for purposes of the Rule in the future.

"*Participating Underwriter*" shall mean the original underwriter of the Bonds, required to comply with the Rule in connection with offering of the Bonds.

"*Rule*" shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Section 2. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the District for the benefit of the owners and Beneficial Owners of the Bonds and in order to assist the Participating Underwriter in complying with Securities and Exchange Commission Rule 15c2-12(b)(5).

Section 3. Provision of Annual Reports.

(a) *Delivery of Annual Report*. The District shall, or shall cause the Dissemination Agent to, not later than nine months after the end of the District's fiscal year (which currently ends on June 30),

commencing with the report for the 2016-17 Fiscal Year, which is due not later than March 31, 2018, file with EMMA, in a readable PDF or other electronic format as prescribed by the MSRB, an Annual Report that is consistent with the requirements of Section 4 of this Disclosure Certificate. The Annual Report may be submitted as a single document or as separate documents comprising a package and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the District may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date.

(b) *Change of Fiscal Year.* If the District's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c), and subsequent Annual Report filings shall be made no later than nine months after the end of such new fiscal year end.

(c) *Delivery of Annual Report to Dissemination Agent.* Not later than fifteen (15) Business Days prior to the date specified in subsection (a) (or, if applicable, subsection (b)) of this Section 3 for providing the Annual Report to EMMA, the District shall provide the Annual Report to the Dissemination Agent (if other than the District). If by such date, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall notify the District.

(d) *Report of Non-Compliance.* If the District is the Dissemination Agent and is unable to file an Annual Report by the date required in subsection (a) (or, if applicable, subsection (b)) of this Section 3, the District shall send a notice to EMMA substantially in the form attached hereto as Exhibit A. If the District is not the Dissemination Agent and is unable to provide an Annual Report to the Dissemination Agent by the date required in subsection (c) of this Section 3, the Dissemination Agent shall send a notice to EMMA in substantially the form attached hereto as Exhibit A.

(e) *Annual Compliance Certification.* The Dissemination Agent shall, if the Dissemination Agent is other than the District, file a report with the District certifying that the Annual Report has been filed with EMMA pursuant to Section 3 of this Disclosure Certificate, stating the date it was so provided and filed.

Section 4. Content of Annual Reports. The Annual Report shall contain or incorporate by reference the following:

(a) *Financial Statements.* Audited financial statements of the District for the preceding fiscal year, prepared in accordance generally accepted accounting principles. If the District's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) *Other Annual Information.* To the extent not included in the audited final statements of the District, the Annual Report shall also include financial and operating data with respect to the District for preceding fiscal year, substantially similar to that provided in the corresponding tables and charts in the official statement for the Bonds, as follows:

- (i) The District's approved budget for the then current fiscal year;
- (ii) Assessed value of taxable property in the District as shown on the recent equalized assessment role; and
- (iii) If the Teeter Plan is no longer effective in Shasta County, property tax levies, collections and delinquencies for the District, for the most recent completed fiscal year.

(c) *Cross References.* Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the District or related public entities, which are available to the public on EMMA. The District shall clearly identify each such other document so included by reference.

If the document included by reference is a final official statement, it must be available from EMMA.

(d) *Further Information.* In addition to any of the information expressly required to be provided under paragraph (b) of this Section 4, the District shall provide such further information, if any, as may be necessary to make the specifically required statements, in the light of the circumstances under which they are made, not misleading.

Section 5. Reporting of Listed Events.

(a) *Reportable Events.* The District shall, or shall cause the Dissemination (if not the District) to, give notice of the occurrence of any of the following events with respect to the Bonds:

- (1) Principal and interest payment delinquencies.
- (2) Unscheduled draws on debt service reserves reflecting financial difficulties.
- (3) Unscheduled draws on credit enhancements reflecting financial difficulties.
- (4) Substitution of credit or liquidity providers, or their failure to perform.
- (5) Defeasances.
- (6) Rating changes.
- (7) Tender offers.
- (8) Bankruptcy, insolvency, receivership or similar event of the obligated person.
- (9) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.

Note: For the purposes of the event identified in subparagraph (8), the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governmental body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

(b) *Material Reportable Events.* The District shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds, if material:

- (1) Non-payment related defaults.
- (2) Modifications to rights of security holders.
- (3) Bond calls.
- (4) The release, substitution, or sale of property securing repayment of the securities.
- (5) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms.
- (6) Appointment of a successor or additional trustee, or the change of name of a trustee.

(c) *Time to Disclose.* Whenever the District obtains knowledge of the occurrence of a Listed Event, the District shall, or shall cause the Dissemination Agent (if not the District) to, file a notice of such occurrence with EMMA, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of 10 business days after the occurrence of the Listed Event. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(5) and (b)(3) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to owners of affected Bonds under the Resolution.

Section 6. Identifying Information for Filings with EMMA. All documents provided to EMMA under this Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

Section 7. Termination of Reporting Obligation. The District's obligations under this Disclosure Certificate shall terminate upon the defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the District shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

Section 8. Dissemination Agent.

(a) *Appointment of Dissemination Agent*. The District may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate and may discharge any such agent, with or without appointing a successor Dissemination Agent. If the Dissemination Agent is not the District, the Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the District pursuant to this Disclosure Certificate. It is understood and agreed that any information that the Dissemination Agent may be instructed to file with EMMA shall be prepared and provided to it by the District. The Dissemination Agent has undertaken no responsibility with respect to the content of any reports, notices or disclosures provided to it under this Disclosure Certificate and has no liability to any person, including any Bondholder, with respect to any such reports, notices or disclosures. The fact that the Dissemination Agent or any affiliate thereof may have any fiduciary or banking relationship with the District shall not be construed to mean that the Dissemination Agent has actual knowledge of any event or condition, except as may be provided by written notice from the District.

(b) *Compensation of Dissemination Agent*. The Dissemination Agent shall be paid compensation by the District for its services provided hereunder in accordance with its schedule of fees as agreed to between the Dissemination Agent and the District from time to time and all expenses, legal fees and expenses and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent shall not be deemed to be acting in any fiduciary capacity for the District, owners or Beneficial Owners, or any other party. The Dissemination Agent may rely, and shall be protected in acting or refraining from acting, upon any direction from the District or an opinion of nationally recognized bond counsel. The Dissemination Agent may at any time resign by giving written notice of such resignation to the District. The Dissemination Agent shall not be liable hereunder except for its negligence or willful misconduct.

(c) *Responsibilities of Dissemination Agent*. In addition of the filing obligations of the Dissemination Agent set forth in Sections 3(e) and 5, the Dissemination Agent shall be obligated, and hereby agrees, to provide a request to the District to compile the information required for its Annual Report at least 30 days prior to the date such information is to be provided to the Dissemination Agent pursuant to subsection (c) of Section 3. The failure to provide or receive any such request shall not affect the obligations of the District under Section 3.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the District may amend this Disclosure Certificate (and the Dissemination Agent shall agree to any amendment so requested by the District that does not impose any greater duties or risk of liability on the Dissemination Agent), and any provision of this Disclosure Certificate may be waived, provided that all of the following conditions are satisfied:

(a) *Change in Circumstances*. If the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a) or (b), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Bonds, or the type of business conducted.

(b) *Compliance as of Issue Date*. The undertaking, as amended or taking into account such waiver, would, in the opinion of a nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances.

(c) *Consent of Holders; Non-impairment Opinion.* The amendment or waiver either (i) is approved by the Bondholders in the same manner as provided in the Resolution for amendments to the Resolution with the consent of Bondholders, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Bondholders or Beneficial Owners.

If this Disclosure Certificate is amended or any provision of this Disclosure Certificate is waived, the District shall describe such amendment or waiver in the next following Annual Report and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the District. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5(c), and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Section 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the District from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the District chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the District shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Default. In the event of a failure of the District to comply with any provision of this Disclosure Certificate, any Bondholder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the District to comply with its obligations under this Disclosure Certificate. The sole remedy under this Disclosure Certificate in the event of any failure of the District to comply with this Disclosure Certificate shall be an action to compel performance.

Section 12. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and no implied covenants or obligations shall be read into this Disclosure Certificate against the Dissemination Agent, and the District agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys' fees and expenses) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent shall have the same rights, privileges and immunities hereunder as are afforded to the Paying Agent under the Resolution. The obligations of the District under this Section 12 shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

Section 13. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the District, the Dissemination Agent, the Participating Underwriter and the owners and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Date: March 30, 2017

BERKELEY UNIFIED SCHOOL DISTRICT

By _____
Javetta Cleveland
Deputy Superintendent,
Business Services

ACKNOWLEDGED:

KNN PUBLIC FINANCE, LLC, as
Dissemination Agent

By _____

**EXHIBIT A TO CONTINUING DISCLOSURE CERTIFICATE
NOTICE TO EMMA OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: Berkeley Unified School District

Name of Issue: \$_____ Berkeley Unified School District (Alameda County, California) 2017
General Obligation Refunding Bonds

Date of Issuance: March 30, 2017

NOTICE IS HEREBY GIVEN that the Obligor has not provided an Annual Report with respect to the above-named Issue as required by the Continuing Disclosure Certificate, dated March 30, 2017, furnished by the Issuer in connection with the Issue. The Issuer anticipates that the Annual Report will be filed by _____.

Dated: _____

KNN PUBLIC FINANCE, LLC, as
Dissemination Agent

By _____
Title _____