

ESCROW AGREEMENT

Relating to the refunding of
certain maturities of

**Benicia Unified School District
General Obligation Bonds
Election of 2014, Series A**

This ESCROW AGREEMENT (this "Agreement"), dated _____, 2021, is between the BENICIA UNIFIED SCHOOL DISTRICT, a school district organized and existing under the Constitution and 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, acting as escrow agent for the Refunded Bonds described below (the "Escrow Agent").

BACKGROUND:

1. On August 26, 2014, the District caused the issuance of \$20,000,000 aggregate principal amount of General Obligation Bonds Election of 2014, Series A (the "Prior Bonds").

2. In order to provide for the refinancing of a portion of the Prior Bonds (such portion, the "Refunded Bonds"), the Board has caused the issuance of its "Benicia Unified School District 2021 General Obligation Refunding Bonds" in the aggregate principal amount of \$_____ (the "Refunding Bonds"), under a resolution adopted by the Governing Board of the District on November 4, 2021.

4. The District wishes to appoint the Escrow Agent in order to establish an irrevocable escrow fund to be funded with the proceeds of the Refunding Bonds for the purpose of providing for the payment and redemption of the Refunded Bonds, as more particularly identified on Exhibit A hereto (the "Refunded Bonds") through and including the respective redemption date.

AGREEMENT:

In consideration of the premises and the material covenants contained herein, the District and the Escrow Agent hereby agree as follows:

SECTION 1. *Definition of Federal Securities.* As used herein, the term "Federal Securities" means United States Treasury notes, bonds, bills or certificates of indebtedness, or obligations issued by any agency or department of the United States which are secured, directly or indirectly, by the full faith and credit of the United States.

SECTION 2. *Appointment of Escrow Agent; Establishment of Escrow Fund.* The District hereby appoints the Escrow Agent to act as escrow agent for purposes of administering the funds required to pay and redeem the Refunded Bonds as provided herein.

The Escrow Agent is hereby directed to establish an escrow fund (the "Escrow Fund") to be held by the Escrow Agent as an irrevocable escrow securing the payment of the Refunded Bonds in accordance with the provisions of Prior Resolution. If at any time the Escrow Agent receives actual knowledge that the cash and securities in the Escrow Fund will not be sufficient to make any payment required by Section 5 in respect of the Refunded Bonds, the Escrow Agent shall notify the District of such fact and the District shall immediately cure such deficiency from any source of legally available funds. The Escrow Agent has no liability for any such insufficiency.

SECTION 3. *Deposit of Amounts in Escrow Fund.* On _____, 2021 (the "Closing Date"), the District shall cause to be transferred to the Escrow Agent for deposit into the Escrow Fund the amount of \$_____ in immediately available funds, to be derived from the proceeds of the Refunding Bonds.

SECTION 4. *Investment of Amounts in Escrow Fund.* On the Closing Date, the Escrow Agent shall (a) invest \$_____ of the funds deposited with it pursuant to Section 3 in the Escrow Fund in the Federal Securities identified in Exhibit B hereto until the maturity of such securities, at which time such funds shall be held in case, uninvested, and (b) hold the remaining \$_____ in cash, uninvested, which shall be sufficient to make the payments required by Section 5 hereof as certified by Causey Demgen & Moore P.C., Denver, Colorado, as verification agent. The Escrow Agent shall have no lien upon or right of set off against the cash at any time on deposit in the Escrow Fund.

SECTION 5. *Application of Funds.* All Federal Securities and cash on deposit in the Escrow Fund shall be and are hereby irrevocably pledged as a special fund for the payment of the principal of and interest on the Refunded Bonds in accordance with the Prior Resolution, at the times and in the combined amounts set forth in the schedule set forth on Exhibit C.

Following payment in full of the principal of and interest on the Refunded Bonds and any amounts then owed to the Escrow Agent, all amounts on deposit in the Escrow Fund shall be transferred by the Escrow Agent to the Solano County Treasurer-Tax Collector to be deposited in the Debt Service Fund established pursuant to the Bond Resolution and applied to pay interest next coming due and payable on the Refunding Bonds.

SECTION 6. *Defeasance Notices; Notices of Redemption.* The District hereby instructs the Escrow Agent to provide a Notices of Defeasance of the Refunded Bonds in accordance with the Prior Resolution, at the expense of the District, to the owners of the Refunded Bonds, and to file such notices with the Municipal Securities Rulemaking Board Electronic Municipal Market Access (“EMMA”). The sole remedy for the Escrow Agent’s failure to file such notices with EMMA shall be an action in mandamus by the holders of the Refunded Bonds for specific performance or similar remedy to compel performance. The forms of such Defeasance Notices are set forth as Exhibit D hereto. In addition, the Escrow Agent shall provide notices of redemption to the Refunded Bond Owners, in accordance with Prior Resolution, not less than thirty or more than forty-five days prior to the respective redemption date.

SECTION 7. *Compensation to Escrow Agent.* The District shall pay the Escrow Agent full compensation for its services under this Agreement, including out-of-pocket costs such as publication costs, legal fees and other costs and expenses relating hereto and, in addition, all fees, costs and expenses relating to the purchase, substitution or withdrawal of any securities after the date hereof. Under no circumstances shall amounts deposited in or credited to the Escrow Fund be deemed to be available for said purposes. The Escrow Agent has no lien upon or right of set off against the cash and securities at any time on deposit in the Escrow Fund.

The District shall indemnify, defend and hold harmless the Escrow Agent and its officers, directors, employees, representatives and agents, from and against and reimburse the Escrow Agent for any and all claims, obligations, liabilities, losses, damages, actions, suits, judgments, reasonable costs and expenses (including reasonable attorneys’ and agents’ fees and expenses) of whatever kind or nature regardless of their merit, demanded, asserted or claimed against the Escrow Agent directly or indirectly relating to, or arising from, claims against the Escrow Agent by reason of its participation in the transactions contemplated hereby, except to the extent caused by the Escrow Agent’s gross negligence or willful misconduct. The provisions of this Section 7 shall survive the termination of this Agreement or the earlier resignation or removal of the Escrow Agent.

SECTION 8. *Immunities and Liability of Escrow Agent.* The Escrow Agent undertakes to perform only such duties as are expressly set forth in this Agreement and no implied duties, covenants or obligations shall be read into this Agreement against the Escrow Agent. The Escrow Agent shall not have any liability hereunder except to the extent of its gross negligence or willful misconduct. In no event shall the Escrow Agent be liable for any special, indirect or consequential damages. The Escrow Agent shall not be liable for any loss from any investment made by it in accordance with the terms of this Agreement. The Escrow Agent shall not be liable for the recitals or representations contained in this Agreement and shall not be responsible for the validity of this Agreement, the sufficiency of the Escrow Fund or the moneys and securities to pay the principal and interest with respect to the Refunded Bonds.

Whenever in the administration of this Agreement the Escrow Agent deems it necessary or desirable that a matter be proved or established prior to taking or not taking any action, such matter may be deemed to be conclusively proved and established by a certificate of an authorized representative of the District and shall be full protection for any action taken or not taken by the Escrow Agent in good faith reliance thereon.

The Escrow Agent may conclusively rely as to the truth and accuracy of the statements and correctness of any opinions or calculations provided to it in connection with this Agreement and shall be protected in acting, or refraining from acting, upon any notice, instruction, request, certificate, document, opinion or other writing furnished to the Escrow Agent in connection with this Agreement and believed by the Escrow Agent to be signed by the proper party, and it need not investigate any fact or matter stated therein. The Escrow Agent may consult with counsel and the advice or any opinion of counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with such advice or opinion of counsel.

None of the provisions of this Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder. The Escrow Agent may execute any of the trusts 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 Agent shall not be liable to the parties hereto or deemed in breach or default hereunder if and to the extent its performance hereunder is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the Escrow Agent and could not have been avoided by exercising due care. Force majeure shall include acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics, quarantine restrictions, acts of civil or military authority, or other similar occurrences.

The Escrow Agent 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 Agent from its obligations hereunder by written instrument, a copy of which instrument shall be delivered to each of the District, the resigning Escrow Agent 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 Agent may petition any court of competent jurisdiction for the appointment of a successor.

Any bank, corporation or association into which the Escrow Agent may be merged or converted or with which it may be consolidated, or any bank, corporation or association resulting from any merger, conversion or consolidation to which the Escrow Agent shall be a party, or any bank, corporation or association succeeding to all or substantially all of the corporate trust business of the Escrow Agent shall be the successor of the Escrow Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except on the part of any of the parties hereto where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

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 Agent will furnish the District periodic transaction statements which include detail for all investment transactions made by the Escrow Agent hereunder; provided that the Escrow

Agent is not obligated to provide an accounting for any fund or account that (a) has a balance of \$0.00 and (b) has not had any activity since the last reporting date.

SECTION 9. *Termination of Agreement.* Upon payment in full of the Refunded Bonds, and upon payment of all fees, expenses and charges of the Escrow Agent as described above, this Agreement shall terminate and the Escrow Agent shall be discharged from any further obligation or responsibility hereunder.

SECTION 10. *Execution in Counterparts.* This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 11. *Amendments.* This Agreement may be amended with the consent of the District and the Escrow Agent (i) to correct ambiguities, or (ii) to make any other changes that do not materially adversely affect the holders of the Refunded Bonds. This Agreement shall not be amended unless the District shall deliver an opinion of nationally recognized bond counsel, that such amendments comply with this Section 11, including as to the effect of such amendment on the holders of the Refunded Bonds.

Remainder of page intentionally left blank. Signatures on following page.

SECTION 12. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California.

BENICIA UNIFIED SCHOOL DISTRICT

By: _____
Superintendent

U.S. BANK NATIONAL ASSOCIATION,
as Escrow Agent

By: _____
Authorized Representative

EXHIBIT A

IDENTIFICATION OF REFUNDED BONDS

Identification of Refunded Bonds

Maturity Date (August 1)	CUSIP[†]	Principal Amount	Redemption Date	Redemption Price
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[†] CUSIP® is a registered trademark of the American Bankers Association. CUSIP data herein is provided by CUSIP Global Services, managed by S&P Global Market Intelligence on behalf of The American Bankers Association. Neither the District nor the Underwriter takes any responsibility for the accuracy of the CUSIP data.
T Term Bond.

EXHIBIT B

IDENTIFICATION OF ORIGINAL FEDERAL SECURITIES

Type	Maturity Date	Principal Amount	Coupon	Total Cost
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EXHIBIT C
REFUNDED BONDS PAYMENT SCHEDULE

Payment Date	Principal	Interest	Total Payment
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EXHIBIT D

FORM OF NOTICE OF PARTIAL DEFEASANCE

**\$ _____
Benicia Unified School District
General Obligation Bonds
Election of 2014, Series A**

Date of Issuance: October 20, 2014

Maturity Date (August 1)	CUSIP[†]	Principal Amount	Redemption Date	Redemption Price
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*† CUSIP® is a registered trademark of the American Bankers Association. CUSIP data herein is provided by CUSIP Global Services, managed by S&P Global Market Intelligence on behalf of The American Bankers Association. Neither the District nor the Underwriter takes any responsibility for the accuracy of the CUSIP data.
T Term Bond.*

NOTICE IS HEREBY GIVEN that all of the above-described bonds (the “Bonds”) have been defeased and discharged under and within the meaning of a resolution adopted by the Governing Board of the Benicia Unified School District (the “District”) on October 2, 2014 (the “Bond Resolution”). Funds for the payment of the Bonds have been deposited in escrow with U.S. Bank National Association, as escrow agent (“Escrow Agent”), and the sufficiency of the funds for the purpose of paying the principal of and interest on the Bonds has been verified by an independent certified public accountant. As a result of such deposit, the Bonds are deemed to have been paid and discharged in accordance with the Bond Resolution.

The District has irrevocably elected to redeem all of the outstanding Bonds on August 1, 2024.

Dated: _____, 2021

**U.S. Bank National Bank,
as Escrow Agent**