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## **ESCROW AGREEMENT**

**by and between the**

**FULLERTON JOINT UNION HIGH SCHOOL DISTRICT**

**and**

**U.S. BANK NATIONAL ASSOCIATION, as Escrow Bank**

**Dated June 10, 2020**

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**Current refunding of the outstanding  
Fullerton Joint Union High School District  
(Orange and Los Angeles Counties, California)  
2010 General Obligation Refunding Bonds**

## ESCROW AGREEMENT

This Escrow Agreement (this "Escrow Agreement"), dated June 10, 2020, is by and between the FULLERTON JOINT UNION HIGH SCHOOL DISTRICT, a school unified 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 September 15, 2010, its Fullerton Joint Union High School District (Orange and Los Angeles Counties, California) 2010 General Obligation Refunding Bonds (the "2010 Refunding Bonds"), in the original principal amount of \$29,120,000 to refund certain general obligation bonds previously issued by the District in 2002;

WHEREAS, the 2010 Refunding Bonds were issued under and pursuant to a resolution of the Board of Trustees of the District (the "2010 Bond Resolution");

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 the outstanding 2010 Refunding Bonds maturing on and after August 1, 2021 (the "Refunded 2010 Refunding Bonds");

WHEREAS, the Board, by resolution adopted on May 12, 2020 (the "Refunding Bond Resolution"), has authorized the issuance and sale of the District's \$15,295,000 Fullerton Joint Union High School District (Orange and Los Angeles Counties, California) 2020 General Obligation Refunding Bonds (the "2020 Refunding Bonds"), and has determined to use a portion of the proceeds of the 2020 Refunding Bonds to redeem all outstanding Refunded 2010 Refunding Bonds on August 1, 2020 (the "Redemption Date"), at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to such date (the "Redemption Price");

WHEREAS, the District, in the Refunding Bond Resolution, has directed that a portion of the proceeds of the sale of the 2020 Refunding Bonds be deposited hereunder, and that such amount will be in an amount sufficient to provide for the payment and redemption of the Refunded 2010 Refunding Bonds as described above; and

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. Discharge of Bonds.* The District hereby irrevocably elects to pay and discharge all indebtedness payable by the District under the 2010 Bond Resolution with respect to the Refunded 2010 Refunding Bonds and to terminate all obligations of the District thereunder with respect thereto.

*Section 2. 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 Refunded 2010 Refunding Bonds, to be known as the "Fullerton Joint Union High School District 2010 General Obligation Refunding Bonds Escrow Fund" (the "Escrow Fund"). Upon the issuance of the 2020 Refunding Bonds, there shall be deposited into the Escrow Fund an amount equal to \$17,990,406.25, derived from the proceeds of the 2020 Refunding Bonds.

(b) All amounts deposited in the Escrow Fund shall be held in cash, uninvested and used solely for the uses and purposes set forth herein.

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

(d) Any money left on deposit in the Escrow Fund after payment in full of the Refunded 2010 Refunding Bonds, and the payment of all amounts due to the Escrow Bank hereunder, shall be transferred to Orange County for deposit in the debt service fund maintained by Orange County for the District.

*Section 3. Instructions as to Application of Deposit.*

(a) The moneys deposited in the Escrow Fund pursuant to Section 2 shall be applied by the Escrow Bank for the sole purpose of redeeming the outstanding Refunded 2010 Refunding Bonds in full on the Redemption Date at the Redemption Price, all as set forth in Exhibit A attached hereto and by this reference incorporated herein.

(b) The Escrow Bank, in its capacity as paying agent for the 2010 Refunding Bonds, is hereby requested, and the Escrow Bank, in its capacity as paying agent for the 2010 Refunding Bonds, hereby agrees to give notice of the defeasance of the Refunded 2010 Refunding Bonds in the form of defeasance notice attached hereto as Exhibit B.

(c) The Escrow Bank, in its capacity as paying agent for the 2010 Refunding Bonds is hereby requested, and the Escrow Bank, as paying agent for the 2010 Refunding Bonds, hereby agrees to give timely notice of the redemption of the Refunded 2010 Refunding Bonds on the Redemption Date in accordance with the applicable provisions of the 2010 Bond Resolution and the form of redemption notice attached hereto as Exhibit C.

*Section 4. 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 5. 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 or willful misconduct, 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.

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 shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Escrow Agreement and delivered using Electronic Means ("Electronic Means" shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Escrow Bank, or another method or system specified by the Escrow Bank as available for use in connection with its services hereunder.); provided, however, that the District shall provide to the Escrow Bank an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the District, whenever a person is to be added or deleted from the listing. If the District elects to give the Escrow Bank Instructions using Electronic Means 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 District understands and agrees that the Escrow Bank cannot determine the identity of the actual sender of such Instructions and that the Escrow Bank shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Escrow Bank have been sent by such Authorized Officer. The District shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Escrow Bank and that the District and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the District. 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 directions conflict or are inconsistent with a subsequent written instruction. The District agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions 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; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Escrow Bank and that there may be more secure methods of transmitting Instructions than the method(s) selected by the District; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Escrow Bank immediately upon learning of any compromise or unauthorized use of the security procedures.

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, officers, directors, employees and servants 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 7 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 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 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.

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, either 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 6. 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 2010 Refunding 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, (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 2010 Refunding Bonds or the 2020 Refunding Bonds, and that such amendment will not cause interest on the 2010 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 2010 Refunding Bonds.

*Section 7. 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 corporate trust office of the Escrow Bank as specified by the Escrow Bank as 2010 Paying Agent in accordance with the provisions of the 2010 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 2010 Bond Resolution (or such other address as may have been filed in writing by the District with the Escrow Bank).

*Section 8. 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 2010 Bond Resolution, shall be the successor hereunder to the Escrow Bank without the execution or filing of any paper or any further act.

*Section 9. Governing Law.* This Escrow Agreement shall be construed and governed in accordance with the laws of the State of California.

*Section 10. Severability.* In case any one or more of the provisions contained in this Escrow Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Escrow Agreement, but this Escrow Agreement shall be construed as if such invalid or illegal or unenforceable provisions had never been contained herein.

*Section 11. 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 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.

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.

FULLERTON JOINT UNION HIGH  
SCHOOL DISTRICT

By \_\_\_\_\_  
Joan Velasco  
Assistant Superintendent,  
Business Services

U.S. BANK NATIONAL ASSOCIATION, as  
Escrow Bank

By \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**  
**REDEMPTION SCHEDULE**

Date	Maturing Principal	Called Principal	Interest	Redemption Premium	Total Payment
08/01/20	—	\$17,625,000	\$365,406.25	—	\$17,990,406.25

**EXHIBIT C**  
**NOTICE OF DEFEASANCE**

**Fullerton Joint Union High School District  
(Orange and Los Angeles Counties, California)  
2010 General Obligation Refunding Bonds**

<u>Maturity Date</u>	<u>Amount Defeased</u>	<u>Interest Rate</u>	<u>CUSIP No.</u>
8/1/21	\$2,250,000	4.000%	359796 CQ0
8/1/22	700,000	4.000	359796 CR8
8/1/22	1,500,000	4.250	359796 CX5
8/1/23	2,375,000	4.500	359796 CS6
8/1/24	2,500,000	4.750	359796 CT4
8/1/25	1,400,000	4.000	359796 CU1
8/1/25	1,500,000	5.000	359796 CY3
8/1/26	2,650,000	3.500	359796 CV9
8/1/27	2,750,000	3.625	359796 CW7

NOTICE IS HEREBY GIVEN, on behalf of the Fullerton Joint Union High School District (the "District") to the owners of the outstanding bonds described above (the "Bonds"), that pursuant to the resolution authorizing the issuance of the Bonds (the "Resolution"), the lien of the Resolution with respect to the Bonds has been discharged through the irrevocable deposit of cash in an escrow fund (the "Escrow Fund"). The Escrow Fund has been established and is being maintained pursuant to that certain Escrow Agreement, dated June 10, 2020, by and between the District and U.S. Bank National Association, as escrow agent. As a result of such deposit, the Bonds are deemed to have been paid and defeased in accordance with the Resolution. The pledge of the funds provided for under the Resolution and all other obligations of the District to the owners of the Bonds shall hereafter be limited to the application of moneys in the Escrow Fund for the payment of the principal of and interest on the Bonds as the same become due and payable as described below.

Amounts deposited in the Escrow Fund are calculated to provide sufficient moneys to redeem the outstanding Bonds in full on August 1, 2020 (the "Redemption Date"), at a redemption price equal to 100% of the principal amount thereof plus accrued interest to such date. From and after the Redemption Date, interest with respect to the Bonds shall cease to accrue and be payable.

Dated: \_\_\_\_\_, 2020

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

**EXHIBIT D**  
**FORM OF REDEMPTION NOTICE**

**NOTICE OF FULL/FINAL REDEMPTION OF**

**Fullerton Joint Union High School District  
(Orange and Los Angeles Counties, California)  
2010 General Obligation Refunding Bonds**

Dated Date	Maturity Date	Principal Amount	Redemption Price (1)	Interest Rate	CUSIP No.
9/15/10	8/1/21	\$2,250,000	100.000	4.000%	359796 CQ0
9/15/10	8/1/22	700,000	100.000	4.000	359796 CR8
9/15/10	8/1/22	1,500,000	100.000	4.250	359796 CX5
9/15/10	8/1/23	2,375,000	100.000	4.500	359796 CS6
9/15/10	8/1/24	2,500,000	100.000	4.750	359796 CT4
9/15/10	8/1/25	1,400,000	100.000	4.000	359796 CU1
9/15/10	8/1/25	1,500,000	100.000	5.000	359796 CY3
9/15/10	8/1/26	2,650,000	100.000	3.500	359796 CV9
9/15/10	8/1/27	2,750,000	100.000	3.625	359796 CW7

(1) Plus accrued interest

NOTICE IS HEREBY GIVEN that the Fullerton Joint Union High School District (the "District") has called for redemption on August 1, 2020 (the "Redemption Date"), principal amount thereof plus accrued interest to such date (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.

Owners presenting their Bonds in person for the same day payment must surrender their Bonds by 1:00 p.m. on the Redemption 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 Owner 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 Owner, such Owner is not required to endorse the Bond to collect the Redemption Price.

Under the Economic Growth and Tax Relief Reconciliation Act of 1995 (the "Act") 28% of the Redemption Price 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 Owners.

Dated: \_\_\_\_\_, 2020

U.S. BANK NATIONAL  
ASSOCIATION, as Paying Agent