

Water

PRELIMINARY OFFICIAL STATEMENT DATED \_\_\_\_\_, 2008

NEW ISSUE - FULL BOOK-ENTRY

RATINGS: Standard & Poor's: ["AAA"]  
Moody's: ["Aa1"]  
Fitch: ["AA+"]  
See "Ratings"

*In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to certain qualifications described herein, under existing law, the interest on the 2008 Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, although for the purpose of computing the alternative minimum tax imposed on certain corporations, such interest is taken into account in determining certain income and earnings. In the further opinion of Bond Counsel, such interest is exempt from California personal income taxes. See "TAX MATTERS."*

\$ \_\_\_\_\_\*  
**CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY**  
**2008 Water Revenue Bonds, Series A**

**Dated: Date of Delivery**

**Due: June 1, as shown on inside cover**

**Authority for Issuance.** The bonds captioned above (the "2008 Bonds") are being issued by the City of Beverly Hills Public Financing Authority (the "Authority") under a resolution adopted by the Board of Directors of the Authority on March \_\_\_\_\_, 2008, and an Indenture of Trust dated as of April 1, 2008 (the "Indenture"), between the Authority and U.S. Bank National Association, as trustee for the 2008 Bonds (the "Trustee"). Under this authority, the 2008 Bonds may be issued in a principal amount not to exceed \$35,000,000. See "THE 2008 BONDS – Authority for Issuance."

**Use of Proceeds.** The 2008 Bonds are being issued to provide funds to (i) acquire an existing water treatment plant for the municipal enterprise owned and operated by the City of Beverly Hills (the "City") for the treatment, production, storage and distribution of water (the "Water Enterprise"), (ii) refund on a current basis an outstanding issue of the Authority's bonds captioned "City of Beverly Hills Public Financing Authority Water Revenue Refunding Bonds, Series 1998A" (the "1998 Bonds"), (iii) provide a reserve account for the 2008 Bonds, and (iv) pay the costs of issuing the 2008 Bonds. See "FINANCING PLAN."

**Security for the 2008 Bonds.** Under the Indenture, the 2008 Bonds are payable from and secured by a first pledge of and lien on "Revenues" received by the Authority under an Installment Sale Agreement dated as of April 1, 2008 (the "Installment Sale Agreement"), between the City and the Authority, consisting primarily of installment payments (the "Installment Payments") made by the City under the Installment Sale Agreement. The City's Installment Payments are payable from and secured by "Net Revenues" of the Water Enterprise, which are generally defined as "Gross Revenues" received from the Water System minus the amount required to pay all "Operation and Maintenance Costs" of the Water System. The 2008 Bonds are also secured by certain funds on deposit under the Indenture. See "SECURITY FOR THE BONDS."

**Parity Obligations.** The Installment Payments will be payable on a parity with installment payments (the "2007 Installment Payments") payable by the City as the purchase price under an installment sale agreement dated as of January 1, 2007, between the Authority and the City. See "WATER ENTERPRISE FINANCIAL INFORMATION – Outstanding and Anticipated Water System Obligations." The City may issue or incur additional obligations and bonds on parity with or subordinate to the Installment Payments and the 2007 Installment Payments, provided that the conditions set forth in the Installment Sale Agreement are met. See "SECURITY FOR THE BONDS – Additional Debt." The City is also currently obligated to make installment payments as the purchase price under an installment sale agreement dated as of September 1, 1998, entered into between the Authority and the City in connection with the issuance of the 1998 Bonds, but that obligation will be satisfied upon the issuance of the 2008 Bonds and concurrent defeasance of the 1998 Bonds. See "FINANCING PLAN."

**Bond Terms; Book-Entry Only.** The 2008 Bonds will bear interest at the rates shown on the inside cover page, payable semiannually on June 1 and December 1 of each year, commencing on June 1, 2008, and will be issued in fully registered form without coupons in the denomination of \$5,000 or any integral multiple of \$5,000. The 2008 Bonds will be issued in book-entry only form, initially registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"). Purchasers of the 2008 Bonds will not receive certificates representing their interests in the 2008 Bonds. Payments of the principal of, premium, if any, and interest on the 2008 Bonds will be made to DTC, which is obligated in turn to remit such principal, premium, if any, and interest to its DTC Participants for subsequent disbursement to the beneficial owners of the 2008 Bonds. See "THE 2008 BONDS – General Provisions."

**Redemption.** The 2008 Bonds are subject to optional redemption, mandatory redemption from insurance, sale or condemnation proceeds, and mandatory sinking fund redemption prior to maturity. See "THE 2008 BONDS – Redemption."

NEITHER THE 2008 BONDS, NOR THE OBLIGATION OF THE AUTHORITY TO PAY PRINCIPAL OF OR INTEREST THEREON, NOR THE OBLIGATION OF THE CITY TO MAKE THE 2008 INSTALLMENT PAYMENTS, CONSTITUTE A DEBT OR A LIABILITY OF THE AUTHORITY, THE CITY, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL LIMITATION ON INDEBTEDNESS, OR A PLEDGE OF THE FULL FAITH AND CREDIT OF THE CITY. THE 2008 BONDS ARE SECURED SOLELY BY THE PLEDGE OF REVENUES AND CERTAIN FUNDS HELD UNDER THE INDENTURE. THE 2008 BONDS ARE NOT SECURED BY A PLEDGE OF THE TAXING POWER OF THE CITY.

**MATURITY SCHEDULE**

(see inside cover)

THIS COVER PAGE CONTAINS CERTAIN INFORMATION FOR QUICK REFERENCE ONLY. IT IS NOT A SUMMARY OF THIS ISSUE OF BONDS. INVESTORS MUST READ THE ENTIRE OFFICIAL STATEMENT TO OBTAIN INFORMATION ESSENTIAL TO THE MAKING OF AN INFORMED INVESTMENT DECISION WITH RESPECT TO THE PURCHASE OF THE 2008 BONDS.

The 2008 Bonds are offered when, as and if issued and received by the Underwriters and subject to the approval as to their legality by Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel. Certain legal matters will also be passed upon for the Authority and the City by Jones Hall, A Professional Law Corporation, as Disclosure Counsel. Certain legal matters will be passed upon for the City by the City Attorney and for the Underwriters by Fulbright & Jaworski L.L.P., Los Angeles, California. It is anticipated that the 2008 Bonds will be delivered in book-entry form through the facilities of DTC on or about April \_\_, 2008.

**De La Rosa**

**Bear, Stearns & Co. Inc.**

The date of this Official Statement is: April \_\_\_\_, 2008.

\* Preliminary; subject to change.

**MATURITY SCHEDULE\***

\$ \_\_\_\_\_ **Serial Bonds**  
(Base CUSIP†: \_\_\_\_\_)

<u>Maturity</u> <u>(June 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>Price</u>	<u>CUSIP†</u>
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\$ \_\_\_\_% Term Bond due June 1, 20 \_\_, Price: \_\_% CUSIP† No. \_\_\_\_

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† Copyright 2008, American Bankers Association. CUSIP data herein are provided by Standard & Poor's CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc., and are provided for convenience of reference only. Neither the City, the Authority nor the Underwriters assume any responsibility for the accuracy of these CUSIP data.

\* Preliminary; subject to change

**CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY  
CITY OF BEVERLY HILLS**

**AUTHORITY BOARD/CITY COUNCIL**

Jimmy Delshad, *Chair/Mayor*  
Barry Brucker, *Vice Chair/Vice Mayor*  
Linda J. Briskman, *Director/Councilmember*  
Frank M. Fenton, *Director/Councilmember*  
Nancy Krasne, *Director/Councilmember*

**AUTHORITY/CITY OFFICIALS**

Roderick J. Wood, *Executive Director/City Manager*  
Katie Lichtig, *Assistant City Manager*  
Laurence S. Wiener, *City Attorney*  
Eliot M. Finkel, *City Treasurer*  
Byron Pope, *Secretary/City Clerk*  
Scott G. Miller, PhD, *Chief Financial Officer/Director of Administrative Services and Chief Financial Officer*  
David Gustavson, *Director of Public Works and Transportation*

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**BOND COUNSEL AND DISCLOSURE COUNSEL**

Jones Hall, A Professional Law Corporation  
San Francisco, California

**FINANCIAL ADVISOR**

Public Resources Advisory Group  
Los Angeles, California

**TRUSTEE**

U.S. Bank National Association  
Los Angeles, California

**VERIFICATION AGENT**

Causey, Demgen & Moore, Inc.,  
Certified Public Accountants,  
Denver, Colorado

## GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

**Use of Official Statement.** This Official Statement is submitted in connection with the sale of the 2008 Bonds referred to herein and may not be reproduced or used, in whole or in part, for any other purpose. This Official Statement is not to be construed as a contract with the purchasers of the 2008 Bonds.

**Estimates and Forecasts.** When used in this Official Statement and in any continuing disclosure by the City, in any press release and in any oral statement made with the approval of an authorized officer of the City, the words or phrases "will likely result," "are expected to", "will continue", "is anticipated", "estimate", "project," "forecast", "expect", "intend" and similar expressions identify "forward looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements. Any forecast is subject to such uncertainties. Inevitably, some assumptions used to develop the forecasts will not be realized and unanticipated events and circumstances may occur. Therefore, there are likely to be differences between forecasts and actual results, and those differences may be material. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, give rise to any implication that there has been no change in the affairs of the City since the date hereof.

**Limit of Offering.** No dealer, broker, salesperson or other person has been authorized by the City or the Underwriters to give any information or to make any representations other than those contained herein and, if given or made, such other information or representation must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the 2008 Bonds by a person in any jurisdiction in which it is unlawful for such person to make such an offer, solicitation or sale.

**Limited Scope of Information.** The City has obtained certain information set forth herein from sources which are believed to be reliable. The information and expressions of opinions herein are subject to change without notice and neither delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the City since the date hereof. All summaries of or references to the documents referred to in this Official Statement are made subject to the provisions of such documents and do not purport to be complete statements of any or all of such provisions. All capitalized terms used herein, unless noted otherwise, have the meanings given in the Indenture.

The Underwriters have provided the following sentence for inclusion in this Official Statement: The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of, their responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

**Stabilization of Prices.** In connection with this offering, the Underwriters may overallocate or effect transactions which stabilize or maintain the market price of the 2008 Bonds at a level above that which might otherwise prevail in the open market. Such stabilizing, if commenced, may be discontinued at any time. The Underwriters may offer and sell the 2008 Bonds to certain dealers and others at prices lower than the public offering prices set forth on the cover page hereof and said public offering prices may be changed from time to time by the Underwriters.

THE 2008 BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON AN EXCEPTION FROM THE REGISTRATION REQUIREMENTS CONTAINED IN SUCH ACT. THE 2008 BONDS HAVE NOT BEEN REGISTERED OR QUALIFIED UNDER THE SECURITIES LAWS OF ANY STATE.

## TABLE OF CONTENTS

INTRODUCTION	1	Ten Largest Customers	35
FINANCING PLAN	4	Future Capital Improvements	36
The 2008 Water Project	4	Management and Employee Relations	36
Refunding Plan	4	Insurance	36
Estimated Sources and Uses of Funds	5	Water Quality and Regulatory Matters	37
DEBT SERVICE SCHEDULE	6	WATER ENTERPRISE FINANCIAL	
THE 2008 BONDS	7	INFORMATION	38
Authority for Issuance	7	Financial Statements	38
General Provisions	7	Investments	38
Transfer, Registration and Exchange	8	Outstanding and Anticipated Water Enterprise	
Redemption	8	Obligations	39
Book-Entry Only System	10	Historical Operating Results	40
SECURITY FOR THE 2008 BONDS	11	Management Discussion and Analysis	41
Revenues; Pledge of Revenues	11	Projected Operating Results and Debt Service	
Installment Payments; Application of System		Coverage	41
Revenues	12	THE AUTHORITY	43
Covenant to Budget and Appropriate	14	BOND OWNERS' RISKS	43
Allocation of Revenues by Trustee	14	Net Revenues; Rate Covenant	43
Reserve Account	14	Operation and Maintenance Expenses	43
Installment Payments as Special Obligation of		Limitations on Remedies Available to Bond	
the City; Obligations Absolute	16	Owners	43
Additional Payments	17	Seismic Considerations	44
Rate Covenants	18	Loss of Tax-Exemption	44
Additional Debt	19	Proposition 218	44
Proceeds of Insurance, Sale or Condemnation		Environmental Regulation	46
Awards	21	Secondary Market for Bonds	47
THE WATER ENTERPRISE	23	Existing and Future Parity Obligations	47
Description and Background	23	TAX MATTERS	47
Sources of Water Supply	24	CERTAIN LEGAL MATTERS	49
Metropolitan Water District	24	LITIGATION	49
City's Pumped Groundwater	27	RATINGS	49
Cost of Water Purchased from MWD	27	CONTINUING DISCLOSURE	49
Billing and Collection Procedures	28	UNDERWRITING	50
Water Enterprise Rates and Charges	29	PROFESSIONAL SERVICES	50
Connection Fees	33	VERIFICATION OF MATHEMATICAL	
Historical Service Connections	33	COMPUTATIONS	50
Historical Water Deliveries	33		
Historical Water Sales Revenues	34		
APPENDIX A:	SUMMARY OF PRINCIPAL LEGAL DOCUMENTS		
APPENDIX B:	AUDITED FINANCIAL STATEMENTS OF THE CITY		
	FOR THE FISCAL YEAR ENDED JUNE 30, 2007		
APPENDIX C:	FORM OF CONTINUING DISCLOSURE CERTIFICATE		
APPENDIX D:	GENERAL INFORMATION REGARDING THE CITY OF BEVERLY HILLS		
	AND LOS ANGELES COUNTY		
APPENDIX E:	FORM OF OPINION OF BOND COUNSEL		
APPENDIX F:	DTC AND THE BOOK-ENTRY ONLY SYSTEM		

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## OFFICIAL STATEMENT

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**CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY**  
**2008 Water Revenue Bonds, Series A**

### INTRODUCTION

*This introduction is not a summary of this Official Statement. It is only a brief description of and guide to, and is qualified by, more complete and detailed information contained in the entire Official Statement, including the cover page and appendices hereto, and the documents summarized or described herein. A full review should be made of the entire Official Statement. The offering of the 2008 Bonds to potential investors is made only by means of the entire Official Statement.*

*Capitalized terms used but not defined in this Official Statement have the meanings set forth in the Indenture (as defined below). See "APPENDIX A."*

**Authority for Issuance.** The City of Beverly Hills Public Financing Authority (the "**Authority**") is issuing the bonds captioned above (the "**2008 Bonds**") under the following:

(a) Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 (the "**Bond Law**"),

(b) resolutions adopted by the Board of Directors (the "**Board**") of the Authority on March \_\_\_\_, 2008 (the "**Authority Resolution**"), and by the City Council (the "**City Council**") of the City of Beverly Hills (the "**City**") on March \_\_\_\_, 2008 (the "**City Resolution**"), and

(c) an Installment Sale Agreement dated as of April 1, 2008 (the "**Installment Sale Agreement**"), between the Authority and the City, and an Indenture of Trust dated as of April 1, 2008 (the "**Indenture**"), between the Authority and U.S. Bank National Association, as trustee (the "**Trustee**").

**Form of Bonds; Book-Entry Only.** The 2008 Bonds will be issued in fully registered form, registered in the name of The Depository Trust Company, New York, New York ("DTC"), or its nominee, which will act as securities depository for the 2008 Bonds. Purchasers of the 2008 Bonds will not receive certificates representing the 2008 Bonds that are purchased. See

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\* Preliminary; subject to change.

"THE 2008 BONDS - Book-Entry Only System" and "APPENDIX F – DTC AND THE BOOK-ENTRY ONLY SYSTEM."

**Purpose of the 2008 Bonds.** The 2008 Bonds are being issued to provide funds to:

(i) acquire an existing water treatment plant (the "**2008 Water Project**") for the municipal enterprise owned and operated by the City of Beverly Hills (the "**City**") for the treatment, production, storage and distribution of water (the "**Water Enterprise**"),

(ii) refund on a current basis an outstanding issue of the Authority's bonds captioned "City of Beverly Hills Public Financing Authority Water Revenue Refunding Bonds, Series 1998A" (the "**1998 Bonds**"),

(iii) provide a reserve account for the 2008 Bonds, and

(iv) pay the costs of issuing the 2008 Bonds.

See "FINANCING PLAN."

**Security for the 2008 Bonds and Pledge of Revenues.** Under the Indenture, the 2008 Bonds are payable from and secured by a first pledge of and lien on "**Revenues**" received by the Authority under the Installment Sale Agreement, consisting primarily of installment payments (the "**Installment Payments**") made by the City under the Installment Sale Agreement.

The City's Installment Payments are payable from and secured by "**Net Revenues**" of the Water Enterprise, which are generally defined as "**Gross Revenues**" received from the Water System minus the amount required to pay all "**Operation and Maintenance Costs**" of the Water System.

Under the Installment Sale Agreement the Authority will acquire, construct and install the 2008 Water Project and sell the completed 2008 Water Project to the City in consideration of the agreement by the City to pay the purchase price thereof in semiannual installments.

See "SECURITY FOR THE BONDS."

**Rate Covenants.** The City will make the certain covenants in the Installment Sale Agreement with respect to rates and charges for the Water System, all as further described under "SECURITY FOR THE BONDS – Rate Covenants."

**Parity Obligations.** The Installment Payments will be payable on a parity with installment payments ("**2007 Installment Payments**") payable by the City as the purchase price under an installment sale agreement dated as of January 1, 2007, between the Authority and the city (the "**2007 Installment Sale Agreement**"). See "WATER ENTERPRISE FINANCIAL INFORMATION – Outstanding and Anticipated Water System Obligations."

The City may issue or incur additional obligations and bonds on a parity with or subordinate to the Installment Payments, the 2007 Installment Payments, provided that the conditions set forth in the Installment Sale Agreement and the 2007 Installment Sale Agreement are met. See "SECURITY FOR THE BONDS – Additional Debt" and "WATER ENTERPRISE FINANCIAL INFORMATION – Outstanding and Anticipated Water System Obligations."

The City is also currently obligated to make installment payments as the purchase price under an installment sale agreement dated as of September 1, 1998 (the "**1998 Installment Sale Agreement**"), entered into between the Authority and the City in connection with the issuance of the 1998 Bonds, but that obligation will be satisfied upon the issuance of the 2008 Bonds and concurrent defeasance of the 1998 Bonds. See "FINANCING PLAN."

**Reserve Account.** A Reserve Account will be established and available if there are insufficient amounts in the Bond Fund to make payment on the 2008 Bonds. Upon delivery of the 2008 Bonds, the Authority will meet the "**Reserve Requirement**" (described herein) by depositing a portion of the proceeds of the 2008 Bonds with the Trustee at closing. See "SECURITY FOR THE BONDS – Reserve Account."

**[Application for Municipal Bond Insurance.** The Authority and the City have applied for a policy of municipal bond insurance to insure the payment of the principal and interest on the Bonds when due, but no commitment to issue such a policy has been issued as of the date of the Preliminary Official Statement. ]

**Risks of Investment.** The 2008 Bonds are repayable only from certain money available to the City from the Water System. For a discussion of some of the risks associated with the purchase of the 2008 Bonds, see "BOND OWNERS' RISKS."

NEITHER THE 2008 BONDS, THE OBLIGATION OF THE AUTHORITY TO PAY PRINCIPAL OF OR INTEREST THEREON, NOR THE OBLIGATION OF THE CITY TO MAKE THE 2008 INSTALLMENT PAYMENTS, CONSTITUTE A DEBT OR A LIABILITY OF THE AUTHORITY, THE CITY, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL LIMITATION ON INDEBTEDNESS, OR A PLEDGE OF THE FULL FAITH AND CREDIT OF THE CITY. THE 2008 BONDS ARE SECURED SOLELY BY THE PLEDGE OF REVENUES AND CERTAIN FUNDS HELD UNDER THE INDENTURE. THE 2008 BONDS ARE NOT SECURED BY A PLEDGE OF THE TAXING POWER OF THE CITY.

## FINANCING PLAN

### The 2008 Water Project

The Authority intends to use a portion of the proceeds of the 2008 Bonds to finance the cost of the **"2008 Water Project,"** which is generally defined as improvements to the Water Enterprise, and is initially intended to consist primarily of the acquisition of the City's existing Water Treatment Plant from Earth Tech, Inc., pursuant to the exercise of an option granted under the Design, Build, Operate and Finance Agreement dated as of February 27, 2001, between the City and Earth Tech, Inc. Under this agreement, the earliest date this option can be exercised by the City is April 23, 2008.

Under the Installment Sale Agreement, the City has the option of applying the proceeds of the 2008 Bonds to any other capital project integral to the Water Enterprise.

The 2008 Water Project is being carried out as part of the City's capital improvement program. See "THE WATER ENTERPRISE – Future Capital Improvements" for further information on the planned improvements to the Water Enterprise.

### Refunding Plan

The Authority will apply a portion of the proceeds from the sale of the 2008 Bonds to establish an irrevocable escrow to refund and legally defease, on a current basis, the 1998 Bonds, which are currently outstanding in the principal amount of \$10,790,000.

A portion of the proceeds of the 2008 Bonds will be transferred to U.S. Bank National Association, acting as escrow agent (the **"Escrow Agent"**) for the 1998 Bonds under Irrevocable Refunding Instructions (the **"Refunding Instructions"**), dated as of April 1, 2008, given by the Authority to the Escrow Agent.

The amounts deposited from the proceeds of the 2008 Bonds, together with certain other available moneys, will be held by the Escrow Agent under the Refunding Instructions and invested in noncallable Federal Securities (as described in the Refunding Instructions) consisting of United States Treasury Securities—State and Local Government Series (SLGS), the principal of and interest on which, when received, will be sufficient to (a) pay regularly scheduled debt service on the 1998 Bonds on June 1, 2008, and (b) redeem the 1998 Bonds maturing on and after June 1, 2009, on June 1, 2008, at a redemption price equal to 101% of the principal amount thereof plus accrued and unpaid interest thereon. See "VERIFICATION OF MATHEMATICAL COMPUTATIONS."

**Estimated Sources and Uses of Funds**

The estimated sources and uses of funds relating to the 2008 Bonds are as follows:

Sources:

Principal Amount of 2008 Bonds	\$
Plus Original Issue Premium	
Plus Funds Related to 1998 Bonds	
Less Underwriters' Discount	
<b>TOTAL SOURCES</b>	<b>\$</b>

Uses:

Deposit to Reserve Account of the Bond Fund [1]	\$
Deposit to Project Fund [2]	
Deposit to Costs of Issuance Fund [3]	
Deposit to Escrow Fund [4]	
<b>TOTAL USES</b>	<b>\$</b>

- 
- [1] Equal to the Reserve Requirement with respect to the 2008 Bonds at Closing. See "SECURITY FOR THE BONDS – Reserve Account."
  - [2] Represents funds to be used to finance a portion of the costs of the 2008 Water Project. See "– The 2008 Water Project" above.
  - [3] Represents funds to be used to pay Costs of Issuance, which include legal fees, financial advisor's fee, printing costs, rating agency fees and other miscellaneous expenses.
  - [4] Represents funds to be transferred to the Escrow Agent and deposited in the Escrow Fund to be established under the Refunding Instructions, which will be used to refund and defease the 1998 Bonds. See "– Refunding Plan" above.

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## DEBT SERVICE SCHEDULE

The table below shows annual debt service payments on the 2008 Bonds and the 2007 Bonds (which are secured on a parity by the City's 2008 Installment Payments and 2007 Installment Payments, respectively). See "WATER ENTERPRISE FINANCIAL INFORMATION – Outstanding and Anticipated Water Enterprise Obligations."

Year Ending <u>June 1</u>	2008 Bonds <u>Principal</u>	2008 Bonds <u>Interest</u>	Total 2008 Bonds <u>Debt Service</u>	2007 Bonds <u>Debt Service</u>	Total Parity <u>Debt Service</u>
2008				\$1,526,166.26	
2009				1,526,166.26	
2010				1,701,166.26	
2011				1,519,166.26	
2012				1,519,166.26	
2013				1,519,166.26	
2014				1,519,166.26	
2015				1,519,166.26	
2016				1,939,166.26	
2017				1,933,626.26	
2018				1,932,501.26	
2019				1,935,146.26	
2020				1,936,546.26	
2021				1,941,661.26	
2022				1,935,623.76	
2023				2,953,573.76	
2024				2,957,061.26	
2025				2,952,573.76	
2026				2,955,011.26	
2027				2,954,176.26	
2028				2,953,556.26	
2029				2,956,531.26	
2030				2,955,893.76	
2031				2,956,643.76	
2032				2,953,568.76	
2033				2,956,668.76	
2034				2,956,093.76	
2035				2,955,862.50	
2036				2,955,750.00	
2037				<u>2,955,531.26</u>	
Total:				\$70,232,097.78	

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## THE 2008 BONDS

### Authority for Issuance

The 2008 Bonds are being issued under the Bond Law, the Authority Resolution (which was adopted by the Board of the Authority on March \_\_\_\_\_, 2008), the City Resolution (which was adopted by the City Council on March \_\_\_\_\_, 2008), the Installment Sale Agreement and the Indenture. Under the Authority Resolution and the City Resolution, the 2008 Bonds may be issued in a principal amount not to exceed \$35,000,000.

### General Provisions

**Bond Terms.** The 2008 Bonds will be dated their date of delivery and issued in fully registered form without coupons in denominations of \$5,000 or any integral multiple of \$5,000. The 2008 Bonds will mature in the amounts and on the dates, and bear interest at the annual rates, set forth on the inside cover page of this Official Statement.

**Payments of Principal and Interest.** Interest on the 2008 Bonds will be payable on June 1 and December 1 in each year, beginning June 1, 2008 (each an "Interest Payment Date").

*While the 2008 Bonds are subject to the book-entry system, the principal, interest and any prepayment premium with respect to the 2008 Bonds will be paid by the Trustee to DTC for subsequent disbursement to beneficial owners of the 2008 Bonds. See "– Book-Entry Only System" below.*

Interest is payable on each Interest Payment Date to the persons in whose names the ownership of the 2008 Bonds is registered on the Registration Books at the close of business on the immediately preceding Record Date, except as provided below. Interest on any 2008 Bond which is not punctually paid or duly provided for on any Interest Payment Date is payable to the person in whose name the ownership of such 2008 Bond is registered on the Registration Books at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Trustee, notice of which is given to such Owner by first-class mail not less than 10 days prior to such special record date.

The Trustee will pay interest on the 2008 Bonds by check of the Trustee mailed by first class mail, postage prepaid, on each Interest Payment Date to the Owners of the 2008 Bonds at their respective addresses shown on the Registration Books as of the close of business on the preceding Record Date. At the written request of the Owner of 2008 Bonds in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee as of any Record Date, the Trustee will pay interest on such 2008 Bonds on each succeeding Interest Payment Date by wire transfer in immediately available funds to such account of a financial institution within the United States of America as specified in such written request, which written request will remain in effect until rescinded in writing by the Owner.

The Trustee will pay principal of the 2008 Bonds in lawful money of the United States of America by check of the Trustee upon presentation and surrender thereof at the Office of the Trustee.

**Calculation of Interest.** Interest on the 2008 Bonds is payable from the Interest Payment Date next preceding the date of authentication thereof unless:

(a) a 2008 Bond is authenticated on or before an Interest Payment Date and after the close of business on the preceding Record Date, in which event it will bear interest from such Interest Payment Date,

(b) a 2008 Bond is authenticated on or before the first Record Date, in which event interest thereon will be payable from the Closing Date, or

(c) interest on any 2008 Bond is in default as of the date of authentication thereof, in which event interest thereon will be payable from the date to which interest has been paid in full, payable on each Interest Payment Date.

### **Transfer, Registration and Exchange**

See "APPENDIX A – Summary of Principal Legal Documents" for a description of the provisions of the Indenture relating to the transfer, registration and exchange of the 2008 Bonds.

### **Redemption\***

**Optional Redemption from any Source of Available Funds.** The 2008 Bonds maturing on or before June 1, 20\_\_, are not subject to optional redemption prior to their respective stated maturity dates. The 2008 Bonds maturing on or after June 1, 20\_\_, are subject to redemption in whole, or in part at the Written Request of the Authority, among maturities on such basis as the Authority may designate and by lot within a maturity, at the option of the Authority, on any date on or after June 1, 20\_\_, from any available source of funds, at a redemption price equal to 100% of the principal amount of the 2008 Bonds to be redeemed, plus accrued interest to the date of redemption, without premium.

**Redemption From Proceeds of Insurance, Sale and Condemnation.** The 2008 Bonds are subject to mandatory redemption, on any date, in whole, or in part on a pro rata basis among maturities, from the net proceeds of insurance, sale or condemnation credited toward the prepayment of the Installment Payments by the City under the Installment Sale Agreement. The 2008 Bonds are subject to redemption under this provision at a redemption price equal to the principal amount represented thereby to be prepaid, without premium, together with accrued interest represented thereby to the redemption date.

**Mandatory Sinking Fund Redemption.** The 2008 Bonds maturing on June 1, 20\_\_ (the "Term Bonds"), are subject to mandatory redemption in part by lot, on June 1 in each of the years as set forth in the following table, from deposits made for such purpose under the Indenture, at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium (or in lieu of redemption may be purchased as described below), in the aggregate respective principal amounts and on the respective dates as set forth in the following table.

However, if some but not all of the Term Bonds have been redeemed through optional redemption or mandatory redemption from proceeds of insurance, sale or condemnation, as describe above, the total amount of all future payments with respect to such Term Bonds will be

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\* Preliminary; subject to change.

reduced by the aggregate principal amount of such Term Bonds so redeemed, to be allocated among such payments in integral multiples of \$5,000 as determined by the Authority.

Sinking Fund Redemption Date (June 1)	Principal Amount To Be Redeemed
20__	
20__	
20__	
20__ (Maturity)	

**Purchase in Lieu of Redemption.** In lieu of redemption of the Term Bonds as described above, amounts on deposit in the Bond Fund (to the extent not required to be deposited by the Trustee in the Interest Account or the Principal Account during the current Bond Year) may also be used and withdrawn by the Authority, upon the Written Request of the Authority delivered to the Trustee, at any time for the purchase of such Term Bonds at public or private sale as and when and at such prices (including brokerage and other charges and including accrued interest) as the Authority may in its discretion determine. The par amount of any of such Term Bonds so purchased by the Authority in any twelve-month period ending on April 1 in any year will be credited toward and will reduce the par amount of such Term Bonds required to be redeemed through mandatory sinking fund redemption under the Indenture on the next succeeding June 1.

**Selection of Bonds for Redemption.** Whenever provision is made in the Indenture for the redemption of less than all of the 2008 Bonds of a single maturity, the Trustee will select the 2008 Bonds of that maturity to be redeemed by lot in any manner which the Trustee in its sole discretion deems appropriate. For purposes of such selection, the Trustee will treat each 2008 Bond as consisting of separate \$5,000 portions and each such portion will be subject to redemption as if such portion were a separate bond.

**Notice of Redemption.** The Trustee will mail notice of redemption of the 2008 Bonds by first class mail, postage prepaid, not less than 30 nor more than 60 days before any redemption date, to the respective Owners of any 2008 Bonds designated for redemption at their addresses appearing on the Registration Books and to one or more Securities Depositories and to the Information Services.

Neither the failure to receive any redemption notice nor any defect therein will affect the sufficiency of the proceedings for redemption of the 2008 Bonds or the cessation of accrual of interest from and after the redemption date.

**Rescission of Redemption Notice.** The Authority has the right to rescind any optional redemption or redemption from proceeds of insurance, sale and condemnation by written notice to the Trustee on or prior to the date fixed for redemption. Any notice of redemption will be cancelled and annulled if for any reason funds are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation will not constitute an Event of Default under the Indenture. The Trustee will mail notice of rescission of redemption in the same manner notice of redemption was originally provided.

**Effect of Redemption.** If notice of redemption has been duly given as provided in the Indenture, and moneys for payment of the redemption price of, together with interest accrued to the date fixed for redemption on, including any applicable premium, the Bonds (or portions thereof) so called for redemption are held by the Trustee, on the redemption date designated in

the redemption notice, then the Bonds (or portions thereof) so called for redemption will become due and payable, interest on the Bonds so called for redemption will cease to accrue, those Bonds (or portions thereof) will cease to be entitled to any benefit or security under the Indenture, and the Owners of those Bonds will have no rights in respect thereof except to receive payment of the redemption price thereof.

### **Book-Entry Only System**

The 2008 Bonds will be issued as fully registered bonds in book-entry only form, registered in the name of Cede & Co. as nominee of DTC, and will be available to ultimate purchasers in the denomination of \$5,000 or any integral multiple of \$5,000, under the book-entry system maintained by DTC. While the 2008 Bonds are subject to the book-entry system, the principal, interest and any prepayment premium with respect to a 2008 Bond will be paid by the Trustee to DTC, which in turn is obligated to remit such payment to its DTC Participants for subsequent disbursement to Beneficial Owners of the 2008 Bonds. Purchasers of the 2008 Bonds will not receive certificates representing their interests therein, which will be held at DTC.

See "APPENDIX F – DTC AND THE BOOK-ENTRY ONLY SYSTEM" for further information regarding DTC and the book-entry system.

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## SECURITY FOR THE 2008 BONDS

*The general fund of the City is not liable and neither the credit nor the taxing power of the City is pledged for the payment of the principal of and interest on the 2008 Bonds. The Owners of the 2008 Bonds may not compel the exercise of the taxing power by the City or the forfeiture of its property. The principal of and interest on the 2008 Bonds are not a debt of the Authority or the City, nor a legal or equitable pledge, charge, lien or encumbrance, upon any of their respective property, or upon any of their income, receipts, or revenues except the Revenues and other amounts pledged under the Indenture.*

*This section provides summaries of the security for the 2008 Bonds and certain provisions of the Installment Sale Agreement and the Indenture. See "APPENDIX A – Summary of Principal Legal Documents" for a more complete summary of the Installment Sale Agreement and the Indenture. Capitalized terms used but not defined in this section have the meanings given in APPENDIX A.*

### **Revenues; Pledge of Revenues**

***Pledge of Revenues and Other Amounts.*** Subject only to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth therein, all of the Revenues and all amounts held in any fund or account established under the Indenture (other than the Project Fund) are pledged to secure the payment of the principal of and interest and premium (if any) on the 2008 Bonds and any Outstanding Additional Bonds (collectively, the "**Bonds**") in accordance with their terms and the provisions of the Indenture.

This pledge constitutes a lien on and security interest in the Revenues and such amounts and will attach, be perfected and be valid and binding from and after the Closing Date, without the need for any physical delivery thereof or further act.

***Definition of Revenues.*** "Revenues" are defined in the Indenture as follows:

(a) all amounts received by the Authority or the Trustee pursuant or with respect to the Installment Sale Agreement, including, without limiting the generality of the foregoing, all of the Installment Payments (including both timely and delinquent payments, any late charges, and whether paid from any source, but excluding any Additional Payments), prepayments, insurance proceeds, condemnation proceeds, and

(b) all interest, profits or other income derived from the investment of amounts in any fund or account established pursuant to the Indenture.

***Assignment to Trustee.*** Under the Indenture the Authority will irrevocably transfer, assign and set over to the Trustee, without recourse to the Authority, all of its rights in the Installment Sale Agreement (excepting only the Authority's rights to Additional Payments, release and indemnification by the City, and the payment of attorneys' fees and expenses under the Installment Sale Agreement), including but not limited to all of the Authority's rights to receive and collect all of the Installment Payments.

The Trustee is entitled to collect and receive all of the Installment Payments, and any Installment Payments collected or received by the Authority will be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and will immediately be paid by the Authority to the Trustee.

The Trustee is also entitled to and must, subject to the provisions of the Indenture, take all steps, actions and proceedings which the Trustee determines to be reasonably necessary in its judgment to enforce, either jointly with the Authority or separately, all of the rights of the Authority and all of the obligations of the City under the Installment Sale Agreement.

### **Installment Payments; Application of System Revenues**

**Installment Sale Payments.** Under the Installment Sale Agreement, the City will irrevocably pledge, charge and assign all of the Net Revenues and all moneys on deposit in any of the funds and accounts established and held by the Trustee under the Indenture to the punctual payment of the Installment Payments. This pledge, charge and assignment constitute a lien on the Net Revenues and such other moneys for the payment of the Installment Payments in accordance with the terms of the Installment Sale Agreement, on a parity with the pledge and lien which secures any Parity Obligations.

#### ***Net Revenues, Gross Revenues and Operation and Maintenance Costs.***

“Net Revenues” means, for any period, an amount equal to all of the Gross Revenues received during such period minus the amount required to pay all Operation and Maintenance Costs becoming payable during such period.

“Gross Revenues” means all gross charges received for, and all other gross income and receipts derived by the City from, the ownership and operation of the Water Enterprise or otherwise arising from the Water Enterprise, including but not limited to investment earnings.

The term “Gross Revenues” *does not* include (a) connection charges and developer impact fees, (b) the proceeds of any ad valorem property taxes levied for the purpose of paying general obligation bonds of the City relating to the Water Enterprise, and (c) the proceeds of any special assessments or special taxes levied upon real property within any improvement district served by the City levied for the purpose of paying special assessment bonds or special tax obligations of the City relating to the Water Enterprise.

“Operation and Maintenance Costs” means the reasonable and necessary costs and expenses paid by the City for maintaining and operating the Water Enterprise, including but not limited to:

(a) costs of utilities, including the costs of acquisition of water, electricity and other forms of energy supplied to the Water Enterprise,

(b) the reasonable expenses of management and repair and other costs and expenses necessary to maintain and preserve the Water Enterprise in good repair and working order, and

(c) the reasonable administrative costs of the City attributable to the operation and maintenance of the Water Enterprise, including insurance and other costs described in the Installment Sale Agreement.

“Operation and Maintenance Costs” *do not include* (i) debt service payable on obligations incurred by the City with respect to the Water Enterprise, including but not limited to the Installment Payments and any Parity Obligations, (ii) depreciation, replacement and

obsolescence charges or reserves therefor, and (iii) amortization of intangibles or other bookkeeping entries of a similar nature.

**Installment Payment Date.** Under the Installment Sale Agreement the City is required to make each Installment Payment with the Trustee by the 3rd Business Day immediately preceding each Interest Payment Date on the Bonds.

**Application of Water Enterprise Revenues.** Under the Installment Sale Agreement the City is required to deposit all of the Gross Revenues of the Water Enterprise in the Water Enterprise Fund (which has been established and is held and maintained by the City with respect to the Water Enterprise) immediately upon receipt.

The City will apply amounts in the Water Enterprise Fund as set forth in the Installment Sale Agreement and any Parity Obligation Documents, and will apply amounts on deposit in the Water Enterprise Fund to pay when due the following amounts in the following order of priority:

- (i) all Operation and Maintenance Costs;
- (ii) the Installment Payments and all payments of principal of and interest on any Parity Obligations;
- (iii) to the Trustee the amount of any deficiency in the Reserve Account established for the Bonds and in any reserve fund established for Parity Obligations, the notice of which deficiency has been given to the City in accordance with the Indenture and the related Parity Obligations Documents, respectively;
- (iv) any other payments required to comply with the provisions of the Installment Sale Agreement and any Parity Obligations Documents; and
- (v) any other purposes authorized under the Installment Sale Agreement.

**No Preference or Priority.** Under the Installment Sale Agreement, payment of the Installment Payments and the principal of and interest on any Parity Obligations will be made without preference or priority among the Installment Payments and such Parity Obligations. If the amount of Net Revenues on deposit in the Water Enterprise Fund is any time insufficient to enable the City to pay when due the Installment Payments and the principal of and interest on any Parity Obligations, such payments will be made on a pro rata basis.

**Other Uses of Net Revenues Permitted.** Under the Installment Sale Agreement the City will manage, conserve and apply the Gross Revenues on deposit in the Water Enterprise Fund in such a manner that all deposits required to be made as described above will be made at the times and in the amounts so required. Subject to the foregoing sentence, so long as no Event of Default has occurred and is continuing, the City may use and apply moneys in the Water Enterprise Fund for (i) the payment of any subordinate obligations or any unsecured obligations, (ii) the acquisition and construction of improvements to the Water Enterprise, (iii) the prepayment of any other obligations of the City relating to the Water Enterprise, or (iv) any other lawful purposes of the City.

## **Covenant to Budget and Appropriate**

During the Term of the Installment Sale Agreement, the City is required to adopt all necessary budgets and make all necessary appropriations of the Installment Payments from the Net Revenues of the Water Enterprise. If any Installment Payment requires the adoption by the City of any supplemental budget or appropriation, the City will promptly adopt the same.

The covenants on the part of the City contained in this provision of the Installment Sale Agreement constitute duties imposed by law and it is the duty of each and every public official of the City to take such actions and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform these covenants and agreements.

## **Allocation of Revenues by Trustee**

**Transfers from the Bond Fund.** Under the Indenture, on or before each Interest Payment Date, the Trustee will transfer from the Bond Fund and deposit into the following respective accounts the following amounts in the following order of priority:

(a) *Deposit to Interest Account.* The Trustee will deposit in the Interest Account an amount required to cause the aggregate amount on deposit in the Interest Account to be at least equal to the amount of interest becoming due and payable on such Interest Payment Date on all Bonds then Outstanding.

(b) *Deposit to Principal Account.* The Trustee will deposit in the Principal Account an amount required to cause the aggregate amount on deposit in the Principal Account to equal the principal amount of the Bonds coming due and payable on each June 1, including the aggregate principal amount of Term Bonds that are subject to mandatory sinking fund redemption on that June 1.

(c) *Deposit to Reserve Account.* The Trustee will deposit in the Reserve Account an amount, if any, required to cause the amount on deposit in the Reserve Account to be equal to the Reserve Requirement.

**Application of Interest Account.** All amounts in the Interest Account will be used and withdrawn by the Trustee solely for the purpose of paying interest on the Bonds as it comes due and payable (including accrued interest on any Bonds purchased or redeemed prior to maturity).

**Application of Principal Account.** All amounts in the Principal Account will be used and withdrawn by the Trustee solely to pay the principal amount of the Bonds on their respective maturity dates, and the principal amount of Term Bonds that are subject to mandatory sinking fund redemption on their respective redemption dates.

## **Reserve Account**

**General.** Under the Indenture, a Reserve Account of the Bond Fund has been established for the Bonds (the "**Reserve Account**"), and is held in trust by the Trustee. The Authority currently intends to satisfy the Reserve Requirement for the 2008 Bonds through the deposit of a portion of the proceeds of the 2008 Bonds equal to the Reserve Requirement concurrently with issuance of the 2008 Bonds.

**Reserve Requirement.** The "Reserve Requirement" is defined in the Indenture, as of the date of calculation by the Authority or the City, as the lesser of the following:

(i) Maximum Annual Debt Service (as defined in the Indenture) on the Bonds (excluding from the calculation thereof Governmental Loans and Parity Obligations other than Bonds),

(ii) 10% of the total of the proceeds of the Bonds (excluding from the calculation thereof Governmental Loans and Parity Obligations other than Bonds), and

(iii) 125% of average Annual Debt Service on the Bonds (excluding from the calculation thereof Governmental Loans and Parity Obligations other than Bonds).

However, in no event may the Authority or the City, in connection with the issuance of Parity Obligations in the form of Additional Bonds, be obligated to deposit an amount in the Reserve Account which is in excess of the amount permitted by the applicable provisions of the Code to be so deposited from the proceeds of tax-exempt bonds without having to restrict the yield of any investment purchased with any portion of such deposit. If such amount of any deposit into the Reserve Account is so limited, the Reserve Requirement will, in connection with the issuance of such Additional Bonds, be increased only by the amount of such deposit.

**Application of Reserve Account Generally.** All amounts in the Reserve Account will be used and withdrawn by the Trustee solely for the purpose of

(i) paying principal of or interest on the Bonds, including the principal amount of any Term Bonds subject to mandatory sinking fund redemption, when due and payable to the extent that moneys deposited in the Interest Account or Principal Account are not sufficient for such purpose, and

(ii) making the final payments of principal of and interest on the Bonds.

If the amounts on deposit in the Reserve Account are insufficient at any time to pay the full amount of principal of and interest on the Bonds then required to be paid from the Reserve Account, the Trustee will apply such amounts first, to the payment of interest and second, to the payment of principal. On the date on which all Bonds are retired under the Indenture or provision is made therefor under the Indenture, after payment of any amounts then owed to the Trustee, all moneys then on deposit in the Reserve Account will be withdrawn by the Trustee and paid to the City as a refund of overpaid Installment Payments.

**Transfer of Excess Amounts.** If, on any date, moneys on deposit in the Reserve Account, together with amounts then on deposit in the Bond Fund, are sufficient to pay all Outstanding Bonds, including all principal thereof, and interest thereon, the Trustee will, at the Written Request of the Authority, transfer all amounts then on deposit in the Reserve Account, together with such amounts in the Bond Fund, to the Redemption Fund to be applied to the optional redemption of the Bonds in accordance with the Indenture.

The Trustee will transfer any amounts on deposit in the Reserve Account in excess of the Reserve Requirement, including amounts derived from the investment of moneys in the Reserve Account, to the Bond Fund.

**Substitution of Qualified Reserve Account Credit Instrument.** Under the Indenture, the Authority will have the right at any time to cause the Trustee to release any cash (including Permitted Investments) on deposit from the Reserve Account, in whole or in part, by tendering to the Trustee the following: (1) a "Qualified Reserve Account Credit Instrument" (as defined in the Indenture), and (2) an opinion of Bond Counsel stating that such release will not, of itself, cause the interest on the Bonds to become includable in gross income for purposes of federal income taxation.

Upon tender of these items to the Trustee, the Trustee will transfer such funds from the Reserve Account to or upon the direction of the Authority. Prior to the expiration of any Qualified Reserve Account Credit Instrument, or to the reduction of the rating of the provider thereof below the rating on the Bonds, the Authority will be obligated either (a) to replace such Qualified Reserve Account Credit Instrument with a new Qualified Reserve Account Credit Instrument, or (b) to deposit or cause to be deposited with the Trustee an amount of funds such that the funds on deposit in the Reserve Account, together with all Qualified Reserve Account Credit Instruments held by the Trustee, at least equal the Reserve Requirement.

If a Qualified Reserve Account Credit Instrument is available to be drawn upon for only one or more particular issues of Bonds, a separate subaccount in the Reserve Account may be established for such issue or issues. In such case, the calculation of the Reserve Requirement for such issue of Bonds shall be made only with respect to such issue, and the calculation of the Reserve Requirement with respect to all other Bonds will exclude the debt service on such issue of Bonds.

Additionally, the Reserve Account may be maintained in the form of one combined Reserve Account or in the form of one or more separate sub-accounts established for the purpose of holding the proceeds of separate issues of Bonds in conformity with applicable provisions of the Code to the extent directed by the Authority or the City in writing to the Trustee.

### **Installment Payments as Special Obligation of the City; Obligations Absolute**

**Special Limited Obligation.** The City's obligation to pay the Installment Payments and any other amounts coming due and payable under the Installment Sale Agreement is a special obligation of the City limited solely to the Net Revenues. Under no circumstances is the City required to advance moneys derived from any source of income other than the Net Revenues and other sources specifically identified in the Installment Sale Agreement for the payment of the Installment Payments and such other amounts. No other funds or property of the City are liable for the payment of the Installment Payments and any other amounts coming due and payable under the Installment Sale Agreement.

**Absolute and Unconditional Obligations.** The obligations of the City to pay the Installment Payments from the Net Revenues and to perform and observe the other agreements contained in the Installment Sale Agreement are absolute and unconditional and are not subject to any defense or any right of set-off, counterclaim or recoupment arising out of any breach by the Authority or the Trustee of any obligation to the City or otherwise with respect to the Water Enterprise, whether under the Installment Sale Agreement or otherwise, or out of indebtedness or liability at any time owing to the City by the Authority or the Trustee.

**No Suspension of Payments or Termination of Installment Sale Agreement.** Until all of the Installment Payments, all of the Additional Payments and all other amounts coming due and payable under the Installment Sale Agreement are fully paid or prepaid, the City (a) will

not suspend or discontinue payment of any Installment Payments, Additional Payments or such other amounts, (b) will perform and observe all other agreements contained in the Installment Sale Agreement, and (c) will not terminate the Installment Sale Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Water Enterprise, failure to complete the acquisition and construction of the 2008 Water Project by the estimated completion date thereof, sale of the Water Enterprise, the taking by eminent domain of title to or temporary use of any component of the Water Enterprise, commercial frustration of purpose, any change in the tax law or other laws of the United States of America or the State of California or any political subdivision of either thereof, or any failure of the Authority or the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Indenture or the Installment Sale Agreement.

**No Release of Authority.** The foregoing provisions do not release the Authority from the performance of any of the agreements on its part contained in the Installment Sale Agreement or in the Indenture, and if the Authority fails to perform any such agreements, the City may institute such action against the Authority as the City deems necessary to compel performance, so long as such action does not abrogate the obligations of the City contained in the preceding paragraph. The City may, however, at its cost and expense and in its name or in the name of the Authority, prosecute or defend any action or proceeding or take any other action involving third persons which the City deems reasonably necessary in order to secure or protect the City's rights under the Installment Sale Agreement, and in such event the Authority will cooperate fully with the City and take such action necessary to effect the substitution of the City for the Authority in such action or proceeding if the City may request.

### **Additional Payments**

Under the Installment Sale Agreement, in addition to the Installment Payments, the City is required to pay when due the following amounts to the following parties:

- (i) to the Authority, all costs and expenses incurred by the Authority to comply with the provisions of the Installment Sale Agreement and the Indenture;
- (ii) to the Trustee upon request therefor, all of its fees, costs and expenses payable as a result of the performance of and compliance with its duties under the Installment Sale Agreement or under the Indenture or any related documents;
- (iii) to the Authority and the Trustee, all amounts required to indemnify the Authority and the Trustee under the Installment Sale Agreement and the Indenture;
- (iv) all costs and expenses of auditors, engineers and accountants for professional services relating to the Water Enterprise or the Bonds.

The Additional Payments are payable from, but are not secured by a pledge or lien upon, the Net Revenues.

## Rate Covenants

**Sum Sufficient.** Under the Installment Sale Agreement the City is required to fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Water Enterprise during each Fiscal Year, which are at least sufficient, after making allowances for contingencies and error in the estimates, to yield Gross Revenues sufficient to pay the following amounts in the following order of priority:

- (i) All Operation and Maintenance Costs estimated by the City to become due and payable in such Fiscal Year;
- (ii) All Installment Payments and all payments of principal of and interest on any Parity Obligations as they become due and payable during such Fiscal Year, without preference or priority, except to the extent such Installment Payments or the principal of and interest on such Parity Obligations are payable from the proceeds of the Bonds or such Parity Obligations, as applicable, or from any other source of legally available funds of the City (other than the Gross Revenues) that have been deposited with the Trustee for such purpose before the beginning of that Fiscal Year;
- (iii) All amounts, if any, required to restore the balance in the Reserve Account to the full amount of the Reserve Requirement; and
- (iv) All payments required to meet any other obligations of the City which are charges, liens, encumbrances upon, or which are otherwise payable from, the Gross Revenues or the Net Revenues during such Fiscal Year, except to the extent other sources of funds are reserved or encumbered therefore.

**Coverage from Net Revenues.** In addition, the City will fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Water Enterprise during each Fiscal Year that are sufficient, after making allowances for contingencies and error in the estimates, to yield Net Revenues that are at least equal to 125% of the following amounts for such Fiscal Year:

- (i) All Operation and Maintenance Costs estimated by the City to become due and payable in such Fiscal Year;
- (ii) All Installment Payments and all payments of principal of and interest on any Parity Obligations as they become due and payable during such Fiscal Year, without preference or priority, except to the extent such Installment Payments or the principal of and interest on such Parity Obligations are payable from the proceeds of the Bonds or such Parity Obligations, as applicable, or from any other source of legally available funds of the City (other than the Gross Revenues) that have been deposited with the Trustee for such purpose before the beginning of that Fiscal Year; and
- (iii) All amounts, if any, required to restore the balance in the Reserve Account to the full amount of the Reserve Requirement.

## Additional Debt

**Superior and Subordinate Obligations.** Under the Installment Sale Agreement, the City may not issue or incur any additional bonds or other obligations during the Term of the Installment Sale Agreement having any priority in payment of principal or interest out of the Gross Revenues or the Net Revenues over the Installment Payments.

Nothing in the Installment Sale Agreement is intended or may be construed to limit or affect the ability of the City to issue, enter into or incur (a) Governmental Loans payable on a priority basis to payments due under the Installment Sale Agreement or in connection with any Parity Obligations, (b) Parity Obligations, or (c) obligations which are either unsecured or which are secured by an interest in the Net Revenues which is junior and subordinate to the pledge of and lien upon the Net Revenues established under the Installment Sale Agreement.

**Conditions for Issuance of Parity Obligations.** Under the Installment Sale Agreement, except for obligations incurred to prepay or discharge the Installment Payments or any Parity Obligations, the City may not issue or incur any Parity Obligations during the Term of the Installment Sale Agreement unless all of the following conditions are satisfied:

(a) No Event of Default has occurred and is continuing.

(b) The Net Revenues, calculated in accordance with sound accounting principles, as shown by the books of the City for the most recent completed Fiscal Year for which audited financial statements of the City are available, or for any more recent consecutive 12-month period selected by the City, in either case verified by a certificate or opinion of an Independent Accountant or a Fiscal Consultant, plus (at the option of the City) any Additional Revenues, at least equal 125% of Maximum Annual Debt Service (including the Parity Obligations then proposed to be issued).

(c) There must be deposited in a reserve fund for the security of such Parity Obligations an amount equal to the least of (i) the maximum amount of debt service required to be paid by the City with respect to such Parity Obligations during any Fiscal Year, (ii) 125% of average annual debt service required to be paid by the City with respect to such Parity Obligations during each fiscal year, and (iii) 10% of the net proceeds of such Parity Obligations.

(d) If any of such Parity Obligations related to "Variable Rate Bonds" (as defined in the Indenture), or a "Swap Agreement" (as defined in the Indenture) is being entered in connection with the Parity Obligations or the related Variable Rate Bonds, the Maximum Annual Debt Service on such Variable Rate Bonds will be calculated in accordance with the definition of Annual Debt Service and of Maximum Annual Debt Service set forth in the Indenture.

If the Parity Obligations are being issued solely to refund outstanding Parity Obligations, and the resulting Annual Debt Service for each Bond Year is less than the Annual Debt Service for each Bond Year prior to the issuance of the refunding Parity Obligations, the City need not comply with the provisions described in paragraphs (a) and (b) above.

The Parity Obligations may be, but are not required to be, in the form of Supplemental Agreements, and may, but are not required to, secure the payment of debt service on Bonds.

For so long as the 2007 Installment Sale Agreement is in effect, the City must also comply with the provisions of the 2007 Installment Sale Agreement regarding the issuance of Parity Obligations thereunder.

***“Parity Obligations.”*** The term “Parity Obligations” is defined in the Indenture as (i) any bonds, notes, leases, installment sale agreements or other obligations of the City payable from and secured by a pledge of and lien upon any of the Net Revenues on a parity with the Installment Payments, entered into or issued under and in accordance with the Installment Sale Agreement, and (ii) any Governmental Loan that is treated as a Parity Obligation under the Installment Sale Agreement, and (iii) the 2007 Installment Payments.

***“Additional Revenues.”*** The term “Additional Revenues” is defined in the Indenture as any or all of the following amounts:

(i) An allowance for Net Revenues from any additions or improvements to or extensions of the Water Enterprise to be made with the proceeds of such Parity Obligations and also for Net Revenues from any such additions, improvements or extensions which have been made from moneys from any source but in any case which, during all or any part of the latest Fiscal Year or for any more recent consecutive 12-month period selected by the City, were not in service, all in an amount equal to 90% of the estimated additional average annual Net Revenues to be derived from such additions, improvements and extensions for the first 36-month period in which each addition improvement or extension is respectively to be in operation, all as shown by the certificate or opinion of a qualified independent engineer employed by the City.

(ii) An allowance for Net Revenues arising from any increase in the charges made for service from the Water Enterprise which has been adopted prior to the incurring of such Parity Obligations but which, during all or any part of the latest Fiscal Year or for any more recent consecutive 12-month period selected by the City, was not in effect, in an amount equal to the total amount by which the Net Revenues would have been increased if such increase in charges had been in effect during the whole of such Fiscal Year or 12-month period, all as shown by the certificate or opinion of an Independent Accountant or Fiscal Consultant employed by the City.

***Conditions for Entering Into Governmental Loans.***

(a) The City may borrow money from a Governmental Agency and incur a Governmental Loan to finance improvements to the Water Enterprise. A Governmental Loan may be treated as a Parity Obligation for purposes of the Installment Sale Agreement, so long as the City complies with subsections (a), (b) and (d) under the conditions for issuance of Parity Obligations described above before incurring the Governmental Loan; the City need not comply with the provisions of subsection (c) under the conditions for issuance of Parity Obligations described above in order for such Governmental Loan to be treated as a Parity Obligation under the Installment Sale Agreement.

(b) (i) A Governmental Agency will not be entitled to be paid from monies then on hand in the Reserve Account in the event the Net Revenues are ever insufficient to make a timely payment on any Governmental Loan, and (ii) the City may not make a payment on any Governmental Loan (except as expressly described in subsection (c) below) to the extent it would have the effect of causing the City to fail to make a timely payment on the Bonds.

(c) If Net Revenues are ever insufficient to pay the full amount of Installment Payments and other Parity Obligations then Outstanding and such Governmental Loan, the City will make payments on the Installment Payments and other Parity Obligations and such Governmental Loan on a pro rata basis.

The term "Governmental Loan" is defined in the Indenture as any loan made by a "Governmental Agency" (defined as the State, and the United States of America, acting through any of its agencies, to the extent that the State or such agency has loaned money to the City for the Water Enterprise) to the City which is secured by a pledge of Net Revenues and incurred by the City to finance improvements to the Water Enterprise.

### **Proceeds of Insurance, Sale or Condemnation Awards**

#### ***Insurance.***

(a) Under the Installment Sale Agreement the City must at all times maintain with responsible insurers all such insurance on the Water Enterprise as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to the Water Enterprise. The City will apply any amounts collected from insurance against accident to or destruction of any portion of the Water Enterprise, at its option, either (i) to repair or rebuild such damaged or destroyed portion of the Water Enterprise, or (ii) to prepay on a pro rata basis (A) the Installment Payments on the next available prepayment date, and (B) any Parity Obligations in accordance with the related Parity Obligations Documents.

(b) The City must also maintain, with responsible insurers, worker's compensation insurance and insurance against public liability and property damage to the extent reasonably necessary to protect the City, the Authority, the Trustee and the Owners of the Bonds.

(c) Any policy of insurance required under this provision may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of self-insurance by the City or in the form of the participation by the City in a joint powers agency or other program providing pooled insurance.

***Sale of the Water Enterprise.*** Except as described below, the City will covenant in the Installment Sale Agreement that the Water Enterprise will not be encumbered, sold, leased, pledged, have any charge placed thereon, or otherwise be disposed of, as a whole or substantially as a whole, if such encumbrance, sale, lease, pledge, charge or other disposition would materially impair the ability of the City to pay the Installment Payments or the principal of or interest on any Parity Obligations, or would materially adversely affect its ability to comply with the terms of the Installment Sale Agreement or any Parity Obligations Documents.

The City may not enter into any agreement which impairs the operation of the Water Enterprise or any part of it necessary to secure adequate Net Revenues to pay the Installment Payments or any Parity Obligations, or which otherwise would impair the rights of the Bond Owners or the Trustee with respect to the Net Revenues.

If any substantial part of the Water Enterprise is sold, the payment therefor must either (a) be used for the acquisition or construction of improvements to the Water Enterprise, or (b) be applied on a pro rata basis to (i) prepay the Installment Payments on the next available prepayment date, and (ii) redeem any Parity Obligations in accordance with the related Parity Obligations Documents.

**Condemnation Awards.** Any amounts received as awards as a result of the taking of all or any part of the Water Enterprise by the lawful exercise of eminent domain, if and to the extent that such right can be exercised against such property of the City, will either (i) be used for the acquisition or construction of improvements to the Water Enterprise, or (ii) be applied on a pro rata basis to (A) prepay the Installment Payments on the next available prepayment date, and (B) redeem any Parity Obligations in accordance with the related Parity Obligations Documents.

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## THE WATER ENTERPRISE

### Description and Background

**Establishment and History.** The City's municipal water system was established in 1923 with the acquisition of the water rights and facilities from the Beverly Hills Utilities Corporation, a subsidiary of the Rodeo Land and Water Company, the original developer of the City. The Water Enterprise presently serves the entire City and portions of the adjacent City of West Hollywood.

On December 29, 1928, the City became an original member of the Metropolitan Water District of Southern California ("MWD") following a vote of the City electorate. The City obtains the majority of its water from MWD. See "SOURCES OF SUPPLY" and "METROPOLITAN WATER DISTRICT" below.

**Service Connections.** There are approximately 10,760 service connections to the Water Enterprise of which approximately 8,788 represent residential services. In addition to these totals, there are an additional 555 fire service connections to the Water Enterprise. Approximately 1,819 service connections to the Water Enterprise are for parcels located in the City of West Hollywood.

**Transmission and Storage.** The Water Enterprise includes 184 miles of pipelines constructed of ductile iron and has a high-pressure transmission system running from the higher elevation northern portion of the City southward. Pumping is done for transmission purposes only from 10 lift pump stations to the City's ten reservoirs. The City has 4 water production wells that produce 1,500 acre feet of treated water annually through the Water Treatment Plant located in the City. The Water Treatment Plant has a capacity of producing 2,687 acre feet of treated water annually which is greater by 1,187 acre feet than required by the 4 production wells.

The water system includes the following reservoirs:

<u>Reservoir</u>	<u>Capacity</u>
Sunset Reservoir	6.0 million gallons
Greystone Reservoir	19.5 million gallons
4A Reservoir	2.2 million gallons
Woodland Reservoir	2.0 million gallons
Coldwater Canyon Reservoir (1)	7.5 million gallons
five reservoirs at separate locations	1.2 million gallons

(1) Currently out of service, as described below.

The Coldwater Canyon Reservoir was recently taken out of service so that a replacement reservoir can be constructed. In January of 2007 the Authority issued the 2007 Bonds in the principal amount of \$35,495,000 to fund an 8.5 million gallon capacity reservoir to replace Coldwater Canyon Reservoir (representing an increase in capacity). The contractor for the project is SEMA Construction. Construction has begun and is currently on schedule, with completion of the reservoir currently expected in March 2009 and completion of the entire project (including the park and related improvements) currently expected in March 2010. See "THE WATER ENTERPRISE – Future Capital Improvements."

The water distribution system has adequate capacity to deliver the rate of flow required for fire fighting throughout the City. MWD recommends that each member agency have the ability to withstand a 7-day shutdown of its supply facilities. The City currently has adequate storage and production treatment capacity to meet this requirement assuming a mandatory usage reduction of 25% by all system users.

**Sources of Water Supply**

At present, approximately 90% of the City's water is obtained directly from MWD, and approximately 10% of the City's water supply consists of groundwater pumped from the Hollywood Basin.

**Metropolitan Water District**

*The information in this section regarding MWD has been obtained from sources that the City and the Authority believe to be reliable, but the City and the Authority take no responsibility for the accuracy or completeness hereof.*

**City's Right to Purchase Water from MWD.** As a MWD member, the City purchases water from MWD at wholesale rates. While the City is not obligated to purchase MWD water, the City entered into a voluntary 10-year water supply purchase order agreement with MWD, which was effective starting in January 2003. Under this purchase order agreement, the City agrees to purchase at least 60% of its highest firm demand in any fiscal year during the 10-year term of the agreement. Although the City may vary the amount of water purchased from year to year, it is obligated to pay the full purchase price over the 10-year period even if it does not take delivery of water in the full purchase amount.

As a member of MWD, the City has a preferential right to 1.01% of MWD's water supply (which is an amount that currently exceeds the City's water demand).

MWD water is received by the City through turn-outs from the MWD's Weymouth Filtration Plant, which receives water from the State Water Project and the Colorado River Aqueduct. The Weymouth treatment plant is located approximately 45 miles from the City.

**MWD.** The MWD is a public agency and quasi-municipal corporation created in 1928 by vote of the electorates of several Southern California cities, including the City. MWD's primary purpose was and is to provide a supplemental supply of water for domestic and municipal uses at wholesale rates to its member public agencies. MWD's service area comprises a population of approximately 15 million people living in 5,143 square miles and includes portions of the six counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura. There are 27 member public agencies of the MWD, consisting of 14 cities, including the City, 12 municipal water districts, and one county water authority. The City was one of the founding members of MWD.

MWD's Internet home page is located at [www.mwdh2o.com](http://www.mwdh2o.com), and MWD's most recent audited financial statements are included at this Internet address. *This Internet address is included for reference only and the information on such Internet site is not a part of this Official Statement or incorporated by reference into this Official Statement. No representation is made in this Official Statement as to the accuracy or adequacy of the information contained on any Internet site.*

**Sources of MWD's Water Supply.** MWD obtains its water supplies from three sources: approximately two-thirds consists of imported water, and the balance is produced locally.

*State Water Project.* MWD has a long-term contract to purchase water from the State Water Project, which delivers water from the San Francisco Bay/Sacramento-San Joaquin River Delta in northern California (the "Bay Delta") via the Edmund G. Brown California Aqueduct.

*Colorado River.* MWD imports water from the Colorado River via the Colorado River Aqueduct (which MWD owns and operates). MWD has a legal entitlement to receive water from the Colorado River under a permanent service contract with the Secretary of the Interior. Water from the Colorado River or its tributaries is also available to other users in California, as well as users in the states of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming, resulting in both competition and the need for cooperation among these holders of Colorado River entitlements.

*Local Supplies.* MWD's locally produced water consists primarily of groundwater supplies surface runoff.

**Limitations on MWD's Water Supply.** MWD faces a number of challenges in providing a reliable and high quality water supply for its members, including the City. These include, among others:

- (1) the growing population within the service area;
- (2) the increased competition for low-cost water supplies;
- (3) variable weather conditions, which include record dry conditions affecting the watershed for the State Water Project and the Colorado River basin during recent years;
- (4) increased environmental regulations limiting the diversion of water from rivers for consumption; and
- (5) increased regulations to ensure clean and safe drinking water.

MWD has many other ongoing projects and programs aimed at increasing water supply reliability and reducing the vulnerability of droughts. Such programs include funding for local reclaimed and groundwater recovery projects, water transfer projects, conservation projects, and off-river, groundwater, and regional storage projects. MWD faces various serious challenges in the continued supply of imported water to its members, including the City.

***Litigation and Regulations Affecting State Water Project.***

MWD's ability to obtain water from the State Water Project is subject to a regulatory framework and ongoing litigation that affect and limit the diversion of water from the Bay Delta. These limitations include:

*California State Water Resources Control Board.* The California State Water Resources Control Board exercises its regulatory authority over the Bay Delta through (a) the implementation and ongoing review of its Bay-Delta Water Quality Control Plan (the "WQCP"), which establishes the water quality objectives and proposed flow regime of the Bay Delta estuary, and (b) the issuance of water rights decisions, which assign

responsibility for implementing the objectives of the WQCP to users throughout the system by adjusting their respective water rights. Ongoing review by the California State Water Resources Control Board of the WQCP and its related water rights decisions could result in future changes in water quality objectives and flow requirements, which in turn could affect exports of water by the State Water Project.

*Endangered Species Act Listings and Litigation.* Several lawsuits brought by environmental interest groups are pending or on appeal which (a) allege that certain biological opinions and incidental take statements issued under the federal Endangered Species Act inadequately analyzed impacts on listed species, such as the Delta smelt (*NRDC v. Kempthorne*; *Pacific Coast Federation of Fishermen's Association v. Gutierrez*), or (b) allege generally that the diversion of water from the Bay Delta will result in an unlawful "taking" of species listed as endangered or threatened under the California Endangered Species Act (*Watershed Enforcers, a project of the California Sportfishing Protection Alliance v. California Department of Water Resources*). If determined adversely to the State of California, the effect of any of these lawsuits could be to cease or significantly limit the operation of the State Water Project pumps, which deliver water to the California Aqueduct, in order to protect listed species.

The California Department of Water Resources and California Department of Fish and Game have begun reinitiated consultations with the United States Fish and Wildlife Service and National Marine Fisheries Service for new biological opinions on the coordinated operations of the State Water Project and Central Valley Project as they relate to the listed species of fish, including the Delta smelt. State Water Project operational requirements may be further modified and restricted through this consultation process.

In February 2008, the California Fish and Game Commission determined that the longfin smelt should be listed as a candidate endangered species under the California Endangered Species Act. Candidate status triggers a prohibition against take of longfin smelt under the California Endangered Species Act. This listing could affect State Water Project operations.

The Department of Water Resources has altered the operations of the State Water Project to accommodate species of fish listed under the federal Endangered Species Act and the California Endangered Species Act. These changes in project operations have influenced the manner in which water is diverted from the Bay Delta and State Water Project deliveries.

Curtailments of State Water Project water deliveries to MWD in the future will depend on fish abundance, weather, flow conditions in the Bay Delta, numbers of fish salvaged at the State Water Project pumps, and how curtailments are divided between the State Water Project and Central Valley Project.

Decisions in these cases or future litigation, listings of additional species, (such as the longfin smelt) or new regulatory requirements could adversely affect State Water Project operations in the future by requiring additional export reductions, releases of additional water from storage or other operational changes impacting water supply operations. There can be no prediction as to the ultimate outcome of any of the litigation or regulatory processes described above or the impact on the operation of the State Water Project pumps, MWD's State Water Project supplies or MWD's water reserves.

## City's Pumped Groundwater

At present, approximately 10% of the City's water supply consists of groundwater pumped from the Hollywood Basin. The City resumed groundwater extraction in April 2003, and currently pumps water from four wells. Pumped groundwater is treated at the Water Treatment Plant, which is currently operated by Earth Tech, Inc., on land owned by the City. The City intends to exercise its option to purchase the Water Treatment Plant from Earth Tech using the proceeds of the 2008 Bonds. See "FINANCING PLAN."

The City and its predecessors in interest began producing groundwater from the Hollywood Basin and La Brea Subarea of the Central Basin in the early 1900s. Based on that longstanding extraction and beneficial use of groundwater, the City has formed appropriative and prescriptive groundwater rights in those basins. The Hollywood Basin and La Brea Subarea are currently unadjudicated, but are subject to management by the City through municipal ordinances.

The City did not extract groundwater between 1976 and 2002 because of poor groundwater quality, but resumed the active exercise of its groundwater rights in 2003 with the construction of a groundwater treatment plant. The City has preserved all of its groundwater rights through the filing of applicable forms with the State Water Resources Control Board pursuant to California Water Code sections 1005.1 and 1005.2.

The City anticipates that it will produce at least 1,500 acre feet of treated water annually. All four wells were rehabilitated and refurbished starting in Fiscal Year 2005-06 through Fiscal Year 2006-07.

## Cost of Water Purchased from MWD

**Current Water Costs.** During the 2007-08 Fiscal Year the City anticipates that approximately 13,055 acre-feet of water will be purchased from the MWD for City use at a cost of \$478 per acre-foot from July 1, 2007 through December 31, 2007, and \$508 per acre-foot beginning January 1, 2008 through June 30, 2008.

**MWD Rate Structure.** MWD's charges for water sales are fixed by the MWD board and are not subject to regulation by the California Public Utilities Commission or any other state or federal agency.

The following table sets forth MWD's water rates charged to the City since July 1, 2002 reflecting the cost of water treated at its water treatment plants.

**TABLE 1**  
**SUMMARY OF WATER RATES PAID TO MWD**  
**(Dollars per Acre-Foot)**

Fiscal Year [1]	Non-interruptible Domestic (Treated) [2]
2002-03	\$483
2003-04	479
2004-05	485
2005-06	506
2006-07	531

- [1] Rates become effective on July 1 of each year.  
[2] Emergency domestic is provided through interconnects with the Los Angeles Department of Water and Power at their regular rates.

Source: City of Beverly Hills.

***MWD Rate Increases During Water Shortages.*** At its meeting on February 12, 2008, the MWD board approved a water supply allocation plan that could be implemented in the event of limited water supply conditions. The overall guiding principle of the tiered supply allocation plan is to alleviate disparate impacts at the retail level for MWD's 26 member public agencies.

Under the plan, MWD's member agencies would be allocated supplies partly based on their dependency on MWD, while taking into account other local sources of supplies. The allocation formula considers: impacts on retail customers and the economy within each member agency; changes and losses in local supplies; the member agency's investment in development of local resources; and conservation efforts.

The plan relies on pricing to encourage agencies to reach their targeted allocated supplies. These "penalty rates" are similar to drought pricing used in many cities during the 1987-92 drought, calling for agencies to pay up to four times MWD's highest priced water, depending upon how far they exceed their allocation. Any funds collected through penalty rates will be applied toward investments in conservation and local resources development.

Implementation of supply allocations under the plan will require another action by the MWD board. This second action will be scheduled no earlier than May 2008, with allocations to be effective no earlier than July 2008.

*No assurance can be give as to whether or when the MWD board will implement the proposed water supply allocation plan in 2008, or whether any changes to the proposed plan will be made before it is implemented.*

## **Billing and Collection Procedures**

The City maintains a relational computer data base representing a registry for each customer of the Water Enterprise. The data base is divided into 31 billing segments, representative of the original 31 meter books used to read meters when the City had a manual read system.

The billing segments are downloaded to hand-held meter reading devices taken into the field bi-monthly for the purposes of reading customer consumption. The hand-held devices read each meter through either the use of a touch pad at the meter location or, in the case of the business district and hillside residential areas, through radio interrogation of each meter connected to a radio transponder unit. Based on these individual readings of water usage, the City's billing system is updated and bills are printed and mailed. The City bills its customers for water service and usage on a bi-monthly basis.

All water bills are due and payable upon demand and become delinquent on the 30th day following mailing. Upon failure of a water user to pay the water bill in full when due, the bill is deemed delinquent and a delinquent service charge is added to the bill. Upon failure of a water user to pay the bill in full no later than 45 days following the date of delivery, the City may, after complying with State law on discontinuance of utility service for nonpayment, discontinue water service and may not again furnish water service to such a user until all

previous water charges, delinquent service charges, a customer deposit and a disconnection/reconnection service charge are paid in full.

During the last five fiscal years, the percentage of revenues written off as uncollectible has varied from 1.0% to 1.5% per year. For the most recent fiscal year the rate was 0.59%.

### Water Enterprise Rates and Charges

**General.** Water rate schedules are adopted by the Mayor and City Council by ordinance. The principal consideration in designing rate schedules is to assure that the revenues of the Water Enterprise cover total system expenditures and allow for a surplus which is used for system replacement.

**Current Rate Schedule and Recent Increases.** In order to address decreases in operating income due to increased operating expenses, the City Council approved a rate increase of 12%, which became effective July 1, 2007. This rate ordinance continued the additional fourth tier for residential customers, which is designed to encourage water conservation and adds a substantial cost increase to customers who use excessive amounts of water.

The following table sets forth the current rates and charges for the Water Enterprise.

**TABLE 2  
SCHEDULE OF RATES AND CHARGES  
Fiscal Year 2007-08**

**Service Charges**

<u>Meter Size</u>	Inside-City Bi-Monthly <u>Charge</u>	Outside-City Bi-Monthly <u>Charge (2)</u>
1 inch and smaller	\$24.15	\$30.19
1-1/2 inches	40.57	50.71
2 inches	60.28	75.35
3 inches	106.27	132.84
4 inches	171.96	214.95
6 inches	336.20	420.25

**Quantity Charges (Bi-monthly Usage)** <sup>(1)</sup>

<u>Single Family &amp; Duplexes</u>	<u>Multi-Family Residential</u> (Tier acts as multiplier by # of units)		
Tier 1 – from 1 up to 10 CCF	Tier 1 – from 1 up to 4 CCF	2.32	2.90
Tier 2 – over 10 up to 55 CCF	Tier 2 – over 4 up to 9 CCF	2.76	3.45
Tier 3 – over 55 up to 120 CCF	Tier 3 – over 9 up to 16 CCF	3.89	4.86
Tier 4 – over 120 + CCF	Tier 4 – over 16 CCF	6.88	8.60
Non-residential rate (Commercial, Government & Schools)		3.54	4.43

(1) Billing based on units of hundred cubic feet (“CCF”) of water.  
 (2) Represents water sold to users located in the City of West Hollywood.  
 Source: City of Beverly Hills.

**Emergency Water Conservation Ordinance.** The City’s Municipal Code contains a process whereby the City Council may implement voluntary and mandatory water conservation measures, and penalty water rates, if the City Manager determines that a “water conservation stage” shortage exists.

The City Manager determines whether a water conservation stage has been reached by the amount of water available or the potential for water interruption. The City Manager is required to monitor the supply and demand for water by customers, and when the City Manager finds that the guidelines for initiation of any stage (as set forth in the municipal code), have been satisfied, he or she will recommend to the City Council that a resolution to declare the appropriate water conservation stage be adopted.

The five water conservation stages are as follows (these stages are set forth in the City's Municipal Code Section 9-4-304):

*Stage A:*

A Stage A shortage will be declared when the City Manager determines that a 5% reduction in potable water use is required.

Stage A compliance consists of voluntary implementation of water conservation elements including (among others) reduced irrigation, and notification of hotel and restaurant patrons of water conservation goals.

*Stage B:*

A Stage B shortage will be declared when the City Manager determines that a 10% reduction in potable water use is required.

Stage B compliance consists of mandatory water conservation elements, including (among others) requiring restaurants to serve water upon request only, requiring that plumbing and irrigation leaks be repaired as soon as practicable, and requiring that water usage be reduced to 90% of the baseline year amount as determined by the City Manager.

A water penalty surcharge of up to two times the basic water rate will be charged for water usage in excess of 90% of the baseline year amount as determined by the City Manager.

The penalty for violations of a Stage B shortage is a fine of up to \$100 for each violation.

*Stage C:*

A Stage C shortage will be declared when the City Manager determines that a 20% reduction in potable water use is required.

Stage C compliance consists of mandatory water conservation elements, including (among others) all of the elements of Stage B compliance, and requiring that water usage be reduced to 80% of the baseline year amount as determined by the City Manager.

A water penalty surcharge of up to three times the basic water rate will be charged for water usage in excess of 80% and not more than 100% of the baseline year amount as determined by the City Manager. A water penalty surcharge of up to 10 times the basic water rate will be charged for water usage in excess of 100% of the baseline year amount as determined by the City Manager.

Penalties for violations of a Stage C shortage include fines of up to \$500 for each violation, and termination of water supply through irrigation water services.

*Stage D:*

A Stage D shortage will be declared when the City Manager determines that a 30% or higher reduction in potable water use is required.

Stage D compliance consists of mandatory water conservation elements, including (among others) all of the elements of Stage B compliance, restricting landscape irrigation to selected days and times as determined by the City Manager (unless such irrigation uses reclaimed wastewater), prohibiting the refilling of swimming pools, spas or ponds (unless required for health reasons), prohibiting the operation of water fountains, and requiring that water usage be reduced to 70% of the baseline year amount as determined by the City Manager.

A water penalty surcharge of up to four times the basic water rate will be charged for water usage in excess of 70% and not more than 100% of the baseline year amount as determined by the City Manager. A water penalty surcharge of up to 10 times the basic water rate will be charged for water usage in excess of 100% of the baseline year amount as determined by the City Manager.

Penalties for violations of a Stage D shortage include fines of up to \$1,000 for each violation, and termination of water supply through irrigation water services or restriction of water supply through domestic meters.

*Stage E:*

A Stage E shortage will be declared when the City Manager determines that a catastrophic interruption of potable water supply has occurred or is foreseen.

The City Manager will have emergency water allocation authority in the case of a Stage E declaration. This authority includes the authority to interrupt service to any property or City service zone in order to provide the maximum water supply for human health and safety needs.

In allocating water, the City Manager will give first priority to health and safety needs of water utility customers. Subsequent water uses are prioritized to provide water supply first to maintain and expand commerce within the City, then to enhance the aesthetics of the environment, and then to facilitate construction activities.

Violation of the Stage E emergency water conservation regulations will constitute a misdemeanor and, upon conviction, is punishable by a fine of up to \$1,000 and six months in jail. Continued excessive use may result in termination of water supply through irrigation water services or restriction of water supply through domestic meters.

***Projected Water Rate Increases.*** As part of its adopted budget, the City incorporates projected annual water rate increases of 5% for planning purposes. Although there can be no guarantee that such rate increases will be adopted in the future, the City currently anticipates that such water rate increases will be considered by the City Council each year.

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**Connection Fees**

The City charges connection fees for buying capacity in the existing Water Enterprise. In addition, actual costs of connecting the customer to the Water Enterprise are billed to the customer. The following table sets forth the schedule of service connection charges.

**TABLE 3  
SCHEDULE OF CONNECTION FEES  
Fiscal Year 2007-08**

Service Connection Charge <u>(based on meter size)</u>	<u>Inside City</u>	<u>Outside City</u>
<i>General</i>		
1" and smaller	\$ 626.41	\$ 792.93
1-1/2"	1,261.88	1,590.38
2"	1,802.21	2,433.15
3"	2,689.15	3,787.92
4"	3,621.40	5,195.93
6"	4,546.86	6,726.27
8"	5,377.17	8,327.98
<i>Fire Protection Services</i>		
4"	3,621.40	5,434.94
6"	4,546.86	7,234.88
8"	5,377.17	8,913.62
10"	6,309.42	12,527.09

Source: City of Beverly Hills.

**Historical Service Connections**

The average number of water connections to the Water Enterprise for the five most recent fiscal years has been 10,760, consisting of the following user types:

	<u>Number of Connections</u>	<u>Percent of Total</u>
Residential	8,788	81.67%
Commercial	1,156	10.74
Industrial	93	0.86
Public Agencies	168	1.56
Other	555	5.16
Total:	<u>10,760</u>	<u>100.00%</u>

The City of Beverly Hills is fully developed and as such experiences only minor fluctuations in system connections as properties are remodeled. The City does not expect the number of water connections to the Water Enterprise to change significantly in future years.

**Historical Water Deliveries**

The City records the volume of water delivered by MWD and the amount of groundwater produced locally. Over the past five years, the volume of water consumed by the City's customers has generally fluctuated due to changes in weather consumption and consumer demand.

The following table presents a summary of historical water deliveries of the Water Enterprise in acre-feet per year for the five most recent fiscal years.

**TABLE 4  
HISTORICAL WATER DELIVERIES  
(In Acre-Feet)**

Fiscal Year	Water Purchased from MWD	Percentage Change	Pumped Groundwater	Percentage Change	Total Production	Percentage Change
2002-03	13,178.1	N/A	399.0	N/A	13,577.1	N/A
2003-04	12,188.3	(7.51%)	1,854.1	364.69%	14,042.3	3.43%
2004-05	11,917.8	(2.22%)	1,361.9	(26.55%)	13,279.7	(5.43%)
2005-06	12,045.7	1.07%	1,240.6	(8.91%)	13,286.3	0.05%
2006-07	12,775.5	6.06%	1,231.0	(0.77%)	14,006.5	5.42%

Source: City of Beverly Hills.

### Historical Water Sales Revenues

The following table shows the amount of annual water sale revenues of the Water Enterprise for the five most recent Fiscal Years.

**TABLE 5  
HISTORICAL WATER SALE REVENUES  
Fiscal Years 2002-03 through 2006-07**

Fiscal Year	Revenues	Percentage Change	Water Consumed (acre-feet)	Percentage Change
2002-03	\$15,429,217	N/A	12,394	N/A
2003-04	17,389,245	12.70%	11,929	(3.75%)
2004-05	17,066,774	(1.85%)	12,068	1.16%
2005-06	17,809,880	4.35%	12,019	(0.41%)
2006-07	22,920,953	28.70%	12,799	6.50%

Source: City of Beverly Hills.

## Ten Largest Customers

The following table sets forth the ten largest customers in water usage and revenues of the Water Enterprise for Fiscal Year 2006-07.

**TABLE 6  
TEN LARGEST CUSTOMERS  
Fiscal Year 2006-07**

Customer	Type of Property	12 Month Consumption (100 Cubic Feet)	12 Month Water Purchases (in dollars)	Percent of Total Water Sales [1]
CITY OF BEVERLY HILLS	Municipal	124,458	\$433,256.34	1.90%
BEVERLY HILTON HOTEL	Hotel	62,273	\$199,294.80	0.87%
BEVERLY WILSHIRE HOTEL	Hotel	58,690	\$191,027.98	0.84%
BEVERLY HILLS HOTEL	Hotel	50,689	\$166,468.01	0.73%
BELVEDERE HOTEL PARTNERSHIP [2]	Hotel	38,605	\$125,731.18	0.55%
PACIFIC DESIGN CENTER 1 LLC [2]	Commercial	27,279	\$112,958.88	0.50%
STERLING, DONALD T.	Commercial	54,526	\$97,825.98	0.43%
WYNDHAM BEL AGE HOTEL [2]	Hotel	21,095	\$86,200.67	0.38%
CITY OF WEST HOLLYWOOD [2]	Municipal	18,579	\$81,179.57	0.36%
ARDEN REALTY INC.	Commercial	<u>21,268</u>	<u>\$74,760.49</u>	<u>0.33%</u>
<b>SUB TOTAL TOP TEN</b>		477,462	\$1,568,703.90	6.88%
<b>TOTAL BILLINGS</b>			22,814,061.00	

[1] Audited.

[2] Located in West Hollywood and billed at rates for users outside of the City.

Source: City of Beverly Hills.

## Future Capital Improvements

The City expects to make the following capital improvements to the Water Enterprise in the current and the next four Fiscal Years, which are anticipated to be financed through a combination of the proceeds of the 2007 Bonds, the 2008 Bonds, and surplus Water Enterprise revenues. See "WATER ENTERPRISE FINANCIAL INFORMATION – Projected Operating Results and Debt Service Coverage."

**TABLE 7**  
**FUTURE CAPITAL IMPROVEMENTS**  
**Fiscal Years Ended June 30, 2008 Through June 30, 2012**

	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>Total</u>
Replace Water Mains and Hydrants	\$ 3,789,500	\$2,535,000	\$4,261,700	\$3,700,000	\$3,800,000	\$18,086,200
Replace Coldwater Canyon Reservoir and Park [1]	20,655,790	6,344,210	2,200,000	-0-	-0-	29,200,000
Replace Water Meters and Upgrade Water Meter Telemetry [1]	4,700,000	3,000,000	-0-	-0-	-0-	7,700,000
Irrigation Upgrades	-0-	-0-	717,000	-0-	-0-	717,000
Annual Maintenance	275,000	275,000	275,000	275,000	275,000	1,375,000
Water Treatment Plant Buyout [2]	18,375,000	75,000	-0-	-0-	-0-	18,450,000
Reservoir Maintenance	4,350,000	2,500,000	238,000	133,000	360,000	7,581,000
Land Acquisition	7,000,000	-0-	-0-	-0-	-0-	7,000,000
Public Works Asset Management System	26,500	26,500	26,500	26,500	-0-	106,000
Water Facility Improvements	200,000	-0-	-0-	-0-	-0-	200,000
<b>Total Water Enterprise Fund</b>	<b>\$59,371,790</b>	<b>\$14,755,710</b>	<b>\$7,718,200</b>	<b>\$4,134,500</b>	<b>\$4,435,000</b>	<b>\$90,415,200</b>

[1] Being financed primarily with the proceeds of the 2007 Bonds. See "WATER ENTERPRISE FINANCIAL INFORMATION – Outstanding and Anticipated Water Enterprise Obligations."

[2] To be financed with the proceeds of the 2008 Bonds. See "FINANCING PLAN."

Source: City of Beverly Hills.

## Management and Employee Relations

The City has 25 employees assigned directly to the Water Enterprise. Operations and maintenance of the Water Enterprise are carried out under the general supervision of the Director of Public Works and Transportation.

David Gustavson has served as the Director of Public Works and Transportation for the City of Beverly Hills since 2005. Prior to that position, Mr. Gustavson served as Director of Transportation and Engineering with the City of Beverly Hills beginning in July, 2004. Mr. Gustavson began work in the Public Works field in 1983 for the Los Angeles County Flood Control District/Department of Public Works. He worked in various supervisory and management positions in local government in California until 1987 when he came to the City of Beverly Hills as a Senior Civil Engineer. Mr. Gustavson is a graduate of the University of Illinois receiving his Master of Science in 1982. Mr. Gustavson is a member of the American Public Works Association and the American Water Works Association.

## Insurance

The property damage insurance maintained by the City for all City property also covers the facilities and operation of the Water Enterprise. Property damage insurance is provided by Allendale Insurance, a commercial carrier and a subsidiary of FM Global, up to a coverage amount of \$222,384,000.

## **Water Quality and Regulatory Matters**

The City's sources of water supply are purchased water from MWD (through its Jensen and Weymouth water treatment plants) and water pumped from the City's managed groundwater wells in the Hollywood Basin.

The primary water quality issues relating to the City's groundwater supply are the high concentration of dissolved solids and the presence of hydrogen sulfide. The City treats its groundwater supply to reduce high concentration of dissolved solids by reverse osmosis in the City's Reverse Osmosis Water Treatment Plant, the acquisition of which is being financed with the proceeds of the 2008 Bonds. See "FINANCING PLAN – The 2008 Water Project."

However, a portion of groundwater source is bypassed and blended with treated water to emulate the dissolved solids concentration of MWD water. Similarly, the Water Treatment Plant removes hydrogen sulfide through an air stripper. The air stripper provides efficient hydrogen sulfide removal to produce high water quality.

The City is required to monitor the following constituents in its groundwater supply: total dissolved solids ("TDS"), chloride, manganese, sulfate, coliform, and HPC. In the City's 2005 Consumer Confidence Report, the City exceeded federal and state standards regarding these constituents. Likewise, the City is complying with a United States Environmental Protection Agency Administrative Order that requires the City to monitor twelve unregulated chemical contaminants in its groundwater supply. In the 2006 Consumer Confidence Report, there were no violations in regulated or unregulated contaminants.

In 2006, the Water Enterprise's distribution systems met or exceeded all federal and state drinking water regulations. In 2005 the City exceeded the action level ("AL") of 15 parts per billion for lead in the first scheduled set of samples for the Lead and Copper Rule ("LCR"). However, the City was in compliance during the second scheduled set of samples of the LCR. The violation in the first set prompted the City to perform public education, outreach, and a desktop study for lead and copper. The desktop study revealed that improper sampling techniques were the main cause of exceeding the AL for lead and copper. Staff prepared detailed instructions for proper sampling techniques and included it in the sample kit for the last LCR monitoring requirement in 2006. The new instructions resulted in compliance for the last LCR monitoring in 2006. As a result, the California Department of Health Services granted the City a monitoring schedule reduced to one per year.

Environmental Issues regarding the wells and water treatment plant include the NPDES (National Pollution Discharge Elimination System) Permits and a Southern California Air Quality Permit. Since the water treatment plant went online in 2003, the City has minimized risks associated with compliance of the NPDES and Air Quality Permit by limiting the amount of water discharged to the storm drain and operational changes in the water treatment plant. These changes were based on extensive studies and past experiences. The City has not had any non-compliance issues under these permits since these operational changes were initiated.

## WATER ENTERPRISE FINANCIAL INFORMATION

### Financial Statements

A copy of the most recent audited financial statements of the City prepared by Mayer Hoffman McCann P.C. (the "Auditor") is included as Appendix B hereto (the "Financial Statements"). The Auditor's letter concludes that the audited financial statements present fairly, in all material respects, the financial position of the City as of June 30, 2007 and the results of its operations and the cash flows of its proprietary fund types for the year then ended in conformity with generally accepted accounting principles.

*The City has not requested nor did the City obtain permission from the Auditor to include the audited financial statements as an appendix to this Official Statement. Accordingly, the Auditor has not performed any post-audit work on the financial statements.*

The summary operating results contained under the caption "WATER ENTERPRISE FINANCIAL INFORMATION -- Historical Operating Results" are derived from these financial statements and are qualified in their entirety by reference to such statements, including the notes thereto.

### Investments

The City Council annually adopts, by resolution, a statement of investment policy (the "Investment Policy") for the City's funds. The Investment Policy defines the objects and priorities of the investment program, stressing safety and liquidity of funds, as the highest priority. The third priority stated by the Investment Policy is the achievement of the maximum yield possible within the constraints of the primary objectives.

The Investment Policy permits investment in repurchase agreements in an amount not to exceed ten million dollars, and only with primary dealers of the Federal Reserve Bank of New York, for a period not greater than seven days, and for which the market value of the collateral is not less than the greater of 102% of the funds borrowed against the securities taken by the City as collateral and the sum of the funds borrowed against the securities plus accrued interest.

The Investment Policy permits investment in reverse repurchase agreements only in amounts up to ten million dollars, with primary dealers of the Federal Reserve Bank of New York with which the City has a current safekeeping agreement. The City may not use as underlying securities in reverse repurchase agreements any security the City has not fully owned and paid for at least 30 days prior to the reverse repurchase transaction date. A maximum of ten percent of the general portfolio may be reversed at any time, the face value of the collateral is to equal the proceeds received, and the term of the transaction may not exceed 92 days unless a written agreement is in place guaranteeing the minimum earning spread for the entire period of the sale of the security.

The Investment Policy explicitly recognizes the high degree of risk involved in investment in derivative products, and permits investment in derivatives only upon resolution of the City Council acting on advice of the City Treasurer, only for specific financing purposes, and not in the normal course of managing the portfolio. For each derivative investment the City must provide a written statement of purpose and objective for the derivative, establish written monitoring procedures for the derivative, have sufficient expertise and technical resources to oversee derivative programs, provide sufficiently detailed record keeping systems to allow governing bodies, auditors and examiners to determine if the program is functioning in

accordance with established objectives, fully disclose the use of any derivative instruments in all official statements and other disclosure documents, and be aware of any conflicts of interest involving the broker or dealer with whom the City is anticipating dealing.

The City Treasurer is charged with the responsibility of custody and investment of surplus City funds. The City Treasurer is required to submit a monthly investment report to the City Council that provides a summary of the status of the current investment portfolio and material transactions entered into during the month.

See "APPENDIX B" for a description of the City's investment portfolio for Fiscal Year 2006-07.

**Outstanding and Anticipated Water Enterprise Obligations**

**Parity Installment Payments.** The Installment Payments will be made on a parity with the 2007 Installment Payments, which secure and provide debt service payments on the 2007 Bonds, as described below:

Bond Caption	Issuance Date	Original Principal Amount	Outstanding Principal Amount	Final Maturity
City of Beverly Hills Public Financing Authority 2007 Water Revenue Bonds	Jan. 31, 2007	\$35,495,000	\$35,495,000	June 1, 2037

See "DEBT SERVICE SCHEDULE."

The City is also currently obligated to make installment payments as the purchase price under the 1998 Installment Sale Agreement, which was entered into between the Authority and the City in connection with the issuance of the 1998 Bonds, but that obligation will be satisfied upon the issuance of the 2008 Bonds and concurrent defeasance of the 1998 Bonds. See "FINANCING PLAN."

**No Anticipated Future Indebtedness.** The City and the Authority currently anticipate that future capital needs of the Water Enterprise will be paid from Water Enterprise revenues and capital reserves.

## Historical Operating Results

The following table is a summary of operating results of the Water Enterprise for the last five fiscal years, which are derived from the City's Comprehensive Annual Financial Reports.

**TABLE 8  
HISTORICAL OPERATING RESULTS  
FISCAL YEAR ENDED JUNE 30, 2003 THROUGH JUNE 30, 2007**

	Actual <u>2003</u>	Actual <u>2004</u>	Actual <u>2005</u>	Actual <u>2006</u>	Actual <u>2007</u>
Operating revenues -					
Sales, service charges & fees	\$15,429,217	\$17,389,245	\$17,066,774	\$17,809,880	\$22,814,061
Operating expenses:					
Salaries & employee benefits	1,865,440	2,168,043	2,261,818	1,820,372	1,927,403
Maintenance & operation	10,571,360	11,286,000	12,368,861	13,060,981	14,223,492
Depreciation	1,711,240	2,763,119	2,748,579	2,948,622	2,895,778
Amortization of issuance costs	-	-	54,413	54,413	68,421
Total operating expenses	<u>14,148,040</u>	<u>16,217,162</u>	<u>17,433,671</u>	<u>17,884,388</u>	<u>19,115,094</u>
Operating income (loss)	1,281,177	1,172,083	(366,897)	(74,508)	3,698,967
Nonoperating revenues (expenses):					
Investment revenue	1,099,735	814,291	777,889	879,889	1,809,988
Net change fair value of investments	25,806	(638,175)	(227,836)	(198,701)	106,893
Intergovernmental revenue	-	-	-	-	-
Interest expense	(991,878)	(2,016,599)	(1,902,705)	(1,839,958)	(2,414,110)
Gain (loss) on sale cap assets	39,990	-	-	-	-
Other revenue	-	<u>224,334</u>	-	-	-
Total nonoperating revenues (expenses)	<u>173,653</u>	<u>(1,616,149)</u>	<u>(1,352,652)</u>	<u>(1,158,770)</u>	<u>(497,229)</u>
Income (loss) before contributions & operating transfers	1,454,830	(444,066)	(1,719,549)	(1,233,278)	3,201,739
Transfers in	-	-	-	-	-
Transfers out	-	-	-	<u>(8,794)</u>	-
Change in net assets	<u>1,454,830</u>	<u>(444,066)</u>	<u>(1,719,549)</u>	<u>(1,242,072)</u>	<u>3,201,739</u>
Net assets, July 1	59,704,595	61,159,425	60,715,359	62,332,217	61,090,145
Restated	-	-	3,336,407	-	-
Net assets, July 1, restated	59,704,595	61,159,425	64,051,766	62,332,217	61,090,145
Net assets, June 30	61,159,425	60,715,359	62,332,217	61,090,145	64,291,884
Operating Expenses net of non-cash	12,436,800	13,454,043	14,630,679	14,881,353	16,150,895
Revenue for Coverage	2,992,417	3,935,202	2,436,095	2,928,527	6,663,166
1998 Debt Service [1]	1,020,048	1,018,048	1,020,448	1,017,048	1,023,048
2007 Debt Service [2]	-	-	-	-	512,961
Debt Service Coverage	293.36%	386.54%	238.73%	287.94%	433.80%
Other Debt Instruments					
Capital Lease	-	1,813,418	1,813,418	1,813,418	1,813,418
Other lease revenue	607,386	605,260	358,556	357,999	314,564

[1] Represents the 1998 Installment Payments supporting the payment of debt service on the 1998 Bonds, which are being defeased and refunded with a portion of the proceeds of the 2008 Bonds. See "FINANCING PLAN – Refunding Plan" and "WATER ENTERPRISE FINANCIAL INFORMATION – Outstanding and Anticipated Water Enterprise Obligations."

[2] Represents the 2007 Installment Payments supporting the payment of debt service on the 2007 Bonds. See "WATER ENTERPRISE FINANCIAL INFORMATION – Outstanding and Anticipated Water Enterprise Obligations."

Source: City of Beverly Hills.

The Fiscal Year ending June 30, 2005, included a prior period adjustment to operating expenses of \$1,813,418.04 for a total operations & maintenance expense of \$10,555,443 in the Fiscal Year ending June 30, 2006 and \$13,099,994 in the Fiscal Year ending June 30, 2004. In the above presentation, for comparison purposes, Fiscal Year ending June 30, 2004 maintenance & operation expenses have been decreased by \$1,813,418.04 and Fiscal Year ending June 30, 2005 operations & maintenance have been increased by \$1,813,418.04.

## **Management Discussion and Analysis**

**Financial Results.** During Fiscal Year 2006-07, the Water Enterprise Fund had an increase in net assets of \$3,201,738, and non-operating expenses of \$497,229.

Net income from operations (which excludes interest earnings, net change in fair market value of investments and debt service interest) was \$3,698,967 for the Fiscal Year 2006-07, compared with a loss of (\$74,508) in Fiscal Year 2005-06. Revenue increased in Fiscal Year 2006-07 due to a restructuring of the Water Enterprises rates and a series of rate increases made over the last 18 months.

**Water Consumption.** Water use has been generally stable over the last several years fluctuating primarily due to seasonal weather conditions. In addition, during Fiscal Year 2005-06 the Water Enterprise Fund implemented a new rate structure developed to encourage water conservation by adding a fourth tier to residential customers. This fourth tier adds a substantial cost increase to customers who use excessive amount of water.

**User Rates.** User rates will continue to be reviewed and adjusted as necessary to maintain both debt service coverage and cash reserves, which can provide liquidity in the event of natural disaster, interest income for the Water Fund and the luxury of rate stabilization should there be sudden, unexpected increases in operating costs or reductions in water demand that result in decreased revenues from service charges.

## **Projected Operating Results and Debt Service Coverage**

The table below sets forth the City's projected operating results for the Water Enterprise, and resulting projected debt service coverage, for the fiscal years ending June 30, 2008 through June 30, 2012.

*The projections set forth in the table below are forward-looking statements, as such term is defined in the Securities Act of 1933, as amended, and reflect certain significant assumptions concerning future events and circumstances. The forecast represents the City's estimate of projected financial results based upon its judgment of the most probable occurrence of certain important future events. The assumptions set forth in the footnotes to the table below are material in the development of the City's financial projections, and variations in the assumptions may produce substantially different financial results. Actual operating results achieved during the projection period may vary from those presented in the forecast and such variations may be material.*

**TABLE 9**  
**PROJECTED OPERATING RESULTS AND**  
**DEBT SERVICE COVERAGE**  
**FISCAL YEAR ENDED JUNE 30, 2008 THROUGH 2012**

	Projected 06/30/2008	Projected 06/30/2009	Projected 06/30/2010	Projected 06/30/2011	Projected 06/30/2012
Operating revenues:					
Sales, service charges & fees [1]	\$23,954,764	\$25,152,502	\$25,907,077	\$26,684,290	\$27,484,818
Operating expenses:					
Salaries & employee benefits	1,985,225	2,044,782	2,106,125	2,169,309	2,234,388
Maintenance & operation	14,650,197	15,089,703	15,542,394	16,008,666	16,488,926
Depreciation	2,982,651	3,072,130	3,164,294	3,259,223	3,357,000
Amortization of issuance costs	70,474	72,588	74,765	77,008	79,319
Total operating expenses	19,688,546	20,279,203	20,887,579	21,514,206	22,159,632
Operating income (loss)	4,266,218	4,873,299	5,019,498	5,170,083	5,325,186
Nonoperating revenues (expenses):					
Investment revenue	421,546	613,642	329,006	444,652	372,821
Net change fair value of invest	-	-	-	-	-
Intergovernmental revenue	-	-	-	-	-
Interest expense	(3,451,166)	(3,424,591)	(3,396,554)	(3,359,975)	(3,328,769)
Gain (loss) on sale cap assets	-	-	-	-	-
Other revenue	55,179	55,179	55,179	55,179	55,179
Total nonoperating revenues (expenses)	(2,974,441)	(2,755,770)	(3,012,369)	(2,860,144)	(2,900,769)
Income (loss) before contributions & operating transfers	1,291,777	2,117,530	2,007,130	2,309,940	2,424,417
Transfers in	-	-	-	-	-
Transfers out	-	-	-	-	(8,794)
Change in net assets	1,291,777	2,117,530	2,007,130	2,309,940	2,415,623
Net assets, July 1	61,090,145	62,381,922	64,499,451	66,506,581	68,816,520
Net assets, June 30	62,381,922	64,499,451	66,506,581	68,816,520	71,232,144
Ops. net of non-cash Revenue for Coverage	16,635,422	17,134,485	17,648,519	18,177,975	18,723,314
Debt Service 1998 [2]	7,319,342	8,018,018	8,258,558	8,506,315	8,761,504
Debt Service 2007 [3]	251,274	--	--	--	--
New Debt Service 2008 [4]*	1,526,166	1,526,166	1,701,166	1,519,166	1,519,166
<b>TOTAL DEBT SERVICE *</b>	859,394	2,408,189	2,408,189	2,408,189	2,408,189
Coverage *	277.58%	203.79%	200.97%	216.59%	223.09%

\* Preliminary; subject to change.

[1] Assumes a 5% rate increase effective each July 1.

[2] Represents the 1998 Installment Payment supporting the payment of debt service on the 1998 Bonds on December 1, 2007. The 1998 Bonds will be refunded and defeased with the proceeds of the Bonds. See "FINANCING PLAN" and "THE WATER ENTERPRISE – Outstanding and Anticipated Water Enterprise Obligations." Therefore, the debt service payment due on June 1, 2008, is not included in this amount.

[3] Represents the 2007 Installment Payments supporting the payment of debt service on the 2007 Bonds. See "THE WATER ENTERPRISE – Outstanding and Anticipated Water Enterprise Obligations."

[4] Represents the Installment Payments supporting the payment of debt service on the 2008 Bonds.

Source: City of Beverly Hills.

## THE AUTHORITY

The Beverly Hills Public Financing Authority (the "Authority") was created by a Joint Exercise of Powers Agreement, dated as of November 10, 1992, between the City and the Parking Authority of the City of Beverly Hills (the "Parking Authority"). Such agreement was entered into pursuant to Articles 1 and 4 of Chapter 5 of Division 7 of Title 1 (commencing with Section 6484) of the California Government Code (the "Joint Powers Act"). The Authority was created for the purpose of assisting the financing or refinancing of certain public capital facilities of the City or the Parking Authority. The Authority is governed by a five-member board whose members are the same as the City Council. The Authority has no employees and all staff work is done by City staff or by consultants to the Authority.

## BOND OWNERS' RISKS

*The following describes certain special considerations and risk factors affecting the payment of and security for the 2008 Bonds. The following discussion is not meant to be an exhaustive list of the risks associated with the purchase of any 2008 Bonds and does not necessarily reflect the relative importance of the various risks. Potential investors in the 2008 Bonds are advised to consider the following special factors along with all other information in this Official Statement in evaluating the 2008 Bonds. There can be no assurance that other considerations will not materialize in the future.*

### **Net Revenues; Rate Covenant**

Net Revenues are dependent upon the demand for water services, which can be affected by population factors, more stringent water quality regulations, availability of competing services for water, and other factors.

There can be no assurance that water service demand will be consistent with the levels contemplated in this Official Statement. A decrease in demand could require an increase in rates or charges in order to comply with the rate covenants contained in the Installment Sale Agreement. The City's ability to meet its rate covenants is dependent upon its capacity to increase rates without driving down demand to a level insufficient to meet debt service on the Bonds and existing or future Parity Obligations.

### **Operation and Maintenance Expenses**

There can be no assurance that operation and maintenance expenses of the City related to the Water Enterprise will be consistent with the levels contemplated in this Official Statement. Changes in technology, changes in water quality standards, increases in the cost of purchased water, Water Enterprise operation or other expenses could require substantial increases in rates or charges in order to comply with the rate covenants in the Installment Sale Agreement. Such rate increases could drive down demand for water and related services.

### **Limitations on Remedies Available to Bond Owners**

The ability of the City to comply with its covenants under the Installment Sale Agreement and to generate Net Revenues sufficient to pay the Installment Payments may be adversely affected by actions and events outside of the control of the City, and may be adversely affected by actions taken (or not taken) by voters, property owners, taxpayers or payers of assessments, fees and charges. See "– Proposition 218" below. Furthermore, any remedies available to the owners of the 2008 Bonds upon the occurrence of an event of default under the Installment Sale

Agreement or the Indenture are in many respects dependent upon judicial actions, which are often subject to discretion and delay and could prove both expensive and time consuming to obtain.

In addition to the limitations on Bondholder remedies contained in the Installment Sale Agreement and the Indenture, the rights and obligations under the 2008 Bonds, the Installment Sale Agreement and the Indenture may be subject to the following: the United States Bankruptcy Code and applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or affecting the enforcement of creditors' rights generally, now or hereafter in effect; usual equity principles which may limit the specific enforcement under State law of certain remedies; the exercise by the United States of America of the powers delegated to it by the Federal Constitution; and the reasonable and necessary exercise, in certain exceptional situations, of the police power inherent in the sovereignty of the State of California and its governmental bodies in the interest of serving a significant and legitimate public purpose.

Bankruptcy proceedings, or the exercise of powers by the federal or state government, if initiated, could subject the Owners of the 2008 Bonds to judicial discretion and interpretation of their rights in bankruptcy or otherwise, and consequently may entail risks of delay, limitation or modification of their rights.

### **Seismic Considerations**

The City is located in a seismically active area of California. If there were to be an occurrence of severe seismic activity in the area of the City, there could be an interruption in the service provided by the Water Enterprise, resulting in a temporary reduction in the amount of Net Revenues available to pay Installment Payments when due.

### **Loss of Tax-Exemption**

As discussed under the caption "TAX MATTERS," interest on the 2008 Bonds could become includable in gross income for purposes of federal income taxation retroactive to the date the 2008 Bonds were issued, as a result of future acts or omissions of the Authority or the City in violation of their respective covenants in the Installment Sale Agreement and the Indenture. Should such an event of taxability occur, the 2008 Bonds are not subject to special redemption and will remain Outstanding until maturity or until redeemed under other provisions set forth in the Indenture.

### **Proposition 218**

**General.** On November 5, 1996, California voters approved Proposition 218, the so-called "Right to Vote on Taxes Act." Proposition 218 added Articles XIII C and XIII D to the State Constitution, which affect the ability of local governments to levy and collect both existing and future taxes, assessments, and property-related fees and charges. Proposition 218, which generally became effective on November 6, 1996, changed, among other things, the procedure for the imposition of any new or increased property-related "fee" or "charge," which is defined as "any levy other than an ad valorem tax, a special tax or an assessment, imposed by a [local government] upon a parcel or upon a person as an incident of property ownership, including user fees or charges for a property related service" (and referred to in this section as a "property-related fee or charge").

Specifically, under Article XIII D, before a municipality may impose or increase any property-related fee or charge, the entity must give written notice to the record owner of each

parcel of land affected by that fee or charge. The municipality must then hold a hearing upon the proposed imposition or increase at least 45 days after the written notice is mailed, and, if a majority of the property owners of the identified parcels present written protests against the proposal, the municipality may not impose or increase the property-related fee or charge.

Further, under Article XIID, revenues derived from a property-related fee or charge may not exceed the funds required to provide the "property-related service" and the entity may not use such fee or charge for any purpose other than that for which it imposed the fee or charge. The amount of a property-related fee or charge may not exceed the proportional cost of the service attributable to the parcel, and no property-related fee or charge may be imposed for a service unless that service is actually used by, or is immediately available to, the owner of the property in question.

In addition, Article XIIC states that "the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge. The power of initiative to affect local taxes, assessments, fees and charges shall be applicable to all local governments and neither the Legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives."

**Judicial Interpretation of Proposition 218.** After Proposition 218 was enacted in 1996, appellate court cases and an Attorney General's opinion initially indicated that fees and charges levied for water and wastewater services would not be considered property-related fees and charges, and thus not subject to the requirements of Article XIID regarding notice, hearing and protests in connection with any increase in the fees and charges being imposed. However, three recent cases have held that certain types of water and wastewater charges could be subject to the requirements of Proposition 218 under certain circumstances.

In *Richmond v. Shasta Community Services District* (9 Cal. Rptr. 3rd 121), the California Supreme Court addressed the applicability of the notice, hearing and protest provisions of Article XIID to certain charges related to water service. In *Richmond*, the Court held that connection charges are not subject to Proposition 218. The Court also indicated in dictum that a fee for ongoing water service through an existing connection could, under certain circumstances, constitute a property-related fee and charge, with the result that a local government imposing such a fee and charge must comply with the notice, hearing and protest requirements of Article XIID.

In *Howard Jarvis Taxpayers Association v. City of Fresno* (March 23, 2005), the California Court of Appeal, Fifth District, concluded that water, sewer and trash fees are property-related fees subject to Proposition 218 and a municipality must comply with Article XIID before imposing or increasing such fees. The California Supreme Court denied the City of Fresno's petition for review of the Court of Appeal's decision on June 15, 2005.

In July 2006 the California Supreme Court, in *Bighorn-Desert View Water Agency v. Verjil* (S127535, July 24, 2006), addressed the validity of a local voter initiative measure that would have (a) reduced a water agency's rates for water consumption (and other water charges), and (b) required the water agency to obtain voter approval before increasing any existing water rate, fee, or charge, or imposing any new water rate, fee, or charge. The court adopted the position indicated by its statement in *Richmond* that a public water agency's charges for ongoing water delivery are "fees and charges" within the meaning of Article XIID, and went on to hold that charges for ongoing water delivery are also "fees" within the meaning of Article XIIC's mandate that the initiative power of the electorate cannot be prohibited or limited in matters of reducing or repealing any local tax, assessment, fee or charge. Therefore,

the court held, Article XIIC authorizes local voters to adopt an initiative measure that would reduce or repeal a public agency's water rates and other water delivery charges. (However, the court ultimately ruled in favor of the water agency and held that the entire initiative measure was invalid on the grounds that the second part of the initiative measure, which would have subjected future water rate increases to prior voter approval, was not supported by Article XIIC and was therefore invalid.)

The court in *Bighorn* specifically noted that it was not holding that the initiative power is free of all limitations; the court stated that it was *not* determining whether the electorate's initiative power is subject to the statutory provision requiring that water service charges be set at a level that will pay for operating expenses, provide for repairs and depreciation of works, provide a reasonable surplus for improvements, extensions, and enlargements, pay the interest on any bonded debt, and provide a sinking or other fund for the payment of the principal of such debt as it may become due.

**Current Practice Regarding Rates and Charges.** The City's practice in implementing increases in water rates and charges has been to provide property owners with a 45-day mailed notice and public hearing before the City Council approves rate increases.

**Conclusion.** It is not possible to predict how courts will further interpret Article XIIC and Article XIID in future judicial decisions, and what, if any, further implementing legislation will be enacted.

Under the *Bighorn* case, local voters could adopt an initiative measure that reduces or repeals the City's rates and charges, though it is not clear whether (and California courts have not decided whether) any such reduction or repeal by initiative would be enforceable in a situation in which such rates and charges are pledged to the repayment of bonds or other indebtedness, as is the case with respect to the 2008 Bonds.

There can be no assurance that the courts will not further interpret, or the voters will not amend, Article XIIC and Article XIID to limit the ability of local agencies to impose, levy, charge and collect increased fees and charges for water, or to call into question previously adopted water rate increases.

## **Environmental Regulation**

The kind and degree of drinking water treatment is regulated, to a large extent, by the federal government and the State of California. Treatment standards set forth in federal and state law control the operations of the Water Enterprise, and mandate their use of technology. If the federal government, acting through the Environmental Protection Agency, or the State of California, acting through the Department of Health Services, or additional federal or state legislation, should impose stricter water quality standards upon the Water Enterprise or MWD (the main supplier of water to the Water Enterprise), the City's expenses could increase accordingly and rates and charges would have to be increased to offset those expenses.

It is not possible to predict the direction which federal or state regulation will take with respect to drinking water quality standards, although it is likely that both will impose more stringent standards with attendant higher costs.

## **Secondary Market for Bonds**

There can be no guarantee that there will be a secondary market for the 2008 Bonds or, if a secondary market exists, that any 2008 Bonds can be sold for any particular price. Prices of bond issues for which a market is being made will depend upon then-prevailing circumstances. Such prices could be substantially different from the original purchase price.

No assurance can be given that the market price for the 2008 Bonds will not be affected by the introduction or enactment of any future legislation (including without limitation amendments to the Internal Revenue Code), or changes in interpretation of the Internal Revenue Code, or any action of the Internal Revenue Service, including but not limited to the publication of proposed or final regulations, the issuance of rulings, the selection of the 2008 Bonds for audit examination, or the course or result of any Internal Revenue Service audit or examination of the 2008 Bonds or obligations that present similar tax issues as the 2008 Bonds.

On November 5, 2007, the U.S. Supreme Court heard oral arguments in an appeal of *Davis v. Kentucky Dep't of Revenue of the Finance and Admin. Cabinet*, 197 S.W.3d 557 (2006), a decision holding that State statutes providing more favorable State income tax treatment to holders of debt issued by in-state government bodies than for debt issued by out-of-state government bodies violate the U.S. Constitution. If the decision is upheld, the marketability and market price for the 2008 Bonds may be affected.

## **Existing and Future Parity Obligations**

The Installment Payments will be made on parity with the 2007 Installment Payments. See "DEBT SERVICE SCHEDULE" and "WATER ENTERPRISE FINANCIAL INFORMATION – Outstanding and Anticipated Water Enterprise Obligations." As described in "SECURITY FOR THE BONDS – Parity Obligations" above, the Installment Sale Agreement permits the City to issue Parity Obligations, its obligations under which would be payable on a parity with the payment of the Installment Payments and the 2007 Installment Payments.

In the event of a decline in Net Revenues available to pay Installment Payments, the existence of Parity Obligations could adversely affect the City's ability to pay debt service on the 2008 Bonds.

## **TAX MATTERS**

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to the qualifications set forth below, under existing law, the interest on the 2008 Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, provided, however, that, for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining certain income and earnings.

The opinions set forth in the preceding paragraph are subject to the condition that the City comply with all requirements of the Internal Revenue Code of 1986 (the "Code") that must be satisfied subsequent to the issuance of the 2008 Bonds in order that such interest be, or continue to be, excluded from gross income for federal income tax purposes. The City has covenanted to comply with each such requirement. Failure to comply with certain of such

requirements may cause the inclusion of such interest in gross income for federal income tax purposes to be retroactive to the date of issuance of the 2008 Bonds.

If the initial offering price to the public (excluding bond houses and brokers) at which a 2008 Bond is sold is less than the amount payable at maturity thereof, then such difference constitutes "original issue discount" for purposes of federal income taxes and State of California personal income taxes. If the initial offering price to the public (excluding bond houses and brokers) at which each 2008 Bond is sold is greater than the amount payable at maturity thereof, then such difference constitutes "original issue premium" for purposes of federal income taxes and State of California personal income taxes. De minimis original issue discount is disregarded.

Under the Code, original issue discount is treated as interest excluded from federal gross income and exempt from State of California personal income taxes to the extent properly allocable to each owner thereof subject to the limitations described in the first paragraph of this section. The original issue discount accrues over the term to maturity of the 2008 Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straightline interpolations between compounding dates). The amount of original issue discount accruing during each period is added to the adjusted basis of such 2008 Bonds to determine taxable gain upon disposition (including sale, redemption, or payment on maturity) of such 2008 Bond. The Code contains certain provisions relating to the accrual of original issue discount in the case of purchasers of the 2008 Bonds who purchase the 2008 Bonds after the initial offering of a substantial amount of such maturity. Owners of such 2008 Bonds should consult their own tax advisors with respect to the tax consequences of ownership of 2008 Bonds with original issue discount, including the treatment of purchasers who do not purchase in the original offering, the allowance of a deduction for any loss on a sale or other disposition, and the treatment of accrued original issue discount on such 2008 Bonds under federal individual and corporate alternative minimum taxes.

Under the Code, original issue premium is amortized on an annual basis over the term of the 2008 Bond (said term being the shorter of the 2008 Bond's maturity date or its call date). The amount of original issue premium amortized each year reduces the adjusted basis of the owner of the 2008 Bond for purposes of determining taxable gain or loss upon disposition. The amount of original issue premium on a 2008 Bond is amortized each year over the term to maturity of the 2008 Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straightline interpolations between compounding dates). Amortized bond premium is not deductible for federal income tax purposes. Owners of Premium 2008 Bonds, including purchasers who do not purchase in the original offering, should consult their own tax advisors with respect to State of California personal income tax and federal income tax consequences of owning such 2008 Bonds.

In the further opinion of Bond Counsel, interest on the 2008 Bonds is exempt from California personal income taxes.

Owners of the 2008 Bonds should also be aware that the ownership or disposition of, or the accrual or receipt of interest on, the 2008 Bonds may have federal or state tax consequences other than as described above. Bond Counsel expresses no opinion regarding any federal or state tax consequences arising with respect to the 2008 Bonds other than as expressly described above.

## **CERTAIN LEGAL MATTERS**

Jones Hall, A Professional Law Corporation, Bond Counsel, will render an opinion with respect to the validity of the 2008 Bonds, the form of which opinion is set forth in Appendix E. Certain legal matters will also be passed upon for the City by Jones Hall, as Disclosure Counsel. Certain legal matters will be passed upon for the City and the Authority by the City Attorney, and for the Underwriters by their counsel, Fulbright & Jaworski L.L.P.

## **LITIGATION**

To the best knowledge of the City, there is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the City after reasonable investigation, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of the Installment Sale Agreement or the Indenture, or upon the financial condition, assets, properties or operations of the City, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially adversely affect the consummation of the transactions contemplated by the Installment Sale Agreement or the Indenture, or the financial conditions, assets, properties or operations of the City, including but not limited to the payment and performance of the City's obligations under the Installment Sale Agreement.

## **RATINGS**

Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., has assigned an underlying municipal bond rating of ["AAA"] to the 2008 Bonds.

Moody's Investors Service has assigned an underlying municipal bond rating of ["Aa1"] to the 2008 Bonds.

Fitch Ratings has assigned an underlying municipal bond rating of ["AA+"] to the 2008 Bonds.

These ratings reflect only the views of such rating agencies and any desired explanation of the significance of such rating should be obtained from the respective rating agency. Generally, a rating agency bases its rating on the information and materials furnished to it and on investigations, studies and assumptions of its own. There is no assurance that these ratings will continue for any given period of time or that these ratings will not be revised downward or withdrawn entirely by the respective rating agency, if in the judgment of such rating agency, circumstances so warrant. Any such downward revision or withdrawal of any rating obtained may have an adverse effect on the market price or marketability of the 2008 Bonds.

## **CONTINUING DISCLOSURE**

The City will covenant for the benefit of owners of the 2008 Bonds to provide certain financial information and operating data relating to the City and the Water Enterprise by not later

than February 15 of each year, commencing February 15, 2009, with the report for the 2007-08 fiscal year (the "Annual Report") and to provide notices of the occurrence of certain enumerated events, if material.

The Annual Report will be filed by the City, or by the "Dissemination Agent" on behalf of the City, with each Nationally Recognized Municipal Securities Information Repository. The notices of material events will be filed by the City or the Dissemination Agent with the Municipal Securities Rulemaking Board.

These covenants have been made in order to assist the Underwriters in complying with Securities Exchange Commission Rule 15c2-12(b)(5), as amended (the "Rule"). The specific nature of the information to be contained in the Annual Report or the notices of material events is set forth in "APPENDIX C — FORM OF CONTINUING DISCLOSURE CERTIFICATE."

The City has never failed to comply, in all material respects, with its previous continuing disclosure undertakings under the Rule to provide annual continuing disclosure reports or notices of material events.

## **UNDERWRITING**

E. J. De La Rosa & Co., Inc., on behalf of itself and Bear, Stearns & Co. Inc. (collectively, the "Underwriters"), has entered into a Bond Purchase Agreement with the Authority under which they will purchase the 2008 Bonds at a price of \$\_\_\_\_\_ (equal to the par amount of the 2008 Bonds, less an Underwriters' discount of \$\_\_\_\_\_, and less a net original issue discount of \$\_\_\_\_\_).

The Underwriters will be obligated to take and pay for all of the 2008 Bonds if any are taken. The Underwriters intend to offer the 2008 Bonds to the public at the offering prices set forth on the inside cover page of this Official Statement. After the initial public offering, the public offering price may be varied from time to time by the Underwriters.

## **PROFESSIONAL SERVICES**

In connection with the issuance of the 2008 Bonds, fees payable to the following professionals involved in the offering are contingent upon the issuance and delivery of the 2008 Bonds: Jones Hall, A Professional Law Corporation, as Bond Counsel and Disclosure Counsel; Public Resources Advisory Group, as financial advisor to the City; Fulbright & Jaworski L.L.P., Los Angeles, California, as Underwriters' counsel; and U.S. Bank National Association, as Trustee.

## **VERIFICATION OF MATHEMATICAL COMPUTATIONS**

Causey, Demgen & Moore, Inc., Certified Public Accountants, Denver, Colorado (the "**Verification Agent**") upon delivery of the 2008 Bonds, will deliver a report on the mathematical accuracy of certain computations, contained in schedules provided to them which were prepared by the City, relating to (1) the sufficiency of the anticipated receipts from the Federal Securities and uninvested moneys deposited with the Escrow Agent to pay, when due, the principal, interest and prepayment premium requirements of the 1998 Bonds, and (2) the yield on the 2008 Bonds and on the Federal Securities to be deposited with the Escrow Agent.

The report of the Verification Agent will include the statement that the scope of their engagement is limited to verifying the mathematical accuracy of the computations contained in such schedules provided to them, and that they have no obligation to update their report because of events occurring, or data or information coming to their attention, subsequent to the date of their report.

**EXECUTION**

The execution of this Official Statement and its delivery have been authorized by the Board of the Authority and the City Council of the City.

CITY OF BEVERLY HILLS PUBLIC FINANCING  
AUTHORITY

By : \_\_\_\_\_  
Scott G. Miller, PhD,  
Chief Financial Officer

CITY OF BEVERLY HILLS

By : \_\_\_\_\_  
Scott G. Miller, PhD,  
Director of Administrative Services  
and Chief Financial Officer

**APPENDIX A**  
**SUMMARY OF PRINCIPAL LEGAL DOCUMENTS**

**APPENDIX B**

**AUDITED FINANCIAL STATEMENTS  
FOR FISCAL YEAR ENDING JUNE 30, 2007**

## APPENDIX C

### FORM OF CONTINUING DISCLOSURE CERTIFICATE

#### CONTINUING DISCLOSURE CERTIFICATE

##### CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY 2008 Water Revenue Bonds, Series A

This Continuing Disclosure Certificate (this "Disclosure Certificate") is executed and delivered by the City of Beverly Hills (the "City") in connection with the issuance by the City of Beverly Hills Public Financing Authority (the "Authority") of the bonds captioned above (the "Bonds"). The Bonds are being issued under an Indenture of Trust dated as of April 1, 2008 (the "Indenture"), between the Authority and U.S. Bank National Association, as trustee (the "Trustee"). The City hereby covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City on behalf of itself and the Authority for the benefit of the holders and beneficial owners of the Bonds and in order to assist the Participating Underwriter in complying with S.E.C. Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth above and in the Indenture, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

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

"*Annual Report Date*" means February 15 of each year.

"*Central Post Office*" means the Internet-based filing system currently located at [www.DisclosureUSA.org](http://www.DisclosureUSA.org), or any similar filing system approved by the Securities and Exchange Commission.

"*Dissemination Agent*" means U.S. Bank National Association, or any successor Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation.

"*Listed Events*" means any of the events listed in Section 5(a) of this Disclosure Certificate.

"*National Repository*" means any Nationally Recognized Municipal Securities Information Repository for purposes of the Rule. Information on the National Repositories as of a particular date is available on the Securities and Exchange Commission's Internet site at [www.sec.gov](http://www.sec.gov).

"*Official Statement*" means the final official statement executed by the City and the Authority in connection with the issuance of the Bonds.

"*Participating Underwriter*" means E. J. De La Rosa & Co., Inc., the original underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds.

"*Repository*" means each National Repository and each State Repository, if any.

"Rule" means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

"State Repository" means any public or private repository or entity designated by the State of California as a state repository for the purpose of the Rule and recognized as such by the Securities and Exchange Commission. As of the date of this Disclosure Certificate, there is no State Repository.

Section 3. Provision of Annual Reports.

(a) The City shall, or shall cause the Dissemination Agent to, not later than the Annual Report Date, commencing February 15, 2009 with the report for the 2007-08 fiscal year, provide to each Repository an Annual Report that is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than 15 Business Days prior to the Annual Report Date, the City shall provide the Annual Report to the Dissemination Agent (if other than the City). The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the City 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 not available by that date. If the City's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c).

(b) If the City does not provide, or cause the Dissemination Agent to provide, an Annual Report to the Repositories by the Annual Report Date as required in subsection (a) above, the Dissemination Agent shall send a notice to the Municipal Securities Rulemaking Board and the appropriate State Repository, if any, in substantially the form attached hereto as Exhibit A, with a copy to the Trustee (if different than the Dissemination Agent). In lieu of filing the notice with each Repository, the City or the Dissemination Agent may file the notice with the Central Post Office.

(c) The Dissemination Agent shall:

(i) determine each year prior to the Annual Report Date the name and address of each National Repository and each State Repository, if any; and

(ii) if the Dissemination Agent is other than the City, file a report with the City certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, stating the date it was provided and listing all the Repositories to which it was provided.

(d) In lieu of filing the Annual Report with each Repository, the City or the Dissemination Agent may file the Annual Report with the Central Post Office.

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

(a) Audited Financial Statements of the City, which shall include financial statements of the City's municipal water system (the "Water System") prepared in accordance with Generally Accepted Accounting Principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the City's audited financial statements are not available by the Annual Report Date, 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) Unless otherwise provided in the audited financial statements filed on or prior to the Annual Report Date, financial information and operating data with respect to the City and the Water System for the preceding fiscal year, in the form of updates to the tables and descriptions contained under the following headings in the Official Statement:

- (i) THE WATER ENTERPRISE – Water Enterprise Rates and Charges
- (ii) THE WATER ENTERPRISE – Historical Service Connections
- (iii) THE WATER ENTERPRISE – Historical Water Deliveries
- (iv) THE WATER ENTERPRISE – Historical Water Sales Revenues
- (v) THE WATER ENTERPRISE – Ten Largest Customers
- (vi) WATER ENTERPRISE FINANCIAL INFORMATION – Historical Operating Results
- (vii) WATER ENTERPRISE FINANCIAL INFORMATION – Management Discussion and Analysis

(c) Any or all of the items listed in subsections (a) and (b) above may be included by specific reference to other documents, including official statements of debt issues of the City or related public entities, which have been submitted to each of the Repositories or the Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The City shall clearly identify each such other document so included by reference.

(d) In addition to any of the information expressly required to be provided under this Disclosure Certificate, the City shall provide such further material 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 Significant Events.

(a) The City 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) Principal and interest payment delinquencies.
- (2) Non-payment related defaults.
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties.
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties.
- (5) Substitution of credit or liquidity providers, or their failure to perform.
- (6) Adverse tax opinions or events affecting the tax-exempt status of the security.
- (7) Modifications to rights of security holders.
- (8) Contingent or unscheduled bond calls.
- (9) Defeasances.
- (10) Release, substitution, or sale of property securing repayment of the securities.
- (11) Rating changes.

(b) Whenever the City obtains knowledge of the occurrence of a Listed Event, the City shall as soon as possible determine if such event would be material under applicable Federal securities law.

(c) If the City determines that knowledge of the occurrence of a Listed Event would be material under applicable Federal securities law, the City shall, or shall cause the Dissemination Agent to, promptly file a notice of such occurrence with the Municipal Securities Rulemaking Board and each State Repository, if any, with a copy to the Trustee (if different than the Dissemination Agent). Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8) and (9) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Bonds pursuant to the Indenture.

(d) In lieu of filing the notice of the occurrence of a Listed Event with each Repository, the City or the Dissemination Agent may file the notice of the occurrence of a Listed Event with the Central Post Office.

Section 6. Termination of Reporting Obligation. The City's obligations under this Disclosure Certificate shall terminate upon the legal 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 City shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

Section 7. Dissemination Agent. The City 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. The initial Dissemination Agent will be U.S. Bank National Association.

Section 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

(a) if the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), 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 type of business conducted;

(b) the undertakings herein, as proposed to be amended or waived, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the primary offering of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) the proposed amendment or waiver either (i) is approved by holders of the Bonds in the manner provided in the Indenture for amendments to the Indenture with the consent of holders, or (ii) does not, in the opinion of the Trustee or nationally recognized bond counsel, materially impair the interests of the holders or beneficial owners of the Bonds.

If the annual financial information or operating data to be provided in the Annual Report is amended pursuant to the provisions hereof, the first annual financial information filed pursuant hereto containing the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

If an amendment is made to the undertaking specifying the accounting principles to be followed in preparing financial statements, the annual financial information for the year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information, in order to provide information to investors to enable them to evaluate the ability of the City to meet its obligations. To the extent reasonably feasible, the comparison shall be quantitative. A notice of the change in the accounting principles shall be sent to the Repositories in the same manner as for a Listed Event under Section 5(c).

(d) The Dissemination Agent shall not be obligated to enter into any such amendment that modifies or increases its duties or obligations hereunder.

Section 9. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City 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 City 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 City 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 10. Default. In the event of a failure of the City to comply with any provision of this Disclosure Certificate, the Participating Underwriter or any holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

Section 11. Duties, Immunities and Liabilities of Dissemination Agent.

(a) The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the City 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) 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 no duty or obligation to review any information provided to it hereunder and shall not be deemed to be acting in any fiduciary capacity for the City, the Trustee, the Bond owners or any other party. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

(b) The Dissemination Agent may conclusively rely upon the Annual Report provided to it by the City as constituting the Annual Report required of the City in accordance with this Disclosure Certificate and shall have no duty or obligation to review such Annual Report. The Dissemination Agent shall have no duty to prepare the Annual Report nor shall the Dissemination Agent be responsible for filing any Annual Report not provided to it by the City in a timely manner in a form suitable for filing with the Repositories. In accepting the appointment under this Disclosure Certificate, the Dissemination Agent is not acting in a fiduciary capacity to the Holders or Beneficial Owners of the Bonds, the City, the Participating Underwriters or any other party or person. No provision of this Disclosure Certificate shall require the Dissemination Agent to risk or advance or expend its own funds or incur any financial liability. The Dissemination Agent shall be entitled to compensation for its services as Dissemination Agent and reimbursement for its out-of-pocket expenses, attorney's fees, costs and advances made or incurred in the performance of its duties under the Bonds and this Agreement in accordance with its written fee schedule provided to the City, as such fee schedule may be amended from time to time in writing. Any company succeeding to all or substantially all of the Dissemination Agent's corporate trust business shall be the successor to the Dissemination Agent hereunder without the execution or filing of any paper or any further act.

Section 12. Notices. Any notice or communications to be among any of the parties to this Disclosure Certificate may be given as follows:

To the Issuer:	City of Beverly Hills 455 North Rexford Drive, Room 250 Beverly Hills, CA 90210-4817 Fax: (310) 285-2441
To the Dissemination Agent and Trustee	U.S. Bank National Association 633 West 5th Street, 24th Floor Los Angeles, CA 90017 Attention: Corporate Trust Department Fax: (213) 615-6199

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

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

Section 14. Counterparts. This Disclosure Certificate may be executed in several counterparts, each of which shall be regarded as an original, and all of which shall constitute one and the same instrument.

Date: \_\_\_\_\_, 2008

CITY OF BEVERLY HILLS

By: \_\_\_\_\_  
Scott G. Miller, PhD,  
Director of Administrative Services  
and Chief Financial Officer

AGREED AND ACCEPTED:  
U.S. Bank National Association  
as Dissemination Agent

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

**NOTICE OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: City of Beverly Hills Public Financing Authority

Name of Bond Issue: City of Beverly Hills Public Financing Authority 2008 Water Revenue Bonds, Series A

Date of Issuance: \_\_\_\_\_, 2008

NOTICE IS HEREBY GIVEN that the Authority has not provided an Annual Report with respect to the above-named Bonds as required by the Indenture of Trust dated as of April 1, 2008 between the Authority and U.S. Bank National Association. The Authority anticipates that the Annual Report will be filed by \_\_\_\_\_.

Dated: \_\_\_\_\_

ISSUER:

CITY OF BEVERLY HILLS

By: \_\_\_\_\_  
Its: \_\_\_\_\_

cc: Dissemination Agent

## APPENDIX D

### GENERAL INFORMATION ABOUT THE CITY OF BEVERLY HILLS AND LOS ANGELES COUNTY

*The following information concerning the City and the County of Los Angeles is included only for the purpose of supplying general information regarding the area of the City. The Bonds are not a debt of the City, the County, the State or any of its political subdivisions, and neither the City, the County, the State nor any of its political subdivisions is liable therefor.*

#### **General Information**

*The City.* The City of Beverly Hills, incorporated in 1914 under the general laws of the State of California, is a long-established residential city and commercial center located within Los Angeles County in Southern California. Located approximately 10 miles west of the Los Angeles City Hall, the City occupies a land area of approximately 5.7 square miles and serves a residential population of 36,084. The City estimates that services are provided to 100,000 to 150,000 persons during the day. The City operates under a Council-Manager form of government. The City Council consists of five members elected at large for overlapping four-year terms. The Mayor is selected from the City Council members and serves a one-year term. The City's only other elected official is the City Treasurer whose term of office is four years. The City Council is responsible, among other things, for passing ordinances, adopting the budget, appointing committees, and appointing a City Manager, City Attorney and City Clerk.

In addition to sitting as the governing board of the City, the City Council also acts as the Board of Directors of two blended component units: the Parking Authority of the City of Beverly Hills and the Beverly Hills Public Financing Authority. The City Manager is responsible for carrying out the policies and ordinances of the City Council, for overseeing the day-to-day operations of the City, and for appointing the heads of the City's various departments and offices. The City provides the full range of municipal services as contemplated by statute. Services provided include public safety (police and fire), street construction and maintenance, sanitation, refuse collection, water and sewer utilities, culture-recreation, public improvements, planning and zoning, and general administrative and support services.

Approximately 90% of the City is zone for residential use. In 2000, approximately 62% of the total dwelling units were apartments and condominiums, and 37% were single family houses. City records indicate that approximately 82% of the multi-family units are apartments and 18% are condominiums.

*The County.* Located along the southern coast of California, Los Angeles County covers about 4,080 square miles. It measures approximately 75 miles from north to south and 70 miles from east to west. The county includes Santa Catalina and San Clemente Islands and is bordered by the Pacific Ocean and Ventura, San Bernardino and Orange Counties.

Almost half of the county is mountainous and some 14 percent is a coastal plain known as the Los Angeles Basin. The low Santa Monica mountains and Hollywood Hills run east and west and form the northern boundary of the Basin and the southern boundary of the San Fernando Valley. The San Fernando Valley terminates at the base of the San Gabriel Mountains whose highest peak is over 10,000 feet. Beyond this mountain range the rest of the county is a semi-dry plateau, the beginning of the vast Mojave Desert.

According to the Los Angeles County Regional Planning Commission, the 86 incorporated cities in the county covered about 1,344 square miles or 27 percent of the total county. About 16 percent of the land in the county was devoted to residential use and over two thirds of the land was open space and vacant.

## Population

The following table shows population estimates for the City, the County and the State of California for the past five years as of January 1.

### CITY OF BEVERLY HILLS, LOS ANGELES COUNTY Population Estimates

Area	2003	2004	2005	2006	2007
City of Beverly Hills	35,353	35,648	35,754	35,861	36,084
Los Angeles County	9,979,472	10,088,934	10,166,417	10,247,994	10,331,939
State of California	35,691,472	36,245,016	36,728,196	37,195,240	37,662,518

Source: State of California, Department of Finance.

## Industry

The table below lists employment by industry group for Los Angeles County for the years 2002 through 2006.

### LOS ANGELES COUNTY Annual Average Labor Force Employment by Industry Group

	2002	2003	2004	2005	2006
Civilian Labor Force	4,770,200	4,773,500	4,789,000	4,837,300	4,860,600
Employment	4,447,100	4,440,800	4,477,900	4,581,100	4,631,600
Unemployment	323,100	332,700	311,100	256,200	229,000
Unemployment Rate	6.8%	7.0%	6.5%	5.3%	4.7%
<b>Wage and Salary Employment: <sup>(1)</sup></b>					
Agriculture	7,800	7,800	7,600	7,400	7,600
Natural Resources and Mining	3,700	3,800	3,800	3,700	4,000
Construction	134,500	134,600	140,200	148,700	156,700
Manufacturing	534,800	500,000	483,600	471,700	462,300
Wholesale Trade	217,300	214,100	215,100	219,300	225,200
Retail Trade	398,200	399,300	405,400	414,400	423,200
Trans., Warehousing, Utilities	167,200	161,500	161,100	161,700	165,700
Information	207,300	202,300	211,900	207,600	209,700
Financial and Insurance	159,800	165,000	165,000	166,200	169,000
Real Estate, Rental & Leasing	72,800	74,800	76,700	77,800	79,000
Professional and Business Services	575,000	559,900	562,400	576,100	594,700
Educational and Health Services	450,400	460,400	467,000	471,300	481,300
Leisure and Hospitality	354,200	362,600	372,800	377,800	387,500
Other Services	145,600	145,500	144,700	144,300	145,700
Federal Government	54,100	55,500	54,400	53,500	52,300
State Government	80,800	80,800	79,000	78,200	79,500
Local Government	471,100	463,000	453,800	452,000	456,800
Total All Industries <sup>(2)</sup>	\$4,034,600	\$3,990,800	\$4,004,100	\$4,031,600	\$4,100,200

<sup>(1)</sup> Industry employment is by place of work; excludes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

<sup>(2)</sup> May not add due to rounding.

Source: State of California Employment Development Department.

The table below lists the major employers in the Los Angeles County area. Major private employers in the Los Angeles area include those in aerospace, health care, entertainment, electronics, retail and manufacturing. Major public sector employers include public universities and schools, the State of California and Los Angeles County.

**LOS ANGELES COUNTY  
Major Employers  
2008**

<b>Employer Name</b>	<b>Location</b>	<b>Industry</b>
American Honda Motor Co Inc	Torrance	Automobile & Truck Brokers (Whol)
Amtrak	Los Angeles	Government-Railroads Line-Haul Operators
BP Carson Refinery	Carson	Misc Indstrl Equip & Supls Nec (Whol)
BP West Coast Products	Carson	Oil Field Equipment (Wholesale)
Century Plaza Towers	Los Angeles	Office Buildings & Parks
Children's Hospital	Long Beach	Hospitals
Gardena Fire Dept	Gardena	Fire Departments
Jet Propulsion Laboratory	Pasadena	Laboratories
Kaiser Foundation Hospital	Los Angeles	Hospitals
Kaiser Permanente	Los Angeles	Physicians & Surgeons
L A County Fire Dept	Los Angeles	Fire Departments
Lockheed Martin Aeronautics Co	Palmdale	Aerospace Industries (Mfrs)
Long Beach Memorial Med Ctr	Long Beach	Hospitals
Los Angeles Police Dept	Los Angeles	Police Departments
Pacific Enterprises Co	Los Angeles	Exporters (Whol)
Penske Truck Rental	Burbank	Truck Renting & Leasing
Six Flags Magic Mountain Inc	Valencia	Amusement Places
Sony Pictures Entertainment	Culver City	Motion Picture Film-Distrs & Exchs
UCLA	Los Angeles	Schools-Universities & Colleges Academic
University-Southern California	Los Angeles	Schools-Universities & Colleges Academic
VA Greater Los Angeles Health	Los Angeles	Hospitals
Walt Disney Co	Burbank	Investments
Westcoast	Carson	Marketing Programs & Services
Women & Childrens Hospital	Los Angeles	Hospitals

*Source: State of California Employment Development Department.*

## Commercial Activity

A summary of historical taxable sales within the City and the County during the past five years for which data is available is shown in the following tables.

### CITY OF BEVERLY HILLS Taxable Transactions (dollars in thousands)

<u>Year</u>	Retail Permits on July 1	Retail Stores Taxable <u>Transactions</u>	Total Permits on July 1	Total Outlets Taxable <u>Transactions</u>
2002	1,272	1,256,588	2,595	1,623,979
2003	1,340	1,335,421	2,648	1,727,682
2004	1,364	1,503,055	2,644	1,946,706
2005	1,402	1,616,585	2,708	2,095,215
2006	1,457	1,701,027	2,734	2,237,643

*Source: State of California, Board of Equalization.*

### LOS ANGELES COUNTY Taxable Transactions (dollars in thousands)

<u>Year</u>	Retail Permits on July 1	Retail Stores Taxable <u>Transactions</u>	Total Permits on July 1	Total Outlets Taxable <u>Transactions</u>
2002	120,420	74,547,977	281,496	108,753,064
2003	128,313	79,426,726	289,892	113,685,422
2004	134,717	86,496,685	295,398	122,533,104
2005	139,641	92,271,155	298,083	130,722,373
2006	142,512	95,554,193	295,701	136,162,552

*Source: State of California, Board of Equalization.*

## Construction Trends

Provided below are the building permits and valuations for the City and the County for calendar years 2002 through 2006.

### CITY OF BEVERLY HILLS Building Permit Valuations (dollars in thousands)

Permit Valuation	2002	2003	2004	2005	2006
<u>Permit Valuation</u>					
New Single-family	\$20,905.0	\$30,285.0	\$26,078.0	\$58,546.0	\$ 49,643.0
New Multi-family	3,000.0	2,500.0	46,100.0	7,300.0	2,440.0
Res. Alterations/Additions	<u>23,883.3</u>	<u>32,190.2</u>	<u>29,678.6</u>	<u>32,575.6</u>	<u>37,290.2</u>
Total Residential	47,788.3	64,975.2	101,856.6	98,421.6	89,373.2
New Commercial	34,320.0	9,050.0	8,525.0	1,800.0	31,500.0
New Industrial	0.0	0.0	0.0	0.0	0.0
New Other	5,484.7	4,984.9	6,367.2	12,050.2	16,649.8
Com. Alterations/Additions	<u>27,680.0</u>	<u>43,641.8</u>	<u>54,293.1</u>	<u>41,596.3</u>	<u>56,991.9</u>
Total Nonresidential	67,484.6	57,676.8	69,185.3	55,446.5	105,141.7
<u>New Dwelling Units</u>					
Single Family	26	36	34	42	26
Multiple Family	<u>10</u>	<u>15</u>	<u>213</u>	<u>17</u>	<u>36</u>
TOTAL	36	51	247	59	62

Source: Construction Industry Research Board, *Building Permit Summary*

### LOS ANGELES COUNTY Building Permit Valuations (dollars in thousands)

Permit Valuation	2002	2003	2004	2005	2006
<u>Permit Valuation</u>					
New Single-family	\$2,031,609.8	\$2,584,850.1	\$2,923,786.0	\$2,915,511.7	\$2,560,588.5
New Multi-family	1,094,703.1	1,178,699.9	1,915,862.5	1,810,154.7	2,205,262.8
Res. Alterations/Additions	<u>1,172,433.0</u>	<u>1,390,128.9</u>	<u>1,727,799.4</u>	<u>1,962,196.0</u>	<u>1,981,614.8</u>
Total Residential	4,298,745.8	5,153,678.9	6,567,448.0	6,687,862.3	6,747,466.2
New Commercial	951,063.1	687,654.4	975,900.5	1,073,445.9	1,251,955.0
New Industrial	225,428.5	276,414.1	178,199.5	277,419.0	181,821.1
New Other	446,748.1	602,067.1	615,702.5	804,290.5	767,924.9
Com. Alterations/Additions	<u>1,297,057.0</u>	<u>1,376,541.5</u>	<u>1,403,741.8</u>	<u>1,668,983.1</u>	<u>1,693,835.1</u>
Total Nonresidential	2,920,296.7	2,931,677.1	3,173,544.4	3,824,138.4	3,895,536.1
<u>New Dwelling Units</u>					
Single Family	8,217	10,217	11,752	11,911	10,097
Multiple Family	<u>11,147</u>	<u>11,096</u>	<u>15,183</u>	<u>13,736</u>	<u>16,251</u>
TOTAL	19,364	21,313	26,935	25,647	26,348

Source: Construction Industry Research Board, *Building Permit Summary*

## Effective Buying Income

“Effective Buying Income” is defined as personal income less personal tax and non-tax payments, a number often referred to as “disposable” or “after-tax” income. Personal income is the aggregate of wages and salaries, other labor-related income (such as employer contributions to private pension funds), proprietor’s income, rental income (which includes imputed rental income of owner-occupants of non-farm dwellings), dividends paid by corporations, interest income from all sources, and transfer payments (such as pensions and welfare assistance). Deducted from this total are personal taxes (federal, state and local), non-tax payments (fines, fees, penalties, etc.) and personal contributions to social insurance. According to U.S. government definitions, the resultant figure is commonly known as “disposable personal income.”

The following table summarizes the total effective buying income for the County of Los Angeles, the State and the United States for the period 2002 through 2006.

### LOS ANGELES COUNTY Effective Buying Income 2002 through 2006

Year	Area	Total Effective Buying Income (000's Omitted)	Median Household Effective Buying Income
2002	Los Angeles County	\$ 162,413,790	\$37,983
	California	647,879,427	42,484
	United States	5,340,682,818	38,035
2003	Los Angeles County	\$ 169,307,295	\$38,311
	California	674,721,020	42,924
	United States	5,466,880,008	38,201
2004	Los Angeles County	\$ 177,575,730	\$39,414
	California	705,108,410	43,915
	United States	5,692,909,567	39,324
2005	Los Angeles County	\$ 180,142,797	\$40,020
	California	720,798,106	44,681
	United States	5,894,663,363	40,529
2006	Los Angeles County	\$ 190,915,435	\$41,683
	California	764,120,963	46,275
	United States	6,107,092,244	41,255

Source: Sales & Marketing Management Survey of Buying Power for 2001 through 2004; Claritas Demographics for 2005 and 2006.

**APPENDIX E**  
**FORM OF BOND COUNSEL OPINION**

## APPENDIX F

### DTC AND THE BOOK-ENTRY ONLY SYSTEM

*The following description of the Depository Trust Company ("DTC"), the procedures and record keeping with respect to beneficial ownership interests in the Bonds, payment of principal, interest and other payments on the Bonds to DTC Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interest in the Bonds and other related transactions by and between DTC, the DTC Participants and the Beneficial Owners is based solely on information provided by DTC. Accordingly, no representations can be made concerning these matters and neither the DTC Participants nor the Beneficial Owners should rely on the foregoing information with respect to such matters, but should instead confirm the same with DTC or the DTC Participants, as the case may be.*

*Neither the issuer of the Bonds (the "Issuer") nor the trustee, fiscal agent or paying agent appointed with respect to the Bonds (the "Agent") take any responsibility for the information contained in this Appendix.*

*No assurances can be given that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the Bonds, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Bonds, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Bonds, or that they will so do on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Appendix. The current "Rules" applicable to DTC are on file with the Securities and Exchange Commission and the current "Procedures" of DTC to be followed in dealing with DTC Participants are on file with DTC.*

1. The Depository Trust Company ("DTC"), New York, NY, will act as securities depository for the securities (the "Bonds"). The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Bond certificate will be issued for the Bonds, in the aggregate principal amount of such issue, and will be deposited with DTC. If, however, the aggregate principal amount of any issue exceeds \$500 million, one certificate will be issued with respect to each \$500 million of principal amount and an additional certificate will be issued with respect to any remaining principal amount of such issue.

2. DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 2.2 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instrument from over 100 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC, in turn, is owned

by a number of Direct Participants of DTC and Members of the National Securities Clearing Corporation, Fixed Income Clearing Corporation, and Emerging Markets Clearing Corporation (NSCC, FICC, and EMCC, also subsidiaries of DTCC), as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has Standard & Poor's highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org). *The information contain on this Internet site is not incorporated herein by reference.*

3. Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

4. To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the security documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners, in the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of the notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as

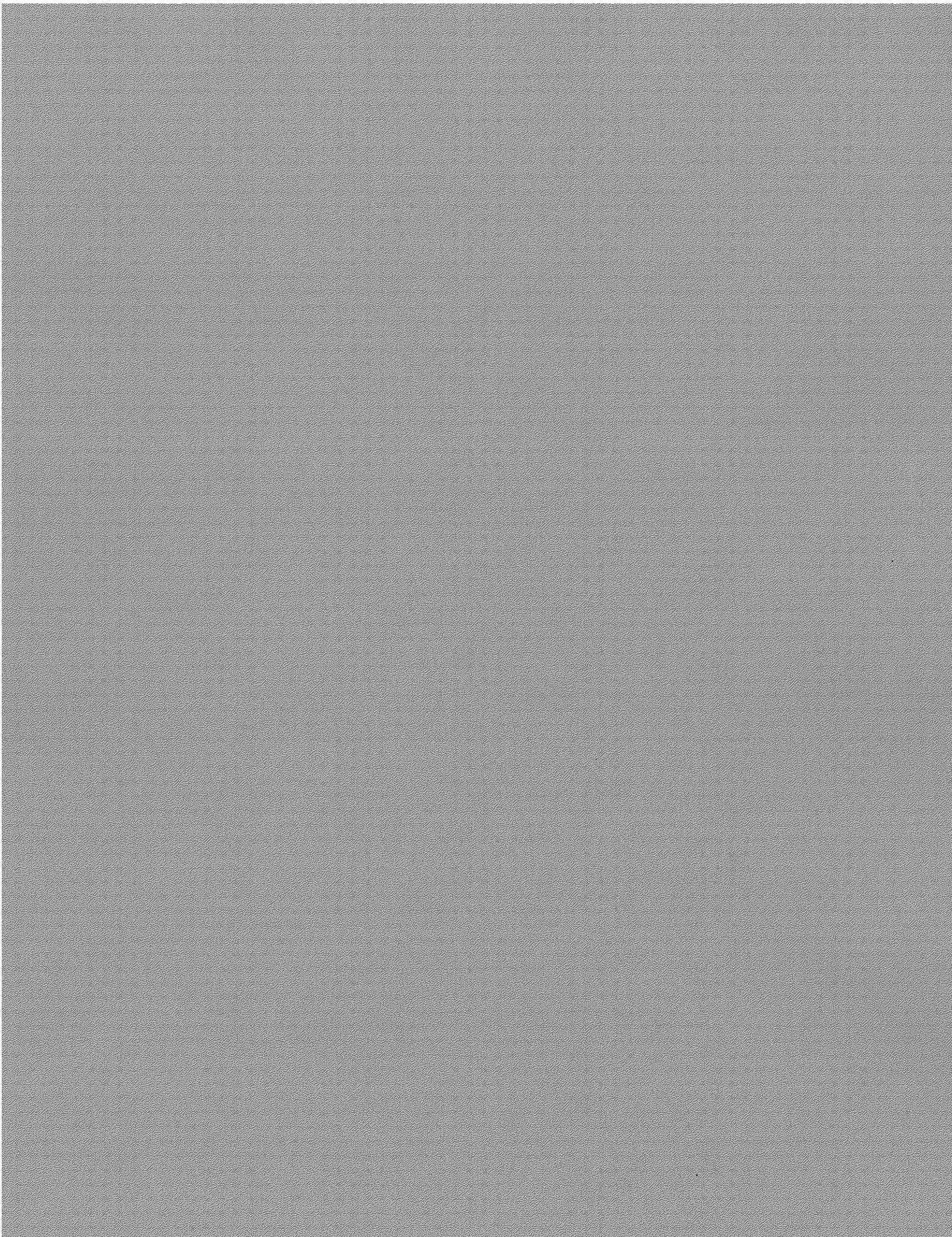
possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and interest payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detail information from Issuer or Agent on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC nor its nominee, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. DTC may discontinue providing its services as securities depository with respect to the Bonds at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor securities depository is not obtained, Bond certificates are required to be printed and delivered.

10. Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC.

11. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.



\$ \_\_\_\_\_  
**CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY**  
**2008 Water Revenue Bonds, Series A**

**BOND PURCHASE CONTRACT**

March \_\_, 2008

City of Beverly Hills Public Financing Authority  
455 N. Rexford Drive, Room 250  
Beverly Hills, California 90210

City of Beverly Hills  
455 N. Rexford Drive, Room 250  
Beverly Hills, California 90210

Ladies and Gentlemen:

E. J. De La Rosa & Co., Inc., on behalf of itself and Bear, Stearns & Co. Inc. (collectively, the "Underwriter") offers to enter into this Bond Purchase Contract (this "Purchase Contract") with the City of Beverly Hills Public Financing Authority (the "Authority") and the City of Beverly Hills (the "City"). This offer is made subject to the Authority's and the City's acceptance by execution of this Purchase Contract and delivery of the same to the Underwriter on or before 11:59 p.m. on the date hereof, and, if not so accepted, will be subject to withdrawal by the Underwriter upon notice delivered to the Authority and the City at any time prior to such acceptance. Upon the Authority's and the City's acceptance hereof, the Purchase Contract will be binding upon the Authority, the City and the Underwriter.

Capitalized terms used in this Purchase Contract and not otherwise defined herein shall have the respective meanings set forth for such terms in the Indenture (defined below).

**Section 1. Purchase and Sale.** Upon the terms and conditions and upon the basis of the representations set forth in this Purchase Contract, the Underwriter agrees to purchase from the Authority, and the Authority agrees to sell and deliver to the Underwriter, all (but not less than all) of the bonds captioned above (the "Bonds") at a purchase price of \$ \_\_\_\_\_ (being an amount equal to the principal amount of the Bonds (\$ \_\_\_\_\_), less a net original issue discount of \$ \_\_\_\_\_, less an underwriter's discount of \$ \_\_\_\_\_). The obligations of the Underwriter to purchase, accept delivery of and pay for the Bonds shall be conditioned on the sale and delivery of all of the Bonds by the Authority to the Underwriter at Closing.

**Section 2. Bond Terms; Authorizing Instruments.** (a) The Bonds shall be dated their date of delivery and shall mature and bear interest as shown on Exhibit A attached hereto. The Bonds shall be as described in, and shall be issued and secured under, an Indenture of Trust (the "Indenture"), dated as of April 1, 2008, between the Authority and U.S. Bank National Association, as trustee (the "Trustee"). The Bonds are payable and subject to prepayment as provided in the Indenture and as described in the Official Statement.

(b) The Bonds will be issued pursuant to Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 and are payable from and secured by the Authority's pledge of "Net Revenues" under and as defined in the Indenture, consisting primarily of installment payments to be made by the City to the Authority under an Installment Sale Agreement dated as of April 1, 2008, by and between the Authority and the City.

**Section 3. Public Offering.** The Underwriter agrees to make an initial bona fide public offering of all of the Bonds, at not in excess of the initial public offering yields or prices set forth on Exhibit A attached hereto. Following the initial public offering of the Bonds, the offering prices may be changed from time to time by the Underwriter.

**Section 4. Official Statement; Continuing Disclosure.** (a) The Authority has delivered to the Underwriter the Preliminary Official Statement dated March \_\_\_\_\_, 2008 (the "Preliminary Official Statement") and will deliver to the Underwriter the final Official Statement dated the date of this Purchase Contract (as amended and supplemented from time to time pursuant to Section 5(i) of this Purchase Contract, the "Official Statement").

(b) The Authority hereby authorizes the use of the Official Statement and the information contained therein by the Underwriter in connection with the public offering and the sale of the Bonds. The Authority consents to the use by the Underwriter prior to the date hereof of the Preliminary Official Statement in connection with the public offering of the Bonds. The Underwriter hereby agrees that they will not send any confirmation requesting payment for the purchase of any Bonds unless the confirmation is accompanied by or preceded by the delivery of a copy of the Official Statement. The Underwriter agrees to: (1) provide the Authority with final pricing information on the Bonds on a timely basis prior to the Closing and (2) take any and all other actions necessary to comply with applicable Securities and Exchange Commission rules and MSRB rules governing the offering, sale and delivery of the Bonds to ultimate purchasers.

(c) In connection with issuance of the Bonds, and in order to assist the Underwriter with complying with the provisions of Securities and Exchange Commission Rule 15c2-12 ("Rule 15c2-12"), the City, on behalf of itself and the Authority, will execute a continuing disclosure certificate countersigned by U.S. Bank National Association, as dissemination agent (the "Continuing Disclosure Certificate"), under which the City will undertake to provide certain financial and operating data as required by Rule 15c2-12. The form of the Continuing Disclosure Certificate will be attached as an appendix to the Preliminary and Final Official Statements.

**Section 5. Representations, Warranties and Covenants of the Authority.** The Authority hereby represents, warrants and agrees with the Underwriter that:

(a) The Board (the "Board") of the Authority has taken official action by resolution (the "Authority Resolution") adopted by a majority of the members of the Board at a meeting duly called, noticed and conducted, at which a quorum was present and acting throughout, authorizing the execution, delivery and due performance of the Indenture, the Installment Sale Agreement, and this Purchase Contract (collectively, the "Authority Agreements") and the Official Statement and the taking of any and all such action as may be required on the part of the Authority to carry out, give effect to and consummate the transactions contemplated hereby.

(b) The Authority is a joint exercise of powers authority duly organized and existing under the laws of the State of California (the "State") and has all necessary power and authority to adopt the Authority Resolution, to enter into and perform its duties under the Authority Agreements and, when executed and delivered by the respective parties thereto, the Authority Agreements will each constitute legal, valid and binding obligation of the Authority enforceable in accordance with its respective terms.

(c) By all necessary official action, the Authority has duly authorized the preparation and delivery of the Preliminary Official Statement and the preparation, execution and delivery of the Official Statement, has duly authorized and approved the execution and delivery of, and the performance of its obligations under, the Bonds and the Authority Agreements, and the consummation by it of all other transactions contemplated by the Authority Resolution, the Authority Agreements, the Preliminary Official Statement and the Official Statement. When executed and delivered by their respective parties, the Authority Agreements (assuming due authorization, execution and delivery by and enforceability against the other parties thereto) will be in full force and effect and each will constitute legal, valid and binding agreements or obligations of the Authority, enforceable in accordance with their respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors rights generally, the application of equitable principles, the exercise of judicial discretion and the limitations on legal remedies against public entities in the State.

(d) At the time of the Authority's acceptance hereof and at all times subsequent thereto up to and including the time of the Closing, the information and statements in the Official Statement under the heading "THE AUTHORITY" do not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(e) As of the date hereof, there is no action, suit, proceeding or investigation before or by any court, public board or body pending against the Authority or, to the best knowledge of the Authority, threatened, wherein an unfavorable decision, ruling or finding would: (i) affect the creation, organization, existence or powers of the Authority, or the titles of its members or officers; (ii) in any way question or affect the validity or enforceability of Authority Agreements or the Bonds, or (iii) in any way question or affect the Purchase Contract or the transactions contemplated by the Purchase Contract, the Official Statement, or any other agreement or instrument to which the Authority is a party relating to the Bonds.

(f) There is no consent, approval, authorization or other order of, or filing or registration with, or certification by, any regulatory authority having jurisdiction over the Authority required for the execution and delivery of this Purchase Contract or the consummation by the

Authority of the other transactions contemplated by the Official Statement or the Authority Agreements.

(g) Any certificate signed by any official of the Authority authorized to do so shall be deemed a representation and warranty by the Authority to the Underwriter as to the statements made therein.

(h) Except as previously disclosed to the Underwriter, the Authority is not in default, and at no time has the Authority defaulted in any material respect, on any bond, note or other obligation for borrowed money or any agreement under which any such obligation is or was outstanding.

(i) (1) If any event occurs of which the Authority has knowledge between the date of this Purchase Contract and the date of the Closing that might or would cause the Official Statement, as then supplemented or amended, to contain an untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the Authority shall notify the Underwriter and, if in the opinion of the Underwriter, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the Authority will cooperate with the Underwriter in causing the Official Statement to be amended or supplemented in a form and in a manner approved by the Underwriter. All expenses thereby incurred will be paid by the Authority, and the Underwriter will file, or cause to be filed, the amended or supplemented Official Statement with a nationally recognized securities information repository.

(2) After the Closing, the Authority will not participate in the issuance of any amendment of or supplement to the Official Statement to which, after being furnished with a copy, the Underwriter reasonably objects in writing or which is disapproved by Underwriter's Counsel. If any event relating to or affecting the Authority occurs as a result of which it is necessary, in the opinion of the Underwriter, to amend or supplement the Official Statement in order to make the Official Statement not misleading in the light of the circumstances existing at the time it is delivered to a purchaser, the Authority will use its best efforts to assist the Underwriter in preparing (at the expense of the Authority for 90 days after the date of the Closing, and thereafter at the expense of the Underwriter) a reasonable number of copies of an amendment of or supplement to the Official Statement (in form and substance satisfactory to the Underwriter) which will amend or supplement the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at the time the Official Statement is delivered to a purchaser, not misleading. For the purposes of this subsection, the Authority will furnish such information with respect to itself as the Underwriter may from time to time reasonably request.

**Section 6. Representations, Warranties and Covenants of the City.** The City hereby represents, warrants and agrees with the Underwriter that:

(a) The city council (the "City Council") of the City has taken official action by Resolution (the "City Resolution") adopted by a majority of the members of the City Council at

meetings duly called, noticed and conducted, at which a quorum was present and acting throughout, authorizing the execution, delivery and due performance of the Installment Sale Agreement, the Continuing Disclosure Certificate and this Purchase Contract (collectively, the "City Agreements") and the Official Statement and the taking of any and all such action as may be required on the part of the City to carry out, give effect to and consummate the transactions contemplated hereby.

(b) The City is a municipal corporation duly organized and existing under the laws of the State of California (the "State") and has all necessary power and authority to adopt the City Resolution, to enter into and perform its duties under the City Agreements and, when executed and delivered by the respective parties thereto, the City Agreements will each constitute legal, valid and binding obligation of the City enforceable in accordance with its respective terms.

(c) By all necessary official action, the City has duly adopted the City Resolution, has duly authorized the preparation and delivery of the Preliminary Official Statement and the preparation, execution and delivery of the Official Statement, has duly authorized and approved the execution and delivery of, and the performance of its obligations under, the City Agreements, and the consummation by it of all other transactions contemplated by the City Resolution, the City Agreements, the Preliminary Official Statement and the Official Statement. When executed and delivered by their respective parties, the City Agreements (assuming due authorization, execution and delivery by and enforceability against the other parties thereto) will be in full force and effect and each will constitute legal, valid and binding agreements or obligations of the City, enforceable in accordance with their respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors rights generally, the application of equitable principles, the exercise of judicial discretion and the limitations on legal remedies against public entities in the State.

(d) At the time of the City's acceptance hereof and at all times subsequent thereto up to and including the time of the Closing, the information and statements in the Official Statement do not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(e) As of the date hereof, there is no action, suit, proceeding or investigation before or by any court, public board or body pending against the City or, to the best knowledge of the City, threatened, wherein an unfavorable decision, ruling or finding would: (i) affect the creation, organization, existence or powers of the City, or the titles of its members or officers; (ii) in any way question or affect the validity or enforceability of City Agreements or the Bonds, or (iii) in any way question or affect the Purchase Contract or the transactions contemplated by the Purchase Contract, the Official Statement, or any other agreement or instrument to which the City is a party relating to the Bonds.

(f) There is no consent, approval, authorization or other order of, or filing or registration with, or certification by, any regulatory authority having jurisdiction over the City required for the execution and delivery of this Purchase Contract or the consummation by the City of the other transactions contemplated by the Official Statement or the City Agreements.

(g) Any certificate signed by any official of the City authorized to do so shall be deemed a representation and warranty by the City to the Underwriter as to the statements made therein.

(h) Except as previously disclosed to the Underwriter, the City is not in default, and at no time has the City defaulted in any material respect, on any bond, note or other obligation for borrowed money or any agreement under which any such obligation is or was outstanding.

(i) (1) Except as disclosed in the Official Statement or otherwise disclosed in writing to the Underwriter, there has not been any materially adverse change in the financial condition of the City since June 30, 2007 and there has been no occurrence, circumstance or combination thereof which is reasonably expected to result in any such materially adverse change.

(2) If any event occurs of which the City has knowledge between the date of this Purchase Contract and the date of the Closing that might or would cause the Official Statement, as then supplemented or amended, to contain an untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the City shall notify the Underwriter and, if in the opinion of the Underwriter, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the City will cooperate with the Underwriter in causing the Official Statement to be amended or supplemented in a form and in a manner approved by the Underwriter. All expenses thereby incurred will be paid by the City, and the Underwriter will file, or cause to be filed, the amended or supplemented Official Statement with a nationally recognized securities information repository.

(3) After the Closing, the City will not participate in the issuance of any amendment of or supplement to the Official Statement to which, after being furnished with a copy, the Underwriter reasonably objects in writing or which is disapproved by Underwriter's Counsel. If any event relating to or affecting the City occurs as a result of which it is necessary, in the opinion of the Underwriter, to amend or supplement the Official Statement in order to make the Official Statement not misleading in the light of the circumstances existing at the time it is delivered to a purchaser, the City will use its best efforts to assist the Underwriter in preparing (at the expense of the City for 90 days after the date of the Closing, and thereafter at the expense of the Underwriter) a reasonable number of copies of an amendment of or supplement to the Official Statement (in form and substance satisfactory to the Underwriter) which will amend or supplement the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at the time the Official Statement is delivered to a purchaser, not misleading. For the purposes of this subsection, the City will furnish such information with respect to itself as the Underwriter may from time to time reasonably request.

(j) Except as disclosed in the Official Statement or otherwise disclosed in writing to the Underwriter, the City has not previously failed to comply in all material respects with any undertakings under Rule 15c2-12.

**Section 7. The Closing.** (a) At 8:00 A.M., San Francisco time, on April \_\_, 2008, or on such earlier or later time or date as may be agreed upon by the Underwriter, the Authority and the City (the "Closing"), the Authority shall deliver or cause to be delivered to the Underwriter, at a location or locations to be designated by the Underwriter in New York, New York, the duly executed Bonds (delivered through the book-entry system of The Depository Trust Company). Prior to the Closing, the Authority shall deliver, at the offices of Bond Counsel in San Francisco, California, or such other place as are mutually agreed upon by the Underwriter and the Authority, the other documents described in this Purchase Contract. On the date of the Closing, the Underwriter shall pay the purchase price of the Bonds as set forth in Section 1 of this Purchase Contract in immediately available funds to the order of the Trustee.

(b) The Bonds shall be issued in fully registered form and shall be prepared and delivered as one Bond for each maturity registered in the name of a nominee of The Depository Trust Company, New York, New York ("DTC"). It is anticipated that CUSIP identification numbers will be inserted on the Bonds, but neither the failure to provide such numbers nor any error with respect thereto shall constitute a cause for failure or refusal by the Underwriter to accept delivery of the Bonds in accordance with the terms of this Purchase Contract.

**Section 8. Conditions to Underwriter's Obligations.** The Underwriter has entered into this Purchase Contract in reliance upon the representations and warranties of the Authority and the City contained herein and to be contained in the documents and instruments to be delivered on the date of the Closing, and upon the performance by the Authority and the City of their respective obligations to be performed hereunder and under such documents and instruments to be delivered at or prior to the date of the Closing. The Underwriter's obligations under this Purchase Contract are and shall also be subject to the following conditions:

(a) The representations and warranties of the Authority and the City contained in this Agreement shall be true and correct in all material respects on the date of this Purchase Contract and on and as of the date of the Closing as if made on the date of the Closing;

(b) As of the date of the Closing, the Official Statement may not have been amended, modified or supplemented, except in any case as may have been agreed to by the Underwriter;

(c) (i) As of the date of the Closing, the Authority Resolution, the City Resolution, the Authority Agreements and the City Agreements shall be in full force and effect, and shall not have been amended, modified or supplemented, except as may have been agreed to by the City and Underwriter, (ii) the Authority shall perform or have performed all of its obligations required under or specified in the Authority Resolution, the Authority Agreements and this Purchase Contract to be performed at or prior to the date of the Closing; and (iii) the City shall perform or have performed all of its obligations required under or specified in the City Resolution, the City Agreements and this Purchase Contract to be performed at or prior to the date of the Closing;

(d) As of the date of the Closing, all necessary official action of the Authority relating to the Authority Agreements, the Authority Resolution and the Official Statement, and all necessary official action of the City relating to the City Agreements, the City Resolution, and the Official Statement, shall have been taken and shall be in full force and effect and shall not have been amended, modified or supplemented in any material respect;

(e) Subsequent to the date of this Purchase Contract, up to and including the date of the Closing, there shall not have occurred any change in or particularly affecting the Authority, the City, or the City's Water System, as these matters are described in the Official Statement, which in the reasonable professional judgment of the Underwriter materially impairs the investment quality of the Bonds;

(f) As of or prior to the date of the Closing, the Underwriter shall have received each of the following documents:

(1) Certified copies of the Authority Resolution and the City Resolution.

(2) Duly executed copies of the Indenture, the Installment Sale Agreement, the Continuing Disclosure Certificate and this Purchase Contract.

(3) The Preliminary Official Statement and the Official Statement, with the Official Statement duly executed on behalf of the Authority and the City.

(4) An approving opinion of Bond Counsel, dated as of the Closing, as to the validity of the Bonds and the exclusion of interest on the Bonds from federal gross income and State income taxation, addressed to the Authority and the City substantially in the form attached as an appendix to the Official Statement, and a reliance letter with respect thereto addressed to the Underwriter.

(5) A supplemental opinion of Bond Counsel, addressed to the Underwriter, to the effect that:

(i) The Purchase Contract has been duly executed and delivered by the Authority and the City and is valid and binding upon the Authority and the City, subject to laws relating to bankruptcy, insolvency, reorganization or creditors' rights generally and to the application of equitable principles;

(ii) The Bonds are exempt from registration pursuant to the Securities Act of 1933, as amended (the "Securities Act"), and the Indenture is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended; and

(iii) The statements contained in the Official Statement on the cover and under the headings "INTRODUCTION," "THE 2008 BONDS," "SECURITY FOR THE BONDS" and "TAX MATTERS," and in "APPENDIX A – Summary of Principal Legal Documents" and "APPENDIX E – Form of Opinion of Bond Counsel," insofar as such statements purport to describe certain provisions of the Bonds, or to state legal conclusions and the opinion of Bond Counsel regarding the tax-exempt nature of the Bonds, present a fair and accurate summary of the provisions thereof.

(6) The opinion of Jones Hall, as Disclosure Counsel, addressed to the Authority, the City and the Underwriter, to the effect that, based upon the information made available to them in the course of their participation in the preparation of the Official Statement and without passing on and without assuming any responsibility for

the accuracy, completeness and fairness of the statements in the Official Statement, and having made no independent investigation or verification thereof, no facts have come to their attention that lead them to believe that, as of the date of the Closing, the Official Statement (except for the appendices thereto, any financial or statistical data or forecasts, numbers, charts, estimates, projections, assumptions or expressions of opinion, or any information about DTC or its book-entry only system, as to which no opinion or view need be expressed) contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(7) An opinion of the City Attorney, dated as of the Closing addressed to the Authority, the City and the Underwriter, in form and substance acceptable to the Underwriter, to the effect that:

(i) The City is a municipal corporation organized and validly existing under the laws of the State of California with full legal right, power and authority to perform all of its obligations under this Purchase Contract, and the City Agreements (as defined in this Purchase Contract). The City has duly authorized, executed and delivered the City Agreements and the other documents relating to the Bonds to which it is a party, and assuming due authorization, execution and delivery by the other parties thereto, as necessary, the City Agreements constitute legal, valid and binding agreements of the City enforceable against the City in accordance with their terms, except as the enforceability thereof may be limited by bankruptcy, moratorium, insolvency, equitable remedies and other laws affecting creditors' rights or remedies.

(ii) To the best of the City Attorney's knowledge, there is no action, suit or proceeding before or by any court, public board or body pending or threatened wherein an unfavorable decision, ruling or finding would (a) affect the creation, organization, existence or powers of the City or the titles of its officers to their respective offices, (b) in any way question or affect the validity or enforceability of the City Agreements or the Bonds, (c) find illegal, invalid or unenforceable the City Agreements or the transactions contemplated thereby, or any other agreement or instrument related to the issuance of the Bonds to which the City is a party, or (d) have a material adverse effect on the making of Debt Service payments from the Net Revenues pledged to secure the Bonds under the Indenture.

(iii) The execution and delivery of the City Agreements and the other instruments contemplated by any of such documents to which the City is a party, and compliance with the provisions of each thereof, will not conflict with or constitute a breach of or default under any applicable law or administrative rule or regulation of the State of California, the United States or any department, division, agency or instrumentality of either thereof, or any applicable court or administrative decree or order or any loan agreement, note, resolution, indenture, contract, agreement or other instrument to which the City is a party or is otherwise subject or bound in a manner which would materially adversely affect the City's performance under the City Agreements.

(iv) All approvals, consents, authorizations, elections and orders of or filings or registrations with any governmental authority, board, agency or commission having jurisdiction which would constitute a condition precedent to, or the absence of which would materially adversely affect, the performance by the City of its obligations under the City Agreements have been obtained and are in full force and effect.

(v) The Authority is a joint exercise of powers authority organized and validly existing under the laws of the State of California with full legal right, power and authority to perform all of its obligations under this Purchase Contract and the Authority Agreements (as defined in this Purchase Contract). The Authority has duly authorized, executed and delivered the Official Statement (as defined in this Purchase Contract), the Authority Agreements and the other documents relating to the Bonds to which it is a party, and assuming due authorization, execution and delivery by the other parties thereto, as necessary, the Authority Agreements constitute legal, valid and binding agreements of the Authority enforceable against the Authority in accordance with their terms, except as the enforceability thereof may be limited by bankruptcy, moratorium, insolvency, equitable remedies and other laws affecting creditors' rights or remedies.

(vi) The execution and delivery by the Authority of the Authority Agreements, the Official Statement and the other instruments contemplated by any of such documents to which the Authority is a party, and compliance with the provisions of each thereof, will not conflict with or constitute a breach of or default under any applicable law or administrative rule or regulation of the State of California, the United States or any department, division, agency or instrumentality of either thereof, or any applicable court or administrative decree or order or any loan agreement, note, resolution, indenture, contract, agreement or other instrument to which the Authority is a party or is otherwise subject or bound in a manner which would materially adversely affect the Authority's performance under the Authority Agreements.

(vii) To the best of the City Attorney's knowledge, there is no action, suit or proceeding before or by any court, public board or body pending or threatened wherein an unfavorable decision, ruling or finding would (a) affect the creation, organization, existence or powers of the Authority or the titles of its officers to their respective offices, (b) in any way question or affect the validity or enforceability of the Authority Agreements or the Bonds, or (c) find illegal, invalid or unenforceable the Authority Agreements or the transactions contemplated thereby, or any other agreement or instrument related to the issuance of the Bonds to which the Authority is a party.

(viii) All approvals, consents, authorizations, elections and orders of or filings or registrations with any governmental authority, board, agency or commission having jurisdiction which would constitute a condition precedent to, or the absence of which would materially adversely affect, the performance by the Authority of its obligations under the Authority Agreements have been obtained and are in full force and effect.

(8) An executed certificate of the Authority and the City, dated as of the date of the Preliminary Official Statement, in the form attached as Exhibit B.

(9) An executed closing certificate of the Authority, dated as of the Closing, in the form attached as Exhibit C.

(10) An executed closing certificate of the City, dated as of the Closing, in the form attached as Exhibit D.

(11) The opinion of counsel of the Trustee, dated as of the Closing, addressed to the Authority, the City and the Underwriter to the effect that:

(i) The Trustee is a national banking association duly organized, validly existing and in good standing under the laws of the State, having full powers and authority and being qualified to enter into, accept and administer the trust created under the Indenture and to enter into the Indenture.

(ii) The Indenture has been duly authorized, executed and delivered by the Trustee, and, assuming due authorization, execution and delivery by the other parties thereto, the Indenture constitutes a legal, valid and binding agreement of the Trustee enforceable in accordance with its terms, subject to laws relating in bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and the application of equitable principles if equitable remedies are sought.

(12) A certificate or certificates, dated as of the Closing, in form and substance acceptable to the Underwriter, of an authorized officer or officers of the Trustee to the effect that the Trustee has accepted the duties imposed by the Indenture and is authorized to carry out such duties.

(13) An Arbitrage Certificate duly signed on behalf of the Authority.

(14) Evidence of required filings with the California Debt and Investment Advisory Commission.

(15) A copy of the executed Blanket Issuer Letter of Representations by and between the City and DTC relating to the book-entry system.

(16) Such additional legal opinions, certificates, proceedings, instruments and other documents as the Underwriter or Bond Counsel may reasonably request to evidence compliance by the Authority and the City with legal requirements, the truth and accuracy, as of the date of the Closing, of the representations of the Authority and the City herein contained and of the Official Statement and the due performance or satisfaction by the Authority and the City at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the Authority and the City.

All of the opinions, letters, certificates, instruments and other documents mentioned in this Purchase Contract shall be deemed to be in compliance with the provisions of this

Purchase Contract if, but only if, they are in form and substance satisfactory to the Underwriter. If the Authority and the City are unable to satisfy the conditions to the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Bonds contained in this Purchase Contract or if the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Bonds shall be terminated for any reason permitted by this Purchase Contract, this Purchase Contract shall terminate and neither the Underwriter, the Authority nor the City shall be under further obligations hereunder, except that the respective obligations of the Authority, the City and the Underwriter set forth in Section 11 of this Purchase Contract shall continue in full force and effect.

**Section 9. Conditions to Authority's and City's Obligations.** The performance by the Authority and the City of their respective obligations under this Purchase Contract are conditioned upon: (i) the performance by the Underwriter of its obligations hereunder and (ii) receipt by the Authority and the City of opinions addressed to the Authority and the City, and receipt by the Underwriter of opinions addressed to the Underwriter, and the delivery of certificates being delivered on the date of the Closing by persons and entities other than the Authority and the City.

**Section 10. Termination Events.** The Underwriter shall have the right to terminate the Underwriter's obligations under this Purchase Contract to purchase, to accept delivery of and to pay for the Bonds by notifying the Authority and the City of its election to do so if, after the execution hereof and prior to the Closing, any of the following events occurs:

(1) the marketability of the Bonds or the market price thereof, in the opinion of the Underwriter, has been materially and adversely affected by any decision issued by a court of the United States (including the United States Tax Court) or of the State of California, by any ruling or regulation (final, temporary or proposed) issued by or on behalf of the Department of the Treasury of the United States, the Internal Revenue Service, or other governmental agency of the United States, or any governmental agency of the State of California, or by a tentative decision or announcement by any member of the House Ways and Means Committee, the Senate Finance Committee, or the Conference Committee with respect to contemplated legislation or by legislation enacted by, pending in, or favorably reported to either the House of Representatives or either House of the Legislature of the State of California, or formally proposed to the Congress of the United States by the President of the United States or to the Legislature of the State of California by the Governor of the State of California in an executive communication, affecting the tax status of the Authority or the City, its property or income, its bonds (including the Bonds) or the interest thereon or any tax exemption granted or authorized by the Internal Revenue Code of 1986, as amended;

(2) the United States becomes engaged in hostilities that result in a declaration of war or a national emergency, or any other outbreak of hostilities occurs, or a local, national or international calamity or crisis occurs, financial or otherwise, the effect of such outbreak, calamity or crisis being such as, in the reasonable opinion of the Underwriter, would affect materially and adversely the ability of the Underwriter to market the Bonds;

(3) there occurs a general suspension of trading on the New York Stock Exchange or the declaration of a general banking moratorium by the United States, New York State or California State authorities;

(4) a stop order, ruling, regulation or official statement by, or on behalf of, the Securities and Exchange Commission is issued or made to the effect that the issuance, offering or sale of the Bonds is or would be in violation of any provision of the Securities Act of 1933, as then in effect, or of the Securities Exchange Act of 1934, as then in effect, or of the Trust Indenture Act of 1939, as then in effect;

(5) legislation is enacted by the House of Representatives or the Senate of the Congress of the United States of America, or a decision by a court of the United States of America is rendered, or a ruling or regulation by or on behalf of the Securities and Exchange Commission or other governmental agency having jurisdiction of the subject matter is made or proposed to the effect that the Bonds are not exempt from registration, qualification or other similar requirements of the Securities Act of 1933, as then in effect, or of the Trust Indenture Act of 1939, as then in effect;

(6) in the reasonable judgment of the Underwriter, the market price of the Bonds, or the market price generally of obligations of the general character of the Bonds, might be materially and adversely affected because additional material restrictions not in force as of the date hereof is imposed upon trading in securities generally by any governmental authority or by any national securities exchange;

(7) the Comptroller of the Currency, The New York Stock Exchange, or other national securities exchange, or any governmental authority, imposes, as to the Bonds or obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, or financial responsibility requirements of the Underwriter;

(8) a general banking moratorium is established by federal, New York or State authorities;

(9) any legislation, ordinance, rule or regulation is introduced in or be enacted by any governmental body, department or agency in the State or a decision of a court of competent jurisdiction within the State is rendered, which, in the opinion of the Underwriter, after consultation with the Authority and the City, materially adversely affects the market price of the Bonds;

(10) any federal or California court, authority or regulatory body takes action materially and adversely affecting the collection of Revenues under the Indenture; or

(11) an event occurs which in the opinion of the Underwriter requires a supplement or amendment to the Official Statement.

**Section 11. Payment of Expenses.** (a) The Underwriter shall be under no obligation to pay, and the City shall pay the following expenses incident to the performance of the Authority's and the City's obligations hereunder:

(i) the fees and disbursements of Bond Counsel and Disclosure Counsel;

(ii) the cost of printing and delivering the Bonds, the Preliminary Official Statement and the Official Statement (and any amendment or supplement prepared pursuant to Section 4 of this Purchase Contract);

(iii) the fees and disbursements of accountants, advisers and of any other experts or consultants retained by the Authority or the City; and

(iv) any other expenses and costs of the Authority and the City incident to the performance of their respective obligations in connection with the authorization, issuance and sale of the Bonds, including out-of-pocket expenses and regulatory expenses, and any other expenses agreed to by the parties.

(b) The Underwriter shall pay all expenses incurred by it in connection with the public offering and distribution of the Bonds including, but not limited to:

(i) all advertising expenses in connection with the offering of the Bonds; and

(ii) all out-of-pocket disbursements and expenses incurred by the Underwriter in connection with the offering and distribution of the Bonds, except as provided in (a) above or as otherwise agreed to by the Underwriter and the City.

**Section 12. Notices.** Any notice or other communication to be given to the Authority or the City under this Purchase Contract may be given by delivering the same in writing to the Authority and the City at the addresses set forth on the first page of this Purchase Contract, and any notice or other communication to be given to the Underwriter under this Purchase Contract may be given by delivering the same in writing to E. J. De La Rosa & Co., Inc., 101 Montgomery Street, Suite 2150, San Francisco, CA 94104.

**Section 13. Survival of Representations, Warranties, Agreements.** All of the Authority's and the City's representations, warranties and agreements contained in this Purchase Contract shall remain operative and in full force and effect regardless of: (a) any investigations made by or on behalf of the Underwriter; or (b) delivery of and payment for the Bonds pursuant to this Purchase Contract. The agreements contained in this Section and in Section 11 shall survive any termination of this Purchase Contract.

**Section 14. Benefit; No Assignment.** This Purchase Contract is made solely for the benefit of the Authority, the City and the Underwriter (including its successors and assigns), and no other person shall acquire or have any right hereunder or by virtue hereof. The rights and obligations created by this Purchase Contract are not subject to assignment by the Underwriter, the Authority or the City without the prior written consent of the other parties hereto.

**Section 15. Severability.** In the event that any provision of this Purchase Contract is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Purchase Contract.

**Section 16. Counterparts.** This Purchase Contract may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute the Purchase Contract by signing any such counterpart.

**Section 17. Governing Law.** This Purchase Contract shall be governed by the laws of the State of California.

**Section 18. Effectiveness.** This Purchase Contract shall become effective upon the execution of the acceptance hereof by an authorized officer of the Authority and the City, and shall be valid and enforceable as of the time of such acceptance.

Very truly yours,

E. J. DE LA ROSA & CO., INC.

By: \_\_\_\_\_  
Principal

Accepted:

CITY OF BEVERLY HILLS

By: \_\_\_\_\_  
Jimmy Delshad,  
Mayor

CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY

By: \_\_\_\_\_  
Jimmy Delshad,  
Chair

EXHIBIT A

\$ \_\_\_\_\_

CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY  
2008 Water Revenue Bonds, Series A

MATURITY SCHEDULE

\$ \_\_\_\_\_ Serial Bonds

Principal Payment Date (June 1)	<u>Principal</u>	<u>Coupon</u>	<u>Yield</u>	<u>Price</u>
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Term Bonds

Principal Payment Date (June 1)	<u>Principal</u>	<u>Coupon</u>	<u>Yield</u>	<u>Price</u>
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**EXHIBIT B**

\$ \_\_\_\_\_  
**CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY**  
**2008 Water Revenue Bonds, Series A**

**15c2-12 CERTIFICATE**

The undersigned hereby certifies and represents that he or she is the duly appointed and acting representative of the City of Beverly Hills (the "City") and the City of Beverly Hills Public Financing Authority (the "Authority"), and is duly authorized to execute and deliver this Certificate and further hereby certifies and reconfirms on behalf of the City and the Authority as follows:

(1) This Certificate is delivered in connection with the offering and sale of the bonds captioned above (the "Bonds") in order to enable the underwriter of the Bonds to comply with Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule").

(2) In connection with the offering and sale of the Bonds, there has been prepared a Preliminary Official Statement, setting forth information concerning the Bonds, the Authority, the City and the City's water system (the "Preliminary Official Statement").

(3) As used herein, "Permitted Omissions" means the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the Bonds depending on such matters, all with respect to the Bonds.

(4) The Preliminary Official Statement is, except for the Permitted Omissions, deemed final within the meaning of Rule 15c2-12, and the information therein is accurate and complete except for the Permitted Omissions.

Dated: \_\_\_\_\_, 2008.

CITY OF BEVERLY HILLS

By: \_\_\_\_\_  
Scott G. Miller, PhD,  
Director of Administrative Services  
and Chief Financial Officer

CITY OF BEVERLY HILLS PUBLIC  
FINANCING AUTHORITY

By: \_\_\_\_\_  
Scott G. Miller, PhD,  
Chief Financial Officer

**EXHIBIT C**

\$ \_\_\_\_\_  
**CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY**  
**2008 Water Revenue Bonds, Series A**

**CLOSING CERTIFICATE OF THE AUTHORITY**

The undersigned hereby certifies and represents that he or she is the duly appointed and acting representative of the City of Beverly Hills Public Financing Authority (the "Authority"), and is duly authorized to execute and deliver this Certificate and further hereby certifies and reconfirms on behalf of the Authority as follows:

(i) The representations, warranties and covenants of the Authority contained in the Bond Purchase Contract dated as of \_\_\_\_\_, 2008, by and among the Authority, the City of Beverly Hills and E. J. De La Rosa & Co., Inc., on behalf of itself and Bear, Stearns & Co. Inc., as underwriters (the "Purchase Contract"), are true and correct and in all material respects on and as of the date of the Closing with the same effect as if made on the date of the Closing.

(ii) The Authority Resolution is in full force and effect at the date of the Closing and has not been amended, modified or supplemented, except as agreed to by the Authority and the Underwriter.

(iii) The Authority has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied on or prior to the date of the Closing.

(iv) The Official Statement does not contain any untrue or misleading statement of a material fact and does not omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading.

Capitalized terms used but not defined herein have the meanings given in the Purchase Contract.

Dated: \_\_\_\_\_, 2008.

CITY OF BEVERLY HILLS PUBLIC  
FINANCING AUTHORITY

By: \_\_\_\_\_  
Scott G. Miller, PhD,  
Chief Financial Officer

EXHIBIT D

\$ \_\_\_\_\_  
CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY  
2008 Water Revenue Bonds, Series A

CLOSING CERTIFICATE OF THE CITY

The undersigned hereby certifies and represents that he or she is the duly appointed and acting representative of the City of Beverly Hills (the "City"), and is duly authorized to execute and deliver this Certificate and further hereby certifies and reconfirms on behalf of the City as follows:

(i) The representations, warranties and covenants of the City contained in the Bond Purchase Contract dated as of \_\_\_\_\_, 2008, by and among the City, the City of Beverly Hills Public Financing Authority, and E. J. De La Rosa & Co., Inc., on behalf of itself and Bear, Stearns & Co. Inc., as underwriters (the "Purchase Contract") are true and correct and in all material respects on and as of the date of the Closing with the same effect as if made on the date of the Closing.

(ii) The City Resolution is in full force and effect at the date of the Closing and has not been amended, modified or supplemented, except as agreed to by the City and the Underwriter.

(iii) The City has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied on or prior to the date of the Closing.

(iv) Subsequent to the date of the Official Statement and on or prior to the date of such certificate, there has been no material adverse change in the condition (financial or otherwise) of the City or the Water Enterprise, whether or not arising in the ordinary course of operations, as described in the Official Statement.

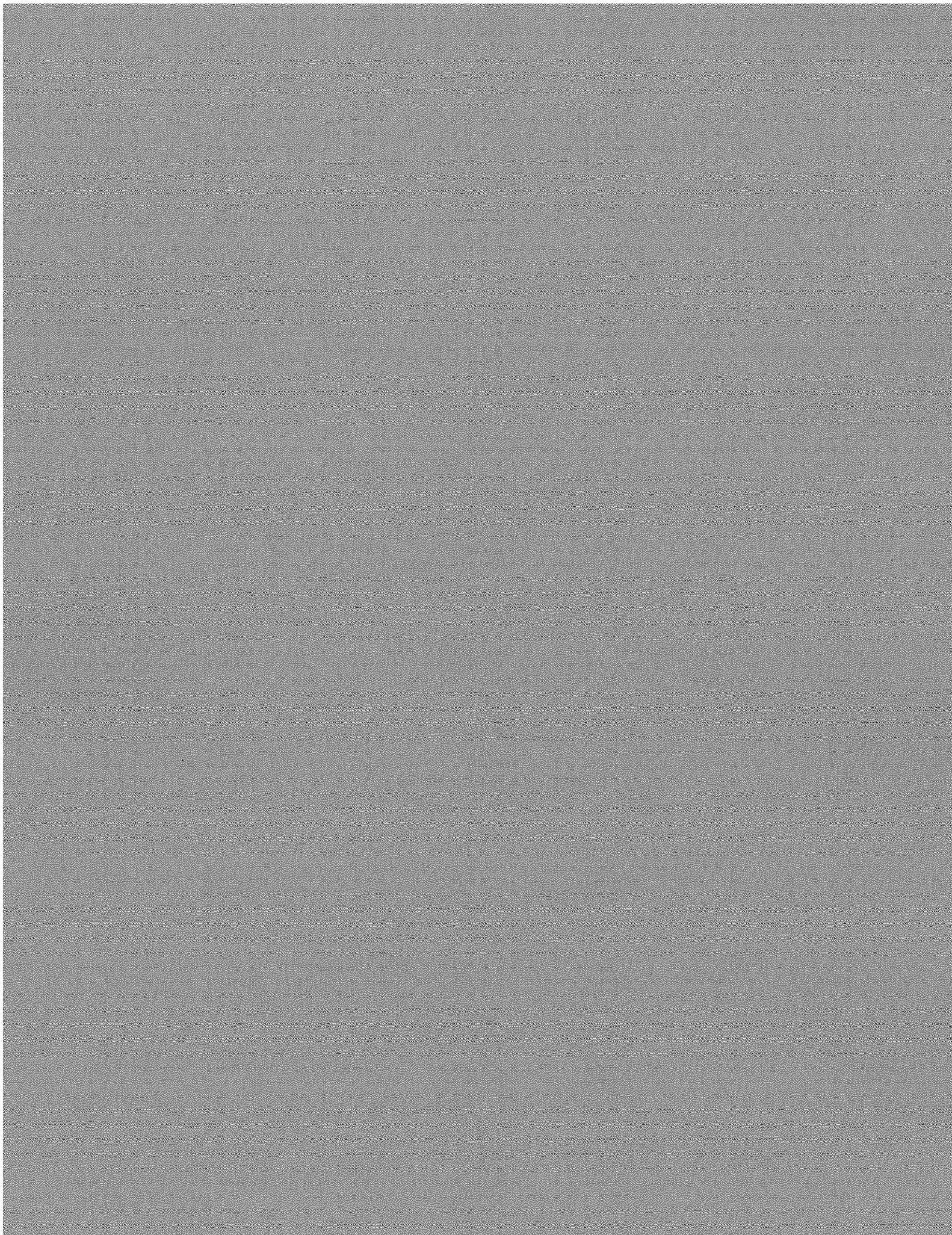
(v) The Official Statement does not contain any untrue or misleading statement of a material fact and does not omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading.

Capitalized terms used but not defined herein have the meanings given in the Purchase Contract.

Dated: \_\_\_\_\_, 2008.

CITY OF BEVERLY HILLS

By: \_\_\_\_\_  
Scott G. Miller, PhD,  
Director of Administrative Services  
and Chief Financial Officer



---

**INDENTURE OF TRUST**

**Dated as of April 1, 2008**

**By and Between**

**CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY**

**and**

**U.S. BANK NATIONAL ASSOCIATION,  
as Trustee**

**Authorizing the Issuance of**

**\$ \_\_\_\_\_  
City of Beverly Hills Public Financing Authority  
2008 Water Revenue Bonds, Series A**

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## TABLE OF CONTENTS

<b>ARTICLE I</b>	
Definitions; Rules Of Construction	
Section 1.01.	Definitions .....3
Section 1.02.	Authorization .....15
Section 1.03.	Interpretation.....15
<b>ARTICLE II</b>	
The 2008 Series A Bonds	
Section 2.01.	Authorization of 2008 Series A Bonds .....17
Section 2.02.	Terms of the 2008 Series A Bonds .....17
Section 2.03.	Form and Execution of 2008 Series A Bonds .....18
Section 2.04.	Transfer and Exchange of Bonds .....19
Section 2.05.	Book-Entry System .....19
Section 2.06.	Registration Books .....21
Section 2.07.	Bonds Mutilated, Lost, Destroyed or Stolen .....21
Section 2.08.	Applicability to Additional Bonds .....21
<b>ARTICLE III</b>	
Issuance of 2008 Series A Bonds; Application of Proceeds	
Section 3.01.	Issuance of the 2008 Series A Bonds .....22
Section 3.02.	Application of Proceeds of Sale of the 2008 Series A Bonds .....22
Section 3.03.	Establishment and Application of Costs of Issuance Fund .....22
Section 3.04.	Project Fund .....22
Section 3.05.	Validity of 2008 Series A Bonds .....23
Section 3.06.	Additional Bonds .....23
Section 3.07.	Swap Agreements.....25
<b>ARTICLE IV</b>	
Redemption of Bonds	
Section 4.01.	Terms of Redemption .....27
Section 4.02.	Selection of Bonds for Redemption .....28
Section 4.03.	Notice of Redemption .....29
Section 4.04.	Execution of New Bonds Upon Partial Redemption of Bonds .....29
Section 4.05.	Effect of Redemption .....29
<b>ARTICLE V</b>	
Revenues; Funds and Accounts; Payment of Principal and Interest	
Section 5.01.	Security for the Bonds; Bond Fund .....30
Section 5.02.	Allocation of Revenues .....30
Section 5.03.	Application of Interest Account.....31
Section 5.04.	Application of Principal Account .....31
Section 5.05.	Application of Reserve Account .....31
Section 5.06.	Application of Redemption Fund .....32
Section 5.07.	Investments .....32
Section 5.08.	Valuation and Disposition of Investments.....33

ARTICLE VI  
Covenants of the Agency

Section 6.01.	Punctual Payment.....	35
Section 6.02.	Extension of Payment of Bonds .....	35
Section 6.03.	Against Encumbrances .....	35
Section 6.04.	Power to Issue Bonds and Make Pledge and Assignment .....	35
Section 6.05.	Accounting Records .....	35
Section 6.06.	Limitation on Additional Obligations .....	35
Section 6.07.	Tax Covenants.....	36
Section 6.08.	Enforcement of Lease .....	36
Section 6.09.	Waiver of Laws .....	36
Section 6.10.	Further Assurances.....	36

ARTICLE VII  
Events of Default and Remedies

Section 7.01.	Events of Default .....	37
Section 7.02.	Acceleration; Other Remedies. ....	37
Section 7.03.	Application of Revenues and Other Funds After Default .....	38
Section 7.04.	Trustee to Represent Bond Owners .....	38
Section 7.05.	Limitation on Bond Owners' Right to Sue .....	39
Section 7.06.	Absolute Obligation of Agency .....	39
Section 7.07.	Termination of Proceedings .....	39
Section 7.08.	Remedies Not Exclusive .....	39
Section 7.09.	No Waiver of Default.....	39

ARTICLE VIII  
The Trustee

Section 8.01.	Appointment of Trustee.....	41
Section 8.02.	Acceptance of Trusts; Removal and Resignation of Trustee .....	41
Section 8.03.	Merger or Consolidation.....	42
Section 8.04.	Liability of Trustee.....	42
Section 8.05.	Right to Rely on Documents .....	44
Section 8.06.	Preservation and Inspection of Documents .....	45
Section 8.07.	Compensation and Indemnification .....	45

ARTICLE IX  
Modification or Amendment Hereof

Section 9.01.	Amendments Permitted .....	46
Section 9.02.	Effect of Supplemental Indenture .....	47
Section 9.03.	Endorsement of Bonds; Preparation of New Bonds .....	47
Section 9.04.	Amendment of Particular Bonds.....	48

ARTICLE X  
Defeasance

Section 10.01.	Discharge of Indenture.....	49
Section 10.02.	Discharge of Liability on Bonds .....	49
Section 10.03.	Deposit of Money or Securities with Trustee .....	50
Section 10.04.	Unclaimed Funds .....	50

ARTICLE XI

Miscellaneous

Section 11.01. Liability of Authority Limited to Revenues.....51  
Section 11.02. Limitation of Rights to Parties and Bond Owners .....51  
Section 11.03. Funds and Accounts .....51  
Section 11.04. Waiver of Notice; Requirement of Mailed Notice .....51  
Section 11.05. Destruction of Bonds.....51  
Section 11.06. Severability of Invalid Provisions.....51  
Section 11.07. Notices.....52  
Section 11.08. Evidence of Rights of Bond Owners.....52  
Section 11.09. Disqualified Bonds .....53  
Section 11.10. Money Held for Particular Bonds.....53  
Section 11.11. Waiver of Personal Liability.....53  
Section 11.12. Successor Is Deemed Included in All References to Predecessor .....53  
Section 11.13. Execution in Several Counterparts.....53  
Section 11.14. Payment on Non-Business Day .....53  
Section 11.15. Governing Law.....53

APPENDIX A FORM OF 2008 SERIES A BOND  
APPENDIX B PROJECT FUND WRITTEN REQUISITION

## INDENTURE OF TRUST

This INDENTURE OF TRUST (this "Indenture"), dated for convenience as of April 1, 2008, is by and between the CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority organized and existing under the laws of the State of California (the "Authority"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, with a corporate trust office in Los Angeles, California, being qualified to accept and administer the trusts hereby created (the "Trustee").

### *BACKGROUND:*

1. The City of Beverly Hills (the "City") presently operates facilities and property for the supply, treatment and distribution of water within the service area of the City (the "Water Enterprise"), and the City wishes to raise funds to finance additional improvements to the Water Enterprise as described in Appendix B to the hereinafter defined Installment Sale Agreement (the "2008 Series A Water Project").

2. The Authority has previously financed and refinanced the acquisition and construction of certain improvements to the Water Enterprise through the issuance of its City of Beverly Hills Public Financing Authority Water Revenue Refunding Bonds, Series 1998A (the "Series 1998A Bonds") and its City of Beverly Hills Public Financing Authority 2007 Water Revenue Bonds (the "2007 Bonds").

3. In connection with the issuance of the Series 1998A Bonds, the Authority and the City entered into an Installment Sale Agreement dated as of September 1, 1998 (the "1998 Agreement"), under which the City is obligated to make certain installment payments (the "1998 Installment Payments") and certain additional payments to the Authority in order to provide the Authority with sufficient revenues to pay debt service on the Series 1998A Bonds.

4. In connection with the issuance of the 2007 Bonds, the Authority and the City entered into an Installment Sale Agreement dated as of January 1, 2007 (the "2007 Agreement"), under which the City is obligated to make certain installment payments (the "2007 Installment Payments") and certain additional payments to the Authority in order to provide the Authority with sufficient revenues to pay debt service on the 2007 Bonds.

5. The Authority and the City at this time desire to prepay and discharge the 1998 Agreement by refunding, in full, the Series 1998A Bonds, and to raise additional funds for the acquisition of certain improvements to the City's Water Enterprise (as more specifically described herein, the "2008 Series A Water Project").

6. Section 5.8 of the 2007 Agreement permits the issuance of obligations payable on a parity with the 2007 Installment Payments (such obligations being referred to in the 2007 Agreement as "Parity Obligations").

7. The City, at this time, is entering into the Installment Sale Agreement dated as of April 1, 2008 (the "Installment Sale Agreement") with the Authority in order to prepay the 1998 Agreement and to finance the 2008 Series A Water Project, and intends that the installment payments payable by the City to the Authority thereunder be Parity Obligations under the 2007 Agreement.

8. For the purpose of obtaining funds to refund the Series 1998A Bonds and to finance the 2008 Series A Water Project, the Authority has authorized the issuance of its City of Beverly Hills Public Financing Authority 2008 Water Revenue Bonds, Series A (the "2008 Series A Bonds"), in the aggregate principal amount of \$ \_\_\_\_\_ under this Indenture and under the provisions of Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code (the "Bond Law"). The 2008 Series A Bonds will be payable from Installment Payments made under the Installment Sale Agreement.

9. In order to provide for the authentication and delivery of the Bonds (including the 2008 Series A Bonds), to establish and declare the terms and conditions upon which the Bonds (including the 2008 Series A Bonds) are to be issued and to secure the payment of the principal thereof, premium (if any) and interest thereon, the Authority has authorized the execution and delivery of this Indenture.

10. The Authority has found and determines, and hereby affirms, that all acts and proceedings required by law necessary to make the Bonds (including the 2008 Series A Bonds), when executed by the Authority, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal special obligations of the Authority, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of this Indenture have been in all respects duly authorized.

#### *A G R E E M E N T :*

In order to secure the payment of the principal of and the interest and redemption premium (if any) on all the Outstanding Bonds under this Indenture according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable considerations, the receipt of which is hereby acknowledged, the Authority and the Trustee do hereby covenant and agree with one another, for the benefit of the respective Owners from time to time of the Bonds, as follows:

## ARTICLE I

### DEFINITIONS; RULES OF CONSTRUCTION

**SECTION 1.01. Definitions.** Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms set forth in this Indenture shall have the meanings assigned to them in this Section 1.01.

"Additional Bonds" means all bonds ranking on a parity with the 2008 Series A Bonds originally issued hereunder, issued in accordance with Section 3.06.

"Additional Payments" means the amounts payable by the City under Section 4.7 of the Installment Sale Agreement.

"Additional Revenues" means, with respect to the issuance of any Parity Obligations, any or all of the following amounts:

(a) An allowance for Net Revenues from any additions or improvements to or extensions of the Water Enterprise to be made with the proceeds of such Parity Obligations and also for Net Revenues from any such additions, improvements or extensions which have been made from moneys from any source but in any case which, during all or any part of the latest Fiscal Year or for any more recent consecutive 12-month period selected by the City, were not in service, all in an amount equal to 90% of the estimated additional average annual Net Revenues to be derived from such additions, improvements and extensions for the first 36-month period in which each addition improvement or extension is respectively to be in operation, all as shown by the certificate or opinion of a qualified independent engineer employed by the City.

(b) An allowance for Net Revenues arising from any increase in the charges made for service from the Water Enterprise which has been adopted prior to the incurring of such Parity Obligations but which, during all or any part of the latest Fiscal Year or for any more recent consecutive 12-month period selected by the City, was not in effect, in an amount equal to the total amount by which the Net Revenues would have been increased if such increase in charges had been in effect during the whole of such Fiscal Year or 12-month period, all as shown by the certificate or opinion of an Independent Accountant or Fiscal Consultant employed by the City.

"Agreement" shall mean that certain Joint Exercise of Powers Agreement, dated as of November 10, 1992, by and among the City and the Parking Authority of the City of Beverly Hills, creating the Authority, together with any amendments thereof and supplements thereto.

"Annual Debt Service" means, as of the date of any calculation and with respect to the Installment Payments or any Parity Obligations, as the case may be, the sum obtained for the current or any future Bond Year during the Term of the Installment Sale Agreement by totaling the following amounts for such Bond Year:

(a) the aggregate amount of the Installment Payments coming due and payable in such Bond Year pursuant hereto, except to the extent payable from any security deposit pursuant to Section 7.1 of the Installment Sale Agreement; and

(b) the principal amount of all outstanding Parity obligations, if any, coming due and payable by their terms in such Bond Year.

For purposes of this definition, all Variable Rate Bonds shall be deemed to bear interest as follows:

(c) Except as provided in (e) below, Variable Rate Bonds the interest on which is excludable from gross income for purposes of federal income taxation under the applicable provisions of the Code, shall be assumed to bear interest at 100% of the most recently published Bond Buyer "Revenue Bond Index" (or comparable index if no longer published);

(d) Except as provided in (e) below, Variable Rate Bonds the interest on which is not excludable from gross income for purposes of federal income taxation under the applicable provisions of the Code, shall be assumed to bear interest at the interest rate on direct U.S. Treasury Obligations with comparable maturities, plus 50 basis points; and

(e) In the case of Variable Rate Bonds with respect to which the City has entered into a Swap Agreement meeting the requirements of Section 3.07, the interest rate borne by such Variable Rate Bonds shall be deemed to be the interest rate payable by the City under such Swap Agreement (but only for the term of the Swap Agreement), plus the Basis Differential Amount.

"Authority" means the City of Beverly Hills Public Financing Authority, a joint exercise of powers authority duly organized and existing under the laws of the State of California and the Agreement.

"Authorized Representative" means: (a) with respect to the Authority, its Executive Director, Chief Financial Officer or any other person designated as an Authorized Representative of the Authority by a Written Certificate of the Authority signed by its Executive Director or Chief Financial Officer and filed with the City and the Trustee; and (b) with respect to the City, its City Manager, Director of Administrative Services and Chief Financial Officer or any other person designated as an Authorized Representative of the City by a Written Certificate of the City signed by its City Manager or Director of Administrative Services and Chief Financial Officer and filed with the Authority and the Trustee.

"Basis Differential Amount" means the amount equal to the outstanding principal amount of the Variable Rate Bonds related to a Swap Agreement multiplied by the greater of (i) 0.15% per annum, or (ii) the actual per annum interest rate paid on the applicable Variable Rate Bonds in the previous Bond Year less the actual resulting per annum interest rate required to be paid by a counterparty to the City with respect to the related notional amount under a parity Swap Agreement in the previous Bond Year without regard to netting of payments payable by the City to the counterparty thereunder, however, that so long as a Swap Agreement is based on the BMA Municipal Swap Index (in the case of tax exempt Variable Rate Bonds), 100% of LIBOR (in the case of taxable Variable Rate Bonds) or the actual rate of the related Variable Rate Bonds, the Basis Differential Amount shall be zero.

"Bond Counsel" means (a) Jones Hall, A Professional Law Corporation, or (b) any other attorney or firm of attorneys appointed by or acceptable to the Authority of nationally-recognized

experience in the issuance of obligations the interest on which is excludable from gross income for federal income tax purposes under the Tax Code.

"Bond Fund" means the fund by that name established and held by the Trustee under Section 5.01.

"Bond Law" means the provisions of Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code, as in effect on the Closing Date or as thereafter amended in accordance with its terms.

"Bond Year" means each twelve-month period extending from June 2 in one calendar year to June 1 of the succeeding calendar year, both dates inclusive; except that the first Bond Year with respect to the 2008 Series A Bonds commences on the Closing Date and extends to and including June 1, 2008.

"Bonds" means the Outstanding 2008 Series A Bonds and any Outstanding Additional Bonds.

"Business Day" means any day (i) other than a Saturday or a Sunday or (ii) any other day on which commercial banks located in the city in which the Office of the Trustee is located are authorized or required by law to close.

"City" means the City of Beverly Hills, a municipal corporation duly organized and existing under the laws of the State of California.

"Closing Date" means, with respect to the 2008 Series A Bonds, the date of delivery of the Bonds to the Original Purchaser of the 2008 Series A Bonds.

"Costs of Issuance" means all items of expense directly or indirectly payable by or reimbursable to the City relating to the authorization, issuance, sale and delivery of the Bonds, including but not limited to: printing expenses; rating agency fees; filing and recording fees; initial fees, expenses and charges of the Trustee, and the Trustee's counsel, including the Trustee's first annual administrative fee; fees, charges and disbursements of attorneys, financial advisors, accounting firms, consultants and other professionals; bond insurance and surety bond premiums, if any; fees and charges for preparation, execution and safekeeping of the Bonds; and any other cost, charge or fee in connection with the original issuance of the Bonds.

"Costs of Issuance Fund" means the fund by that name established and held by the Trustee under Section 3.03.

"Defeasance Obligations" means:

- (a) Cash;
- (b) Federal Securities;
- (c) The interest component of Resolution Funding Corporation strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form;
- (d) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are

backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself): (i) direct obligations or fully guaranteed certificates of beneficial ownership of the U.S. Export-Import Bank; (ii) certificates of beneficial ownership of the Farmers Home Administration; (iii) Federal Housing Administration debentures; (iv) participation certificates of the General Services Administration; (v) Federal Financing Bank bonds and debentures; (vi) guaranteed mortgage-backed bonds or guaranteed pass-through obligations of the Government National Mortgage Association; (vii) guaranteed Title XI financings of the U.S. Maritime Administration; and (viii) project notes, local authority bonds, new communities debentures and U.S. public housing notes and bonds of the U.S. Department of Housing and Urban Development;

(e) bonds, notes or other evidences of indebtedness rated AAA by S&P and Aaa by Moody's issued by the Fannie Mae or the Federal Home Loan Mortgage Corporation; and

(f) any pre-refunded bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (i) which are rated, based on the refunding escrow, in the highest rating category of S&P and Moody's or (ii)(A) which are fully secured as to principal and interest and redemption premium (if any) by a fund consisting only of cash or Federal Securities, which fund may be applied only to the payment of such principal of and interest and redemption premium (if any) in such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates under such irrevocable instructions, as appropriate, and (B) which fund is sufficient, as verified by an Independent Accountant, to pay principal of and interest and redemption premium (if any) on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate.

"Depository" means (a) initially, DTC, and (b) any other Securities Depositories acting as Depository under Section 2.05.

"Depository System Participant" means any participant in the Depository's book-entry system.

"DTC" means The Depository Trust Company, New York, New York, and its successors and assigns.

"Event of Default" means any of the events specified in Section 7.01.

"Excess Investment Earnings" means an amount required to be rebated to the United States of America under Section 148(f) of the Tax Code due to investment of gross proceeds of the Bonds at a yield in excess of the yield on the Bonds.

"Federal Securities" means: (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged; and (b) obligations of any agency, department or instrumentality of the United States of America, the timely payment of principal and interest on which are

directly or indirectly secured or guaranteed by the full faith and credit of the United States of America.

"Fiscal Consultant" means any consultant or firm of such consultants appointed by the City and who, or each of whom: (a) is judged by the City to have experience in matters relating to the financing of water system enterprises; (b) is in fact independent and not under domination of the City; (c) does not have any substantial interest, direct or indirect, with the City other than as purchaser of the Bonds or any Parity Obligations; and (d) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make reports to the City.

"Fiscal Year" means any twelve-month period extending from July 1 in one calendar year to June 30 of the succeeding calendar year, both dates inclusive, or any other twelve-month period selected and designated by the Authority as its official fiscal year period.

"Governmental Agency" means the State, and the United States of America, acting through any of its agencies, to the extent that the State or such agency has loaned money to the City for the Water Enterprise.

"Governmental Loan" means any loan made by a Governmental Agency to the City which is secured by a pledge of Net Revenues and incurred by the City to finance improvements to the Water Enterprise pursuant to Section 5.9 of the Installment Sale Agreement.

"Gross Revenues" means all gross charges received for, and all other gross income and receipts derived by the City from, the ownership and operation of the Water Enterprise or otherwise arising from the Water Enterprise, including but not limited to investment earnings thereon; but excluding (a) [connection charges and developer impact fees], (b) the proceeds of any ad valorem property taxes levied for the purpose of paying general obligation bonds of the City relating to the Water Enterprise, and (c) the proceeds of any special assessments or special taxes levied upon real property within any improvement district served by the City levied for the purpose of paying special assessment bonds or special tax obligations of the City relating to the Water Enterprise.

"Indenture" means this Indenture of Trust, as originally executed or as it may from time to time be supplemented, modified or amended by any Supplemental Indenture under the provisions hereof.

"Independent Accountant" means any certified public accountant or firm of certified public accountants appointed and paid by the Authority or the City, and who, or each of whom (a) is in fact independent and not under domination of the Authority or the City; (b) does not have any substantial interest, direct or indirect, in the Authority or the City; and (c) is not connected with the Authority or the City as an officer or employee of the Authority or the City but who may be regularly retained to make annual or other audits of the books of or reports to the Authority or the City.

"Information Services" means the following services:

Bloomberg Municipal Repository  
100 Business Park Drive  
Skillman, NJ 08558

Financial Information Inc.  
Daily Called Bonds  
30 Montgomery St.  
Jersey City, NJ 07302;

FIS/Mergent  
Call Notification  
5250 77 Center Dr.  
Charlotte, NC 28217;

FT Interactive Data  
100 William Street  
15<sup>th</sup> Floor  
New York, New York 10038

Standard & Poor's Securities Evaluations, Inc.  
55 Water Street  
45th Floor  
New York, NY 10041

Xcitek  
5 Hanover Square  
New York, NY 10004;

and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other services providing information with respect to the redemption of bonds as the City may designate in a Written Request of the City filed with the Trustee.

"Interest Account" means the account by that name established and held by the Trustee in the Bond Fund under Section 5.02.

"Installment Payment Date" means, with respect to any Interest Payment Date, the 3rd Business Day immediately preceding such Interest Payment Date.

"Installment Payments" means all payments required to be paid by the City on any date under Section 4.4 of the Installment Sale Agreement, including any amounts payable upon delinquent installments and including any prepayment thereof under Section 7.2 or 7.3 of the Installment Sale Agreement, but does include Additional Payments.

"Installment Sale Agreement" means the Installment Sale Agreement dated as of April 1, 2008, between the City and the Authority, together with any duly authorized and executed amendments thereto.

"Interest Payment Dates" means each June 1 and December 1, commencing June 1, 2008, so long as any Bonds remain unpaid, provided that Variable Rate Bonds shall have such Interest Payment Dates as are specified in the Supplemental Indenture pursuant to which such Variable Rate Bonds are issued.

"Maximum Annual Debt Service" means, as of the date of any calculation and with respect to the Installment Payments or any Parity Obligations, as the case may be, the

maximum sum obtained for the current or any future Bond Year during the Term of the Installment Sale Agreement by totaling the following amounts for such Bond Year:

(a) the aggregate amount of the Installment Payments coming due and payable in such Bond Year pursuant hereto, except to the extent payable from any security deposit pursuant to Section 7.1 of the Installment Sale Agreement;

(b) the principal amount of all outstanding Parity Obligations, if any, coming due and payable by their terms in such Bond Year;

(c) the amount of interest which would be due during such Bond Year on the aggregate principal amount of all outstanding Parity Obligations, if any, which would be outstanding in such Bond Year if such Parity Obligations are retired as scheduled; and

(d) Loan payments to be made to a Governmental Agency under a Governmental Loan, if any, coming due and payable by its terms in such Bond Year.

For purposes of this definition, all Variable Rate Bonds shall be deemed to bear interest as follows:

(i) Except as provided in (iii) below, Variable Rate Bonds the interest on which is excludable from gross income for purposes of federal income taxation under the applicable provisions of the Code, shall be assumed to bear interest at 100% of the most recently published Bond Buyer "Revenue Bond Index" (or comparable index if no longer published);

(ii) Except as provided in (ii) below, Variable Rate Bonds the interest on which is not excludable from gross income for purposes of federal income taxation under the applicable provisions of the Code, shall be assumed to bear interest at the interest rate on direct U.S. Treasury Obligations with comparable maturities, plus 50 basis points; and

(iii) In the case of Variable Rate Bonds with respect to which the City has entered into a Swap Agreement meeting the requirements of Section 3.07, the interest rate borne by such Variable Rate Bonds shall be deemed to be the interest rate payable by the City under such Swap Agreement (but only for the term of the Swap Agreement), plus the Basis Differential Amount.

"Moody's" means Moody's Investors Service, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency selected by the Authority or the City.

"Net Revenues" means, for any period, an amount equal to all of the Gross Revenues received during such period minus the amount required to pay all Operation and Maintenance Costs becoming payable during such period.

"1998 Agreement" means the Installment Sale Agreement dated as of September 1, 1998 between the Authority and the City.

"1998 Indenture" means the Indenture of Trust relating to the Series 1998A Bonds dated as of September 1, 1998 between the Authority and the Trustee.

"1998 Installment Payments" means the installment payments made by the City to the Authority under the 1998 Agreement.

"1998 Trustee" means U.S. Bank Trust National Association, as trustee under the 1998 Indenture.

"1998 Water Project" means the facilities, improvements and other property refinanced with the proceeds of the Series 1998A Bonds.

"Nominee" means (a) initially, Cede & Co. as nominee of DTC, and (b) any other nominee of the Depository designated under Section 2.04(a).

"Office" means the corporate trust office of the Trustee in Los Angeles, California, or such other or additional offices as the Trustee may designate in writing to the Corporation from time to time as the corporate trust office for purposes of the Indenture; except that with respect to presentation of Bonds for payment or for registration of transfer and exchange such term means the office or agency of the Trustee at which, at any particular time, its corporate trust business is conducted.

"Operation and Maintenance Costs" means the reasonable and necessary costs and expenses paid by the City for maintaining and operating the Water Enterprise, including but not limited to (a) costs of utilities, including the costs of acquisition of water, electricity and other forms of energy supplied to the Water Enterprise, (b) the reasonable expenses of management and repair and other costs and expenses necessary to maintain and preserve the Water Enterprise in good repair and working order, and (c) the reasonable administrative costs of the City attributable to the operation and maintenance of the Water Enterprise, including insurance and other costs described in Article V of the Installment Sale Agreement; but in all cases excluding (i) debt service payable on obligations incurred by the City with respect to the Water Enterprise, including but not limited to the Installment Payments and any Parity Obligations, (ii) depreciation, replacement and obsolescence charges or reserves therefor, and (iii) amortization of intangibles or other bookkeeping entries of a similar nature.

"Original Purchaser" means, with respect to the 2008 Series A Bonds, E.J. De La Rosa & Co., Inc. and Bear, Stearns & Co., Inc., collectively, as the original purchasers of the 2008 Series A Bonds at the negotiated sale thereof.

"Outstanding", when used as of any particular time with reference to Bonds, means, subject to the last paragraph of Section 10.01 of the Indenture, all Bonds theretofore, or thereupon being, authenticated and delivered by the Trustee under this Indenture except: (a) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (b) Bonds with respect to which all liability of the Authority shall have been discharged in accordance with Section 10.02, including Bonds (or portions thereof) described in Section 11.09; and (c) Bonds for the transfer or exchange of or in lieu of or in substitution for which other Bonds shall have been authenticated and delivered by the Trustee under this Indenture.

"Overdue Rate" means the highest rate of interest on any of the Outstanding Bonds.

"Owner", whenever used herein with respect to a Bond, means the person in whose name the ownership of such Bond is registered on the Registration Books.

"Parity Obligations" means (a) any bonds, notes, leases, installment sale agreements or other obligations of the City payable from and secured by a pledge of and lien upon any of the Net Revenues on a parity with the Installment Payments, entered into or issued under and in accordance with Section 5.8 of the Installment Sale Agreement, (b) any Governmental Loan that is treated as a Parity Obligation under Section 5.9 of the Installment Sale Agreement, (c) the 1998 Installment Payments, and (d) the 2007 Installment Payments.

"Parity Obligations Documents" means, collectively, the indenture of trust, trust agreement, installment sale agreement, or other document authorizing the issuance of any Parity Obligations or any securities which evidence Parity Obligations.

"Permitted Investments" means any of the following which at the time of investment are determined by the Authority to be legal investments under the laws of the State of California for the moneys proposed to be invested therein (provided that the Trustee shall be entitled to rely conclusively upon any such determination by the Authority):

- (a) Federal Securities.
- (b) obligations of any of the following federal agencies which obligations represent full faith and credit of the United States of America, including: Export-Import Bank, Farmers Home Administration, General Services Administration, U.S. Maritime Administration, Small Business Administration, Government National Mortgage Association, U.S. Department of Housing & Urban Development, and Federal Housing Administration;
- (c) bonds, notes or other evidences of indebtedness rated AAA by S&P and Aaa by Moody's issued by the Fannie Mae or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding three years;
- (d) U.S. dollar denominated deposit accounts (including those with the Trustee or with any affiliate of the Trustee), federal funds and banker's acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of A-1 or A-1+ by S&P and P-1 by Moody's, and maturing no more than 360 days after the date of purchase;
- (e) commercial paper which is rated at the time of purchase in the single highest classification, A-1+ by S&P and P-1 by Moody's and which matures not more than 270 days after the date of purchase;
- (f) investments in a money market fund rated AAAM or AAAM-G or better by S&P, which may include funds for which the Trustee or its affiliates provide investment advisory or other management services;
- (g) any pre-refunded bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (i) which are rated, based on the refunding escrow, in the highest rating category of S&P and

Moody's or (ii)(A) which are fully secured as to principal and interest and redemption premium (if any) by a fund consisting only of cash or Federal Securities, which fund may be applied only to the payment of such principal of and interest and redemption premium (if any) in such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates under such irrevocable instructions, as appropriate, and (B) which fund is sufficient, as verified by an Independent Accountant, to pay principal of and interest and redemption premium (if any) on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

- (h) investment agreements, with notice to each rating agency then rating the Bonds;
- (i) the Local Agency Investment Fund established under Section 16429.1 of the Government Code of the State of California, *provided, however*, that the Trustee must be allowed to make investments and withdrawals in its own name and the Trustee may restrict investments in the Local Agency Investment Fund if required to keep moneys available for the purposes of the Indenture; and
- (j) any other investment permitted pursuant to Section 53601 of the California Government Code.

"Principal Account" means the account by that name established and held by the Trustee in the Bond Fund under Section 5.02.

"Project Fund" means the fund by that name established and held by the Trustee under Section 3.04.

"Project Costs" means, with respect to the 2008 Series A Water Project, all costs of the acquisition, construction and installation thereof which are paid from moneys on deposit in the Project Fund, including but not limited to:

- (a) all costs required to be paid to any person under the terms of any agreement for or relating to the acquisition, construction and installation of the 2008 Series A Water Project;
- (b) obligations incurred for labor and materials in connection with the acquisition, construction and installation of the 2008 Series A Water Project;
- (c) the cost of performance or other bonds and any and all types of insurance that may be necessary or appropriate to have in effect in connection with the acquisition, construction and installation of the 2008 Series A Water Project;
- (d) all costs of engineering and architectural services, including the actual out-of-pocket costs for test borings, surveys, estimates, plans and specifications and preliminary investigations therefor, development fees, sales commissions, and for supervising construction, as well as for the performance of

all other duties required by or consequent to the proper acquisition, construction and installation of the 2008 Series A Water Project;

(e) any sums required to reimburse the City for advances made for any of the above items or for any other costs incurred and for work done which are properly chargeable to the acquisition, construction and installation of the 2008 Series A Water Project;

(f) all financing costs incurred in connection with the acquisition, construction and installation of the 2008 Series A Water Project; and

(g) the interest components of the Installment Payments allocable to the 2008 Series A Water Project, which come due during the period of acquisition, construction and installation of the 2008 Series A Water Project.

"Qualified Reserve Account Credit Instrument" means an irrevocable standby or direct-pay letter of credit or surety bond issued by a commercial bank or insurance company and deposited with the Trustee pursuant to Section 5.05(b), provided that all of the following requirements are met: (a) the long-term credit rating of such bank or insurance company is in the highest rating category by Moody's and S&P; (b) such letter of credit or surety bond has a term of at least twelve (12) months; (c) such letter of credit or surety bond has a stated amount at least equal to the portion of the Reserve Requirement with respect to which funds are proposed to be released pursuant to Section 5.05(c); and (d) the Trustee is authorized pursuant to the terms of such letter of credit or surety bond to draw thereunder an amount equal to any deficiencies which may exist from time to time in the Interest Account or the Principal Account for the purpose of making payments required pursuant to Sections 5.03 or 5.04.

"Record Date" means, with respect to any Interest Payment Date, the 15<sup>th</sup> calendar day of the month preceding such Interest Payment Date, whether or not such day is a Business Day.

"Redemption Fund" means the fund by that name established and held by the Trustee under Section 5.06.

"Refunding Fund" means the fund by that name established and held by the Trustee under Section 3.08.

"Refunding Instructions" means those Irrevocable Refunding Instructions dated the Closing Date from the Authority and the City to the 1998 Trustee regarding the refunding and redemption of the Series 1998A Bonds.

"Registration Books" means the records maintained by the Trustee under Section 2.06 for the registration and transfer of ownership of the Bonds.

"Reserve Account" means the account by that name established and held by the Trustee in the Bond Fund established under Section 5.02.

"Reserve Requirement" means, subject to the second paragraph of Section 5.05(b), as of the date of calculation by the Authority or the City, the lesser of (i) Maximum Annual Debt Service on the Bonds (excluding from the calculation thereof Government Loans and Parity Obligations other than Bonds), (ii) ten percent (10%) of the total of the proceeds of the Bonds (excluding from the calculation thereof Government Loans and Parity Obligations other than

Bonds), and (iii) one hundred and twenty five percent (125%) of average Annual Debt Service on the Bonds (excluding from the calculation thereof Government Loans and Parity Obligations other than Bonds); provided that the Reserve Requirement with respect to the 2008 Series A Bonds shall in no event exceed \$ \_\_\_\_\_, and, provided further, that in no event shall the Authority or the City, in connection with the issuance of Parity Obligations in the form of Additional Bonds, be obligated to deposit an amount in the Reserve Account which is in excess of the amount permitted by the applicable provisions of the Code to be so deposited from the proceeds of tax-exempt bonds without having to restrict the yield of any investment purchased with any portion of such deposit and, that in the event such amount of any deposit into the Reserve Account is so limited, the Reserve Requirement shall, in connection with the issuance of such Additional Bonds, be increased only by the amount of such deposit.

"Revenues" means: (a) all amounts received by the Authority or the Trustee pursuant or with respect to the Installment Sale Agreement, including, without limiting the generality of the foregoing, all of the Installment Payments (including both timely and delinquent payments, any late charges, and whether paid from any source, but excluding any Additional Payments), prepayments, insurance proceeds, condemnation proceeds, and (b) all interest, profits or other income derived from the investment of amounts in any fund or account established pursuant to this Indenture.

"Securities Depositories" means The Depository Trust Company; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the Authority designates in written notice filed with the Trustee.

"Series 1998A Bonds" means the Authority's \$14,7650,000 original principal amount of Water Revenue Refunding Bonds, Series 1998A.

"S&P" means Standard & Poor's, a division of the McGraw Hill Companies, of New York, New York, its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term "S&P" shall be deemed to refer to any other nationally recognized securities rating agency selected by the Authority or the City.

"Supplemental Indenture" means any indenture hereafter duly authorized and entered into between the Authority and the Trustee, supplementing, modifying or amending this Indenture; but only if and to the extent that such Supplemental Indenture is specifically authorized hereunder.

"Swap Agreement" shall have the meaning assigned to such term in Section 3.07 of the Indenture.

"Swap Provider" shall have the meaning assigned to such term in Section 3.07 of the Indenture.

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

"Term" means, when used with respect to the Installment Sale Agreement, the time during which the Installment Sale Agreement is in effect, as provided in Section 4.2 thereof.

"Term Bonds" means the 2008 Series A Bonds maturing June 1, 20\_\_ and June 1, 20\_\_, and any Additional Bonds identified as such in the applicable Supplemental Indenture.

"Trustee" means U.S. Bank National Association, a national banking association organized and existing under the laws of the United States of America, or its successor or successors, as Trustee hereunder as provided in Article VIII.

"2008 Series A Bonds" means the City of Beverly Hills Public Financing Authority 2008 Water Revenue Bonds, Series A, in the original principal amount of \$\_\_\_\_\_.

"2008 Series A Water Project" means the facilities, improvements and other property described more fully in Appendix B attached to the Installment Sale Agreement, as that Appendix may be amended from time to time in accordance with the Installment Sale Agreement.

"2007 Agreement" means the Installment Sale Agreement dated as of January 1, 2007 between the Authority and the City.

"2007 Installment Payments" means the installment payments made by the City to the Authority under the 2007 Agreement.

"Variable Rate Bonds" means bonds which bear interest at a rate which may change from time to time.

"Water Enterprise Fund" means the fund or funds established and held by the City with respect to the Water Enterprise for the receipt and deposit of Gross Revenues.

"Water Enterprise" means the entire water treatment, production, storage and distribution system owned or operated by the City, including but not limited to all facilities, properties and improvements at any time owned or operated by the City for the collection, treatment and supply of water to residents served thereby, whether within or without the City, and any necessary lands, rights, entitlements and other property useful in connection therewith, together with all extensions thereof and improvements thereto hereafter acquired, constructed or installed by the City.

"Written Certificate," "Written Request" and "Written Requisition" of the Authority or the City mean, respectively, a written certificate, request or requisition signed in the name of the Authority or the City by its Authorized Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

**SECTION 1.02. Authorization.** Each of the parties hereby represents and warrants that it has full legal authority and is duly empowered to enter into this Indenture, and has taken all actions necessary to authorize the execution hereof by the officers and persons signing it.

**SECTION 1.03. Interpretation.**

(a) Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for

convenience only and shall be deemed to include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

**ARTICLE II**

**THE 2008 SERIES A BONDS**

**SECTION 2.01. Authorization of 2008 Series A Bonds.** The Authority has reviewed all proceedings heretofore taken and has found, as a result of such review, and hereby finds and determines that all things, conditions and acts required by law to exist, happen or be performed precedent to and in connection with the issuance of the 2008 Series A Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the Authority is now duly empowered, under each and every requirement of law, to issue the 2008 Series A Bonds in the manner and form provided in this Indenture.

The Authority hereby authorizes the issuance of the 2008 Series A Bonds in the aggregate principal amount of \$\_\_\_\_\_ under the Bond Law for the purposes of providing funds to enable the City to refund the Series 1998A Bonds and to finance the 2008 Series A Water Project. The Bonds are authorized and issued under, and are subject to the terms of, this Indenture and the Bond Law. The Bonds are designated the "City of Beverly Hills Financing Authority 2008 Water Revenue Bonds, Series A."

**SECTION 2.02. Terms of the 2008 Series A Bonds.**

(a) Payment Provisions. The 2008 Series A Bonds shall be issued in fully registered form without coupons in denominations of \$5,000 or any integral multiple thereof. The 2008 Series A Bonds shall mature on June 1 in each of the years and in the amounts, and bear interest (calculated on the basis of a 360-day year of twelve 30-day months) at the rates, as follows:

Maturity Date (June 1)	Principal Amount	Interest Rate
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Interest on the 2008 Series A Bonds is payable from the Interest Payment Date next preceding the date of authentication thereof unless:

(a) a 2008 Series A Bond is authenticated on or before an Interest Payment Date and after the close of business on the preceding Record Date, in which event it will bear interest from such Interest Payment Date,

(b) a 2008 Series A Bond is authenticated on or before the first Record Date, in which event interest thereon will be payable from the Closing Date, or

(c) interest on any 2008 Series A Bond is in default as of the date of authentication thereof, in which event interest thereon will be payable from the date to which interest has been paid in full, payable on each Interest Payment Date.

Interest is payable on each Interest Payment Date to the persons in whose names the ownership of the 2008 Series A Bonds is registered on the Registration Books at the close of business on the immediately preceding Record Date, except as provided below. Interest on any 2008 Series A Bond which is not punctually paid or duly provided for on any Interest Payment Date is payable to the person in whose name the ownership of such 2008 Series A Bond is registered on the Registration Books at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Trustee, notice of which is given to such Owner by first-class mail not less than 10 days prior to such special record date.

The Trustee will pay interest on the 2008 Series A Bonds by check of the Trustee mailed by first class mail, postage prepaid, on each Interest Payment Date to the Owners of the 2008 Series A Bonds at their respective addresses shown on the Registration Books as of the close of business on the preceding Record Date. At the written request of the Owner of 2008 Series A Bonds in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee as of any Record Date, the Trustee will pay interest on such 2008 Series A Bonds on each succeeding Interest Payment Date by wire transfer in immediately available funds to such account of a financial institution within the United States of America as specified in such written request, which written request will remain in effect until rescinded in writing by the Owner. The Trustee will pay principal of the 2008 Series A Bonds in lawful money of the United States of America by check of the Trustee upon presentation and surrender thereof at the Office of the Trustee.

**SECTION 2.03. Form and Execution of 2008 Series A Bonds.** The 2008 Series A Bonds, the form of Trustee's certificate of authentication, and the form of assignment to appear thereon, are set forth in Appendix A attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

The Chairman, the Executive Director or the Chief Financial Officer of the Authority shall execute, and the Secretary of the Authority shall attest, each 2008 Series A Bond. Either or both of such signatures may be made manually or may be affixed by facsimile thereof. If any officer whose signature appears on any 2008 Series A Bond ceases to be such officer before the Closing Date, such signature will nevertheless be as effective as if the officer had remained in office until the Closing Date. Any 2008 Series A Bond may be signed and attested on behalf of the Authority by such persons as at the actual date of the execution of such 2008 Series A Bond are the proper officers of the Authority, duly authorized to execute debt instruments on

behalf of the Authority, although on the date of such 2008 Series A Bond any such person was not an officer of the Authority.

Only those 2008 Series A Bonds bearing a certificate of authentication in the form set forth in Appendix A, manually executed and dated by the Trustee, are valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee is conclusive evidence that such Bonds have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

#### **SECTION 2.04. Transfer and Exchange of Bonds.**

(a) Transfer. Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by a duly authorized attorney of such person, upon surrender of such Bond to the Trustee at its Office for cancellation, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. The Trustee shall collect any tax or other governmental charge on the transfer of any Bonds under this Section 2.03. Whenever any Bond or Bonds shall be surrendered for transfer, the Authority shall execute and the Trustee shall authenticate and deliver to the transferee a new Bond or Bonds of like series, interest rate, maturity and aggregate principal amount. The Authority shall pay the cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer of Bonds.

(b) Exchange. The Bonds may be exchanged at the Office of the Trustee for a like aggregate principal amount of Bonds of other authorized denominations and of the same series, interest rate and maturity. The Trustee shall collect any tax or other governmental charge on the exchange of any Bonds under this subsection (b). The Authority shall pay the cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any exchange of Bonds.

(c) Limitations. The Trustee may refuse to transfer or exchange, under the provisions of this Section 2.03, any Bonds selected by the Trustee for redemption under Article IV, or any Bonds during the period established by the Trustee for the selection of Bonds for redemption.

#### **SECTION 2.05. Book-Entry System.**

(a) Original Delivery. The Bonds will be initially delivered in the form of a separate single fully registered bond (which may be typewritten) for each maturity of the Bonds. Upon initial delivery, the Trustee shall register the ownership of each Bond on the Registration Books in the name of the Nominee. Except as provided in subsection (c), the ownership of all of the Outstanding Bonds shall be registered in the name of the Nominee on the Registration Books.

With respect to Bonds the ownership of which shall be registered in the name of the Nominee, the Authority and the Trustee has no responsibility or obligation to any Depository System Participant or to any person on behalf of which the Nominee holds an interest in the Bonds. Without limiting the generality of the immediately preceding sentence, the Authority and the Trustee has no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee or any Depository System Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Depository System Participant or any other person, other than a Bond Owner as shown in the Registration Books, of any notice with respect to the Bonds, including any notice of redemption, (iii) the selection by the Depository of the beneficial interests in the Bonds to be redeemed if the Authority elects to redeem the Bonds

in part, (iv) the payment to any Depository System Participant or any other person, other than a Bond Owner as shown in the Registration Books, of any amount with respect to principal, premium, if any, or interest on the Bonds or (v) any consent given or other action taken by the Depository as Owner of the Bonds. The Authority and the Trustee may treat and consider the person in whose name each Bond is registered as the absolute owner of such Bond for the purpose of payment of principal of and premium, if any, and interest on such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers of ownership of such Bond, and for all other purposes whatsoever. The Trustee shall pay the principal of and the interest and premium, if any, on the Bonds only to the respective Owners or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge all obligations with respect to payment of principal of and interest and premium, if any, on the Bonds to the extent of the sum or sums so paid. No person other than a Bond Owner shall receive a Bond evidencing the obligation of the Authority to make payments of principal, interest and premium, if any, under this Indenture. Upon delivery by the Depository to the Authority of written notice to the effect that the Depository has determined to substitute a new Nominee in its place, and subject to the provisions herein with respect to Record Dates, such new nominee shall become the Nominee hereunder for all purposes; and upon receipt of such a notice the Authority shall promptly deliver a copy of the same to the Trustee.

(b) Representation Letter. In order to qualify the Bonds for the Depository's book-entry system, the Authority shall execute and deliver to such Depository a letter representing such matters as shall be necessary to so qualify the Bonds. The execution and delivery of such letter shall not in any way limit the provisions of subsection (a) above or in any other way impose upon the Authority or the Trustee any obligation whatsoever with respect to persons having interests in the Bonds other than the Bond Owners. Upon the written acceptance by the Trustee, the Trustee shall agree to take all action reasonably necessary for all representations of the Trustee in such letter with respect to the Trustee to at all times be complied with. In addition to the execution and delivery of such letter, the Authority may take any other actions, not inconsistent with this Indenture, to qualify the Bonds for the Depository's book-entry program.

(c) Transfers Outside Book-Entry System. If either (i) the Depository determines not to continue to act as Depository for the Bonds, or (ii) the Authority determines to terminate the Depository as such, then the Authority shall thereupon discontinue the book-entry system with such Depository. In such event, the Depository shall cooperate with the Authority and the Trustee in the issuance of replacement Bonds by providing the Trustee with a list showing the interests of the Depository System Participants in the Bonds, and by surrendering the Bonds, registered in the name of the Nominee, to the Trustee on or before the date such replacement Bonds are to be issued. The Depository, by accepting delivery of the Bonds, agrees to be bound by the provisions of this subsection (c). If, prior to the termination of the Depository acting as such, the Authority fails to identify another Securities Depository to replace the Depository, then the Bonds shall no longer be required to be registered in the Registration Books in the name of the Nominee, but shall be registered in whatever name or names the Owners transferring or exchanging Bonds shall designate, in accordance with the provisions hereof.

If the Authority determines that it is in the best interests of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the Authority may notify the Depository System Participants of the availability of such certificated Bonds through the Depository. In such event, the Trustee will authenticate, transfer and exchange Bonds as required by the Depository and others in appropriate amounts; and whenever the Depository requests, the

Trustee and the Authority shall cooperate with the Depository in taking appropriate action (y) to make available one or more separate certificates evidencing the Bonds to any Depository System Participant having Bonds credited to its account with the Depository, or (z) to arrange for another Securities Depository to maintain custody of a single certificate evidencing such Bonds, all at the Authority's expense.

(d) Payments to the Nominee. Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of the Nominee, all payments with respect to principal of and interest and premium, if any, on such Bond and all notices with respect to such Bond shall be made and given, respectively, as provided in the letter described in subsection (b) of this Section or as otherwise instructed by the Depository.

**SECTION 2.06. Registration Books.** The Trustee will keep or cause to be kept, at the Office of the Trustee, sufficient records for the registration and transfer of ownership of the Bonds, which shall upon reasonable notice as agreed to by the Trustee, be open to inspection during regular business hours by the Authority; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such records, the ownership of the Bonds as hereinbefore provided.

**SECTION 2.07. Bonds Mutilated, Lost, Destroyed or Stolen.** If any Bond is mutilated, the Authority, at the expense of the Owner of such Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. The Trustee shall cancel every mutilated Bond surrendered to it and deliver such mutilated Bond to, or upon the order of, the Authority. If any Bond is lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence is satisfactory and if indemnity satisfactory to the Trustee is given, the Authority, at the expense of the Owner, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen. The Trustee may require payment of a sum not exceeding the actual cost of preparing each new Bond issued under this Section and of the expenses which may be incurred by the Trustee in connection therewith. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen will constitute an original additional contractual obligation on the part of the Authority whether or not the 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 Indenture with all other Bonds issued under this Indenture.

Notwithstanding any other provision of this Section 2.07, in lieu of delivering a new Bond for which principal has become due for a Bond which has been mutilated, lost, destroyed or stolen, the Trustee may make payment of such Bond in accordance with its terms upon receipt of indemnity satisfactory to the Trustee.

**SECTION 2.08. Applicability to Additional Bonds.** Unless otherwise specified in the Supplemental Indenture pursuant to which an issue of Additional Bonds are issued, the provisions of Sections 2.04 through 2.07 shall apply to such issue of Additional Bonds.

### ARTICLE III

#### ISSUANCE OF 2008 SERIES A BONDS; APPLICATION OF PROCEEDS

**SECTION 3.01. Issuance of the 2008 Series A Bonds.** At any time after the execution of this Indenture, the Authority may execute and the Trustee shall authenticate and, upon the Written Request of the Authority, deliver the 2008 Series A Bonds to the Original Purchaser.

**SECTION 3.02. Application of Proceeds of Sale of the 2008 Series A Bonds.** Upon the receipt of payment for the 2008 Series A Bonds on the Closing Date, the Trustee shall receive the net proceeds of sale thereof, being \$\_\_\_\_\_, calculated as follows:

- \$\_\_\_\_\_ (constituting the par amount of the 2008 Series A Bonds),
- less original issue discount in the amount of \$\_\_\_\_\_, and
- less an underwriters' discount of \$\_\_\_\_\_.

which the Trustee shall apply as follows:

(a) The Trustee shall deposit the amount of \$\_\_\_\_\_ in the Costs of Issuance Fund.

(b) The Trustee shall deposit the amount of \$\_\_\_\_\_ in the Reserve Account.

(c) The Trustee shall deposit the amount of \$\_\_\_\_\_ in the Project Fund.

(d) The Trustee shall deposit the amount of \$\_\_\_\_\_ in the Refunding Fund.

The Trustee may establish and maintain a temporary account or fund to facilitate and record such deposits and transfers.

**SECTION 3.03. Establishment and Application of Costs of Issuance Fund.** The Trustee shall establish, maintain and hold in trust a separate fund designated as the "Costs of Issuance Fund" into which the Trustee shall deposit a portion of the proceeds of sale of the 2008 Series A Bonds under Section 3.02(a). The Trustee shall disburse amounts in the Costs of Issuance Fund from time to time to pay the Costs of Issuance upon submission of a Written Requisition of the Authority stating the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said fund. The Trustee may conclusively rely on such Written Requisitions and shall be fully protected in relying thereon. On June 1, 2008, or upon the earlier Written Request of the Authority, the Trustee shall transfer all amounts remaining in the Costs of Issuance Fund to the Project Fund, and shall thereupon close the Costs of Issuance Fund.

**SECTION 3.04. Project Fund.** The Trustee will establish and maintain a separate fund to be known as the "Project Fund" into which the Trustee shall deposit a portion of the proceeds of sale of the 2008 Series A Bonds under Section 3.02(c). Except as otherwise provided herein,

moneys in the Project Fund will be used solely for the payment of the Project Costs. The Trustee will disburse moneys in the Project Fund from time to time to pay Project Costs (or to reimburse the City for payment of Project Costs) in accordance with Written Requisitions filed by the City with the Trustee. Each such Written Requisition must state, with respect to each payment to be made thereby, (i) the name and address of the firm or corporation to whom payment is to be made, (ii) the amount and purpose of the payment and (iii) that each payment constitutes a Project Cost. Each Written Requisition must be accompanied by an invoice or statement evidencing each payment to be made thereunder. The Trustee has no responsibility for payments made in accordance with this Section 3.04. The City shall maintain accurate records showing all disbursements from the Project Fund.

Upon the receipt by the Trustee of a Written Certificate of the City under Section 3.5 of the Installment Sale Agreement, stating that the 2008 Series A Water Project has been completed, the Trustee shall withdraw from the Project Fund and deposit in the Interest Account all amounts remaining on deposit in the Project Fund, other than amounts estimated by the City (as identified in such Written Certificate) to be required to pay future Project Costs. Upon the filing with the Trustee of a Written Certificate of the City stating that no further amounts are intended to be requisitioned from the Project Fund, the Trustee shall thereupon close the Project Fund and transfer all remaining amounts therein to the Interest Account. If and to the extent so directed in writing by a City Representative, the Trustee shall apply all or a portion of the amounts so transferred from the Project Fund to the Interest Account to be applied to pay interest on the 2008 Series A Bonds or to the Redemption Fund to be applied to the prepayment of Installment Payments relating to the 2008 Series A Bonds under Section 7.2 of the Installment Sale Agreement and the corresponding redemption of the 2008 Series A Bonds under Sections 4.01(a).

**SECTION 3.05. Validity of 2008 Series A Bonds.** The recital contained in the 2008 Series A Bonds that the same are issued under the Constitution and laws of the State of California shall be conclusive evidence of their validity and of compliance with the provisions of law in their issuance.

**SECTION 3.06. Additional Bonds.** (A) In addition to the 2008 Series A Bonds authorized to be issued under this Indenture, the Authority, may, by Supplemental Indenture, issue one or more series of Additional Bonds secured by Revenues on a parity with the 2008 Series A Bonds, and may issue and deliver such Additional Bonds in such principal amount as shall be determined by the Authority, but only upon compliance by the Authority with the provisions of this Section, including the following specific conditions which are hereby made conditions precedent to the issuance of such Additional Bonds:

(a) The parties to this Indenture shall have executed a Supplemental Indenture which (i) sets forth the terms and provisions of such Additional Bonds, including the establishment of such funds and accounts, which may be separate and apart from the funds and accounts established hereunder for the 2008 Series A Bonds, as shall be necessary or appropriate, and (ii) requires that prior to or upon the issuance of such Additional Bonds, an amount shall be deposited in the Reserve Account to ensure that the amount on deposit in the Reserve Account upon the issuance of the Additional Bonds shall be at least equal to the Reserve Requirement;

(b) The scheduled principal and interest payable with respect to such Additional Bonds shall be payable only on Interest Payment Dates applicable to the 2008 Series A Bonds, provide that the Interest Payment Dates with respect to

Variable Rate Bonds shall be as provided in the applicable Supplemental Indenture;

(c) The Installment Sale Agreement shall have been supplemented or amended, if necessary, to (i) increase or adjust the Installment Payments due and payable on each Installment Payment Date to an amount sufficient to pay the principal, premium (if any) and interest payable with respect to all Outstanding Bonds, including all Additional Bonds as and when, if any, the same mature or become due and payable (except to the extent such principal, premium and interest may be payable out of moneys then on deposit with the Trustee in accordance with this Indenture), (ii) if appropriate, identify the additions, betterments, extensions, improvements or replacements to the Water Enterprise, or such other real or personal property, to be financed, acquired or constructed or otherwise made subject to the Installment Sale Agreement, by the preparation, execution and delivery of such Additional Bonds, and (iii) make such other revisions to the Installment Sale Agreement as are necessitated by the issuance of such Additional Bonds (provided, however, that such other revisions shall not prejudice the rights of the Owners of Outstanding Bonds as granted them under the terms of this Indenture);

(d) There shall have been delivered to the Trustee a counterpart of the amendments required by subsection (c) hereof;

(e) The Trustee shall have received a Written Certificate of the Authority that, except as otherwise permitted under Section 5.8 of the Installment Sale Agreement in connection with the issuance of refunding Parity Obligations, no Event of Default hereunder relating to the Authority exists (or any event which, once all notice or grace periods have passed, would constitute an Event of Default);

(f) The Trustee shall have received a Written Certificate of the City that, except as otherwise permitted under Section 5.8 of the Installment Sale Agreement in connection with the issuance of refunding Parity Obligations, no Event of Default under the Installment Sale Agreement relating to the City exists (or any event which, once all notice or grace periods have passed, would constitute an Event of Default);

(g) The Trustee shall have received an opinion of Bond Counsel substantially to the effect that (i) said Supplemental Indenture and said amendments to the Installment Sale Agreement comply in all respects with the requirements of this Section 3.06, (ii) said Supplemental Indenture and said amendments to the Installment Sale Agreement have been duly authorized, executed and delivered by each of the respective parties thereto (provided that said opinion of Bond Counsel, in rendering the opinions set forth in this clause (ii), shall be entitled to rely upon one or more other opinions of counsel, including counsel to any of the respective parties to said Supplemental Indenture or said amendments to the Installment Sale Agreement), (iii) assuming that no Event of Default has occurred and is continuing, this Indenture, as amended by said Supplemental Indenture, and the Installment Sale Agreement, as amended by the respective amendments thereto, constitute the legal, valid and binding obligations of the respective parties thereto, enforceable against said parties in accordance with their respective terms (except to the extent that enforcement

thereof may be limited by bankruptcy, insolvency, moratorium, debt adjustment or other laws affecting creditors' rights generally, and except to the extent that enforcement thereof may be limited by general principles of equity, regardless of whether enforcement is sought in a legal or equitable proceeding) and (iv) the execution of such Supplemental Indenture and said amendments to the Installment Sale Agreement, and performance by the parties thereunder, will not, in and of itself, result in the inclusion of the interest on any Bonds in the gross income of the Owners of the Bonds for purposes of federal income taxation;

(h) Upon the execution and delivery of such Additional Bonds, the amount on deposit in the Reserve Account, taking into account the execution of the Additional Bonds, shall be at least equal to the Reserve Requirement; and

(i) Such other conditions shall have been satisfied, and such other instruments shall have been duly executed and delivered to the Trustee, as the City or the Authority shall have reasonably requested.

(B) Upon delivery to the Trustee of the foregoing instruments, the Trustee shall authenticate Additional Bonds representing the aggregate principal amount specified in such Supplemental Indenture, and such Additional Bonds shall be equally and ratably secured with all Bonds, including any Additional Bonds, theretofore prepared, executed and delivered, all without preference, priority or distinction (other than with respect to maturity, payment, prepayment or sinking fund payment (if any)) of any one Bond, including Additional Bonds, over any other; provided, however, that no provision of this Indenture shall require the City to consent to or otherwise permit the preparation, execution and delivery of Additional Bonds, it being understood and agreed that any such consent or other action of the City to permit the preparation, execution and delivery of Additional Bonds, or lack thereof, shall be in the sole discretion of the City.

(C) Whenever the Authority shall have determined to issue Additional Bonds pursuant to this Section 3.06, the Authority shall adopt a Supplemental Indenture determining that the issuance of such Additional Bonds is necessary for the purposes specified herein, specifying the principal amount of such Additional Bonds and prescribing the terms and conditions of such Additional Bonds and the funds to be established for the security and payment thereof. Before such Additional Bonds shall be issued and delivered, the Authority shall file with the Trustee a Certificate of the Authority certifying that the requirements set forth in Section 3.06 have been either met or provided for, together with a copy of the amendment to the Installment Sale Agreement required hereby.

(D) Nothing contained in the Section 3.06 shall restrict the ability of the City to issue Parity Obligations pursuant to the Installment Sale Agreement that do not secure Additional Bonds issued pursuant to this Section 3.06.

**SECTION 3.07. Swap Agreements.** Without meeting the requirements of Section 3.06 or Section 5.8 of the Installment Sale Agreement, the City may enter into one or more interest rate swap agreements ("Swap Agreements") with respect to Variable Rate Bonds and the related Parity Obligations, under which the City "swaps" the variable rate of interest payable on the Variable Rate Bonds (and the related Parity Obligations) for a fixed rate of interest, in a notional amount equal to or less than the principal amount of such Additional Bonds to which the Swap Agreement applies, subject to the following conditions:

(a) The counterparty under the Swap Agreement (the "Swap Provider"), or the entity issuing the credit instrument securing the counterparty payments of the Swap Provider, must be rated at least "AA-"/"Aa3" or better by S&P and Moody's (the "Initial Rating Requirement").

(b) Assuming satisfaction of the Initial Rating Requirement, and thereafter as long as the long term indebtedness of the Swap Provider or the claims paying ability of the Swap Provider, or the long term indebtedness or the claims paying ability of the entity issuing the credit instrument securing the counterparty payments of the Swap Provider, does not fall below BBB or Baa2 by either S&P or Moody's (the "Minimum Rating Requirement"), all interest rate assumptions for purposes of determining Annual Debt Service and Maximum Annual Debt Service may be based upon the synthetic fixed interest rate under the Swap Agreement, plus the Basis Differential.

In the event of a failure to maintain a Swap Provider holding the Minimum Rating Requirement or to replace any such Swap Provider by another Swap Provider which holds the Initial Rating Requirement within ten business days after the Swap Provider's rating falls below BBB or Baa2, the Swap Agreement will no longer be included in the calculation of Annual Debt Service.

The City's obligation to make payments under a Swap Agreement entered into in connection with the issuance of Variable Rate Bonds (and the related Parity Obligations) and meeting the conditions set forth in this Section 3.07 may, at the option of the City, be on a parity with the obligation of the City to make Installment Payments and to pay all other outstanding Parity Obligations.

**Section 3.08. Refunding Fund.** The Trustee will establish and maintain a separate fund to be known as the "Refunding Fund" into which the Trustee shall deposit a portion of the proceeds of sale of the 2008 Series A Bonds under Section 3.02(d). On the Closing Date, all amounts on deposit in the Refunding Fund shall be transferred to the 1998 Trustee to be applied as provided in the Refunding Instructions.

## ARTICLE IV

### REDEMPTION OF BONDS

#### SECTION 4.01. Terms of Redemption.

(a) Optional Redemption from any Source of Available Funds. The 2008 Series A Bonds maturing on or before June 1, 20\_\_, are not subject to optional redemption prior to their respective stated maturity dates. The 2008 Series A Bonds maturing on or after June 1, 20\_\_, are subject to redemption in whole, or in part at the Written Request of the Authority among maturities on such basis as the Authority may designate and by lot within a maturity, at the option of the Authority, on any date on or after June 1, 20\_\_, from any available source of funds, at a redemption price equal to the principal amount of the 2008 Series A Bonds to be redeemed, plus accrued interest to the date of redemption, without premium.

The Authority must give the Trustee written notice of its intention to redeem Bonds under this subsection (a), and the manner of selecting such Bonds for redemption from among the maturities thereof, in sufficient time to enable the Trustee to give notice of such redemption in accordance with Section 4.03.

(b) Redemption From Proceeds of Insurance, Sale and Condemnation. The Bonds, including the 2008 Series A Bonds, are subject to mandatory redemption, on any date, in whole, or in part on a pro rata basis among maturities, from the net proceeds of insurance, sale or condemnation credited towards the prepayment of the Installment Payments by the City under Section 7.3 of the Installment Sale Agreement. The Bonds, including the 2008 Series A Bonds, are subject to redemption under this subsection at a redemption price equal to the principal amount represented thereby to be prepaid, without premium, together with accrued interest represented thereby to the redemption date.

(c) Mandatory Sinking Fund Redemption Relating to the 2008 Series A Bonds. The Term Bonds shall also be subject to redemption, by lot, on June 1 in each of the years as set forth in the following table, from deposits made for such purpose pursuant to Section 5.02(b), at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium, or in lieu thereof may be purchased pursuant to the succeeding paragraph of this subsection (c), in the aggregate respective principal amounts and on the respective dates as set forth in the following table; provided, however, that if some but not all of the Term Bonds have been redeemed pursuant to subsections (a) or (b) above, the total amount of all future payments pursuant to this subsection (c) with respect to such Term Bonds shall be reduced by the aggregate principal amount of such Term Bonds so redeemed, to be allocated among such payments in integral multiples of \$5,000 as determined by the Authority (written notice of which determination shall be given by the Authority to the Trustee).

2008 Series A Term Bonds Maturing June 1, 20\_\_

Sinking Fund  
Redemption Date  
(June 1)

Principal  
Amount To Be  
Redeemed

2008 Series A Term Bonds Maturing June 1, 20\_\_

Sinking Fund  
Redemption Date  
(June 1)

Principal  
Amount To Be  
Redeemed

2008 Series A Term Bonds Maturing June 1, 20\_\_

Sinking Fund  
Redemption Date  
(June 1)

Principal  
Amount To Be  
Redeemed

In lieu of redemption of the Term Bonds pursuant to the preceding paragraph, amounts on deposit in the Bond Fund (to the extent not required to be deposited by the Trustee in the Interest Account or the Principal Account pursuant to Section 5.02 during the current Bond Year) may also be used and withdrawn by the Authority, upon the Written Request of the Authority delivered to the Trustee, at any time for the purchase of such Term Bonds at public or private sale as and when and at such prices (including brokerage and other charges and including accrued interest) as the Authority may in its discretion determine. The par amount of any of such Term Bonds so purchased by the Authority in any twelve-month period ending on April 1 in any year shall be credited towards and shall reduce the par amount of such Term Bonds required to be redeemed pursuant to this subsection (c) on the next succeeding June 1.

**SECTION 4.02. Selection of Bonds for Redemption.** Whenever provision is made in this Indenture for the redemption of less than all of the Bonds of a single maturity of the same issue, the Trustee shall select the Bonds of that maturity to be redeemed by lot in any manner which the Trustee in its sole discretion deems appropriate. For purposes of such selection, the Trustee shall treat each Bond as consisting of separate \$5,000 portions and each such portion shall be subject to redemption as if such portion were a separate Bond.

**SECTION 4.03. Notice of Redemption.** The Trustee shall mail notice of redemption of the Bonds by first class mail, postage prepaid, not less than 30 nor more than 60 days before any redemption date, to the respective Owners of any Bonds designated for redemption at their addresses appearing on the Registration Books and to one or more Securities Depositories and to the Information Services. Each notice of redemption shall state the date of the notice, the redemption date, the place or places of redemption, whether less than all of the Bonds (or all Bonds of a single maturity) are to be redeemed, the CUSIP numbers and (in the event that not all Bonds within a maturity are called for redemption) Bond numbers of the Bonds to be redeemed and the maturity or maturities of the Bonds to be redeemed, and in the case of Bonds to be redeemed in part only, the respective portions of the principal amount thereof to be redeemed. Each such notice shall also state that on the redemption date there will become due and payable on each of said Bonds the redemption price thereof, and that from and after such redemption date interest thereon shall cease to accrue, and shall require that such Bonds be then surrendered. Each notice relating to a redemption pursuant to Section 4.01(a) or Section 4.01(b) shall further state that such redemption may be rescinded by the Authority on or prior to the date set for redemption. Neither the failure to receive any notice nor any defect therein shall affect the sufficiency of the proceedings for such redemption or the cessation of accrual of interest from and after the redemption date. Notice of redemption of Bonds shall be given by the Trustee, at the expense of the Authority, for and on behalf of the Authority.

The Authority shall have the right to rescind any redemption pursuant to Section 4.01(a) or Section 4.01(b) by written notice to the Trustee on or prior to the date fixed for redemption. Any notice of redemption shall be cancelled and annulled if for any reason funds are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation shall not constitute an Event of Default hereunder. The Trustee shall mail notice of rescission of redemption in the same manner notice of redemption was originally provided.

**SECTION 4.04. Execution of New Bonds Upon Partial Redemption of Bonds.** Upon surrender of any Bonds redeemed in part only, the Authority shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Authority, a new Bond or Bonds of authorized denominations equal in aggregate principal amount to the unredeemed portion of the Bonds surrendered.

**SECTION 4.05. Effect of Redemption.** Notice of redemption having been duly given as aforesaid, and moneys for payment of the redemption price of, together with interest accrued to the date fixed for redemption on, including any applicable premium, the Bonds (or portions thereof) so called for redemption being held by the Trustee, on the redemption date designated in such notice, the Bonds (or portions thereof) so called for redemption shall become due and payable, interest on the Bonds so called for redemption shall cease to accrue, said Bonds (or portions thereof) shall cease to be entitled to any benefit or security under this Indenture, and the Owners of said Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof.

All Bonds redeemed under the provisions of this Article shall be canceled by the Trustee upon surrender thereof and destroyed in accordance with the retention policy of the Trustee then in effect.

## ARTICLE V

### REVENUES; FUNDS AND ACCOUNTS; PAYMENT OF PRINCIPAL AND INTEREST

#### SECTION 5.01. Security for the Bonds; Bond Fund.

(a) Pledge of Revenues and Other Amounts. Subject only to the provisions of this Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein, all of the Revenues and all amounts held in any fund or account established under this Indenture (other than the Project Fund) are hereby pledged to secure the payment of the principal of and interest and premium (if any) on the Bonds in accordance with their terms and the provisions of this Indenture. Said pledge constitutes a lien on and security interest in the Revenues and such amounts and shall attach, be perfected and be valid and binding from and after the Closing Date, without the need for any physical delivery thereof or further act.

(b) Assignment to Trustee. The Authority hereby irrevocably transfers, assigns and sets over to the Trustee, without recourse to the Authority, all of its rights in the Installment Sale Agreement (excepting only the Authority's rights under Sections 4.7, 5.2 and 6.4 thereof), including but not limited to all of the Authority's rights to receive and collect all of the Installment Payments, and the Trustee hereby accepts such assignment. The Trustee is entitled to collect and receive all of the Installment Payments, and any Installment Payments collected or received by the Authority shall be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and shall forthwith be paid by the Authority to the Trustee. The Trustee is also entitled to and shall, subject to the provisions of Article VIII, take all steps, actions and proceedings which the Trustee determines to be reasonably necessary in its judgment to enforce, either jointly with the Authority or separately, all of the rights of the Authority and all of the obligations of the City under the Installment Sale Agreement.

(c) Deposit of Revenues in Bond Fund. All Revenues shall be promptly deposited by the Trustee upon receipt thereof in a special fund designated as the "Bond Fund" which the Trustee shall establish, maintain and hold in trust; except that all moneys received by the Trustee and required hereunder or under the Installment Sale Agreement to be deposited in the Redemption Fund shall be promptly deposited in such funds. All Revenues deposited with the Trustee shall be held, disbursed, allocated and applied by the Trustee only as provided in this Indenture. Any surplus remaining in the Bond Fund, after payment in full of (i) the principal of and interest on the Bonds or provision therefore under Article X, and (ii) any applicable fees and expenses of the Trustee, shall be withdrawn by the Trustee and remitted to the City.

**SECTION 5.02. Allocation of Revenues.** On or before each Interest Payment Date, the Trustee shall transfer from the Bond Fund and deposit into the following respective accounts (each of which the Trustee shall establish and maintain within the Bond Fund), the following amounts in the following order of priority:

(a) *Deposit to Interest Account.* The Trustee shall deposit in the Interest Account an amount required to cause the aggregate amount on deposit in the Interest Account to be at least equal to the amount of interest becoming due and payable on such Interest Payment Date on all Bonds then Outstanding.

(b) *Deposit to Principal Account.* The Trustee shall deposit in the Principal Account an amount required to cause the aggregate amount on deposit

in the Principal Account to equal the principal amount of the Bonds coming due and payable on each June 1, including the aggregate principal amount of the Term Bonds (if any) which are subject to mandatory sinking fund redemption on such June 1 pursuant to Section 4.01(c).

(c) *Deposit to Reserve Account.* The Trustee shall deposit in the Reserve Account an amount, if any, required to cause the amount on deposit in the Reserve Account to be equal to the Reserve Requirement.

**SECTION 5.03. Application of Interest Account.** All amounts in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying interest on the Bonds as it comes due and payable (including accrued interest on any Bonds purchased or redeemed prior to maturity).

**SECTION 5.04. Application of Principal Account.** All amounts in the Principal Account shall be used and withdrawn by the Trustee solely to pay the principal amount of the Bonds on their respective maturity dates, including the aggregate principal amount of the Term Bonds (if any) which are subject to mandatory sinking fund redemption on such June 1 pursuant to Section 4.01(c).

**SECTION 5.05. Application of Reserve Account.**

(a) Application of Reserve Account. All amounts in the Reserve Account shall be used and withdrawn by the Trustee solely for the purpose of (i) paying principal of or interest on the Bonds, including the principal amount of any Term Bonds subject to mandatory sinking fund redemption under Section 4.01(c), when due and payable to the extent that moneys deposited in the Interest Account or Principal Account are not sufficient for such purpose, and (ii) making the final payments of principal of and interest on the Bonds. If the amounts on deposit in the Reserve Account are insufficient at any time to pay the full amount of principal of and interest on the Bonds then required to be paid from the Reserve Account, the Trustee shall apply such amounts first, to the payment of interest and second, to the payment of principal. On the date on which all Bonds are retired hereunder or provision is made therefor under Article X, after payment of any amounts then owed to the Trustee, all moneys then on deposit in the Reserve Account shall be withdrawn by the Trustee and paid to the City as a refund of overpaid Installment Payments.

If, on any date, moneys on deposit in the Reserve Account, together with amounts then on deposit in the Bond Fund, are sufficient to pay all Outstanding Bonds, including all principal thereof, and interest thereon, the Trustee shall, at the Written Request of the Authority, transfer all amounts then on deposit in the Reserve Account, together with such amounts in the Bond Fund, to the Redemption Fund to be applied to the redemption of the Bonds in accordance with the provisions of Section 4.01(a). The Trustee shall be entitled to conclusively rely on any such Written Request and shall be fully protected in relying thereon. On each June 1, the Trustee shall transfer any amounts on deposit in the Reserve Account in excess of the Reserve Requirement, including amounts derived from the investment of moneys in the Reserve Account, to the Bond Fund.

(b) Qualified Reserve Account Credit Instrument. The Authority shall have the right at any time to release any cash (including Permitted Investments) on deposit from the Reserve Account, in whole or in part, by tendering to the Trustee: (1) a Qualified Reserve Account Credit Instrument, and (2) an opinion of Bond Counsel stating that such release will not, of itself, cause the interest on the Bonds to become includable in gross income for purposes of federal income taxation. Upon tender of such items to the Trustee, the Trustee shall transfer such funds from the Reserve Account to or upon the direction of the authority. Prior to the expiration of any Qualified Reserve Account Credit Instrument, or to the reduction of the rating of the provider thereof below the rating on the Bonds, the Authority shall be obligated either (a) to replace such Qualified Reserve Account Credit Instrument with a new Qualified Reserve Account Credit Instrument, or (b) to deposit or cause to be deposited with the Trustee an amount of funds such that the funds on deposit in the Reserve Account, together with all Qualified Reserve Account Credit Instruments held by the Trustee, is at least equal to the Reserve Requirement.

In the event that a Qualified Reserve Account Credit Instrument is available to be drawn upon for only one or more particular issues of Bonds, a separate subaccount in the Reserve Account may be established for such issue or issues. In such case, the calculation of the Reserve Requirement for such issue of Bonds shall be made only with respect to such issue, and the calculation of the Reserve Requirement with respect to all other Bonds shall exclude the debt service on such issue of Bonds. Additionally, the Reserve Account may be maintained in the form of one combined Reserve Account or in the form of one or more separate subaccounts established for the purpose of holding the proceeds of separate issues of Bonds in conformity with applicable provisions of the Code to the extent directed by the Authority or the City in writing to the Trustee.

**SECTION 5.06. Application of Redemption Fund.** The Trustee shall establish and maintain the Redemption Fund, into which the Trustee shall deposit a portion of the Revenues received representing optional prepayments of the Installment Payments, in accordance with a Written Request of the Authority. Amounts on deposit in the Redemption Fund shall be used and withdrawn by the Trustee solely for the purpose of paying the principal and premium (if any) of the Bonds to be redeemed under Sections 4.01(a) or (b); *provided, however*, that at any time prior to the selection of Bonds for redemption, the Trustee may apply such amounts to the purchase of Bonds at public or private sale, when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Account) as shall be directed under a Written Request of the Authority, except that the purchase price (exclusive of accrued interest) may not exceed the redemption price then applicable to the Bonds. The Trustee shall be entitled to conclusively rely on any Written Request of the Authority received under this Section 5.06, and shall be fully protected in relying thereon.

**SECTION 5.07. Investments.** All moneys in any of the funds or accounts established with the Trustee under this Indenture shall be invested by the Trustee solely in Permitted Investments. Such investments shall be directed by the Authority under a Written Request of the Authority filed with the Trustee at least 2 Business Days in advance of the making of such investments. In the absence of any such directions from the Authority, the Trustee shall invest any such moneys in Permitted Investments described in clause (f) of the definition thereof. Permitted Investments purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account. To the extent Permitted Investments are registrable, such Permitted Investments must be registered in the name of the Trustee.

All interest or gain derived from the investment of amounts in any of the funds or accounts established hereunder shall be deposited in the Bond Fund, *provided, however*, that earnings on the investment of the amount in the Reserve Account shall be retained therein to the extent required to maintain the Reserve Requirement, and otherwise shall be transferred to the Bond Fund in accordance with Section 5.05(b). For purposes of acquiring any investments hereunder, the Trustee may commingle funds held by it hereunder. The Trustee or any of its affiliates may act as principal or agent in the acquisition or disposition of any investment and may impose its customary charges therefor. The Trustee shall incur no liability for losses arising from any investments made under this Section 5.07.

The Trustee may make any investments hereunder through its own bond or investment department or trust investment department, or those of its parent or any affiliate. The Trustee or any of its affiliates may act as sponsor, advisor or manager in connection with any investments made by the Trustee hereunder. The Trustee is hereby authorized, in making or disposing of any investment permitted by this Section, to deal with itself (in its individual capacity) or with any one or more of its affiliates, whether it or such affiliate is acting as an agent of the Trustee or for any third person or is dealing as a principal for its own account.

The Authority acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Authority the right to receive brokerage confirmations of security transactions as they occur, the Authority will not receive such confirmations to the extent permitted by law. The Trustee will furnish the Authority periodic cash transaction statements which include detail for all investment transactions made by the Trustee hereunder.

The moneys on deposit in the funds and accounts established under this Indenture shall not be deemed "surplus" under Section 53601 of the Government Code.

#### **SECTION 5.08. Valuation and Disposition of Investments.**

(a) Except as otherwise provided in subsection (b) of this Section, the Authority covenants that all investments of amounts deposited in any fund or account created by or under this Indenture, or otherwise containing gross proceeds of the Bonds (within the meaning of Section 148 of the Tax Code) shall be acquired, disposed of and valued at the Fair Market Value thereof as such term is defined in subsection (d) below. The Trustee shall have no duty in connection with the determination of Fair Market Value other than to follow the investment directions of the Authority in any Written Request of the Authority.

(b) Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Tax Code and investments in the Reserve Account shall be valued at cost thereof, (consisting of present value thereof within the meaning of Section 148 of the Tax Code); provided that the Authority shall inform the Trustee which funds (other than the Reserve Account) are subject to a yield restriction.

(c) Except as provided in the preceding subsection (b), for the purpose of determining the amount in any fund or account established hereunder, the value of Permitted Investments credited to such fund shall be valued by the Trustee at least annually on or before June 1. The Trustee may sell or present for redemption, any Permitted Investment so purchased by the Trustee whenever it shall be necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investment is credited, and the Trustee shall not be liable or responsible for any loss resulting from any such Permitted Investment.

(d) For purposes of this Section 5.09, the term "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 Tax 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 Tax 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 Tax Code, or (iii) the investment is a United States Treasury Security -- State and Local Government Series which is acquired in accordance with applicable regulations of the United States Bureau of Public Debt.

(e) To the extent of any valuations made by the Trustee hereunder, the Trustee may utilize and rely upon computerized securities pricing services that may be available to it, including those available through its regular accounting system.

## ARTICLE VI

### COVENANTS OF THE AUTHORITY

**SECTION 6.01. Punctual Payment.** The Authority shall punctually pay or cause to be paid the principal of and interest and premium (if any) on all the Bonds in strict conformity with the terms of the Bonds and of this Indenture, according to the true intent and meaning thereof, but only out of the Revenues and other amounts pledged for such payment as provided in this Indenture.

**SECTION 6.02. Extension of Payment of Bonds.** The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any claims for interest by the purchase of such Bonds or by any other arrangement, and in case the maturity of any of the Bonds or the time of payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest thereon which have not been so extended. Nothing in this Section 6.02 limits the right of the Authority to issue Bonds for the purpose of refunding any Outstanding Bonds, and such issuance does not constitute an extension of maturity of the Bonds.

**SECTION 6.03. Against Encumbrances.** The Authority shall not create, or permit the creation of, any pledge, lien, charge or other encumbrance upon the Revenues and other assets pledged or assigned under this Indenture while any of the Bonds are Outstanding, except the pledge and assignment created by this Indenture. Subject to this limitation, the Authority expressly reserves the right to enter into one or more other indentures for any of its corporate purposes, and reserves the right to issue other obligations for such purposes.

**SECTION 6.04. Power to Issue Bonds and Make Pledge and Assignment.** The Authority is duly authorized under law to issue the Bonds and to enter into this Indenture and to pledge and assign the Revenues and other amounts purported to be pledged and assigned, respectively, under this Indenture in the manner and to the extent provided in this Indenture. The Bonds and the provisions of this Indenture are and will be the legal, valid and binding special obligations of the Authority in accordance with their terms, and the Authority and the Trustee shall at all times, subject to the provisions of Article VIII and to the extent permitted by law, defend, preserve and protect said pledge and assignment of Revenues and other assets and all the rights of the Bond Owners under this Indenture against all claims and demands of all persons whomsoever.

**SECTION 6.05. Accounting Records.** The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with corporate trust industry standards, in which complete and accurate entries shall be made of all transactions made by it relating to the proceeds of Bonds and all funds and accounts established under this Indenture. The Trustee shall make such books of record and account available for inspection by the Authority and the City during business hours, upon reasonable notice, and under reasonable circumstances.

**SECTION 6.06. Limitation on Additional Obligations.** The Authority covenants that no additional bonds, notes or other indebtedness, other than Additional Bonds, shall be issued or incurred which are payable out of the Revenues in whole or in part.

**SECTION 6.07. Tax Covenants.**

(a) Private Business Use Limitation. The Authority shall assure that the proceeds of the Bonds are not used in a manner which would cause the Bonds to satisfy the private business tests of Section 141(b) of the Tax Code or the private loan financing test of Section 141(c) of the Tax Code.

(b) Federal Guarantee Prohibition. The Authority may not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Tax Code.

(c) No Arbitrage. The Authority may not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the Bonds or of any other obligations which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Tax Code.

(d) Maintenance of Tax Exemption. The Authority shall take all actions necessary to assure the exclusion of interest on the Bonds from the gross income of the Owners of the Bonds to the same extent as such interest is permitted to be excluded from gross income under the Tax Code as in effect on the Closing Date.

(e) Rebate of Excess Investment Earnings to United States. The Authority shall calculate or cause to be calculated all amounts of excess investment earnings with respect to the Bonds which are required to be rebated to the United States of America under Section 148(f) of the Tax Code, at the times and in the manner required under the Tax Code. The Authority shall pay when due an amount equal to excess investment earnings to the United States of America in such amounts, at such times and in such manner as may be required under the Tax Code, such payments to be made from any source of legally available funds of the Authority. The Authority shall keep or cause to be kept, and retain or cause to be retained for a period of 6 years following the retirement of the Bonds, records of the determinations made under this subsection (e).

**SECTION 6.08. Enforcement of Installment Sale Agreement.** The Trustee shall promptly collect all amounts (to the extent any such amounts are available for collection) due from the City under the Installment Sale Agreement. Subject to the provisions of Article VIII, the Trustee shall enforce, and take all steps, actions and proceedings which the Trustee determines to be reasonably necessary for the enforcement of all of its rights thereunder as assignee of the Authority and for the enforcement of all of the obligations of the City under the Installment Sale Agreement.

**SECTION 6.09. Waiver of Laws.** The Authority shall not at any time insist upon or plead in any manner whatsoever, or claim or take the benefit or advantage of, any stay or extension law now or at any time hereafter in force that may affect the covenants and agreements contained in this Indenture or in the Bonds, and all benefit or advantage of any such law or laws is hereby expressly waived by the Authority to the extent permitted by law.

**SECTION 6.10. Further Assurances.** The Authority will make, execute and deliver any and all such further indentures, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture and for the better assuring and confirming unto the Owners of the Bonds of the rights and benefits provided in this Indenture.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

**SECTION 7.01. Events of Default.** The following events constitute Events of Default hereunder:

(a) Failure to pay any installment of the principal of any Bonds when due, whether at maturity as therein expressed, by proceedings for redemption, by acceleration, or otherwise.

(b) Failure to pay any installment of interest on the Bonds when due.

(c) Failure by the Authority to observe and perform any of the other covenants, agreements or conditions on its part contained in this Indenture or in the Bonds, if such failure has continued for a period of 60 days after written notice thereof, specifying such failure and requiring the same to be remedied, has been given to the Authority by the Trustee *provided, however*, if in the reasonable opinion of the Authority the failure stated in the notice can be corrected, but not within such 60 day period, such failure shall not constitute an Event of Default if the Authority institutes corrective action within such 60 day period and thereafter diligently and in good faith cures the failure in a reasonable period of time.

(d) The commencement by the Authority of a voluntary case under Title 11 of the United States Code or any substitute or successor statute.

(e) The occurrence and continuation of an event of default under and as defined in the Installment Sale Agreement.

**SECTION 7.02. Acceleration; Other Remedies.** If any Event of Default occurs, then, and in each and every such case during the continuance of such Event of Default, the Trustee may, and shall, at the written direction of the Owners of a majority in aggregate principal amount of the Bonds at the time Outstanding shall, in each case, upon receipt of indemnification satisfactory to Trustee against the costs, expenses and liabilities to be incurred in connection with such action, upon notice in writing to the Authority, declare the principal of all of the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable, anything in this Indenture or in the Bonds contained to the contrary notwithstanding.

The foregoing provision, however, is subject to the condition that if, at any time after the principal of the Bonds shall have been so declared due and payable, the Authority shall pay to or shall deposit with the Trustee a sum sufficient to pay all principal of the Bonds maturing prior to such declaration and all matured installments of interest (if any) upon all the Bonds, and any and all other defaults known to the Trustee (other than in the payment of principal of and interest on the Bonds due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall have been made therefor, then, and in every such case, the Trustee, on behalf of the Owners of all of the Bonds, shall rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon; provided,

however, that no such rescission and annulment shall extend to or shall affect any subsequent Event of Default, or shall impair or exhaust any right or power consequent thereon.

In addition to declaring the principal of all of the Bonds, and the interest accrued thereon, to be immediately due and payable as set forth above, the Trustee shall have the right to pursue any other remedy provided by law or in equity or otherwise after an Event of Default has occurred.

**SECTION 7.03. Application of Revenues and Other Funds After Default.** If an Event of Default occurs and is continuing, all Revenues and any other funds then held or thereafter received by the Trustee under any of the provisions of this Indenture shall be applied by the Trustee in the following order of priority:

(a) To the payment of reasonable fees, charges and expenses of the Trustee (including reasonable fees and disbursements of its legal counsel including outside counsel and the allocated costs of internal attorneys) incurred in and about the performance of its powers and duties under this Indenture; and

(b) To the payment of the principal of and interest then due on the Bonds (upon presentation of the Bonds to be paid, and stamping or otherwise noting thereon of the payment if only partially paid, or surrender thereof if fully paid) in accordance with the provisions of this Indenture, as follows:

*First:* To the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

*Second:* To the payment to the persons entitled thereto of the unpaid principal of any Bonds which shall have become due, whether at maturity or by acceleration or redemption, with interest on the overdue principal at the rate borne by the respective Bonds (to the extent permitted by law), and, if the amount available shall not be sufficient to pay in full all the Bonds, together with such interest, then to the payment thereof ratably, according to the amounts of principal due on such date to the persons entitled thereto, without any discrimination or preference.

**SECTION 7.04. Trustee to Represent Bond Owners.** The Trustee is hereby irrevocably appointed (and the successive respective Owners of the Bonds, by taking and holding the same, shall be conclusively deemed to have so appointed the Trustee) as trustee and true and lawful attorney-in-fact of the Owners of the Bonds for the purpose of exercising and prosecuting on their behalf such rights and remedies as may be available to such Owners under the provisions of the Bonds, this Indenture and applicable provisions of any law. All rights of action under this Indenture or the Bonds or otherwise may be prosecuted and enforced by the Trustee without the possession of any of the Bonds or the production thereof in any proceeding relating thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in the name of the Trustee for the benefit and protection of all the Owners of such Bonds, subject to the provisions of this Indenture.

**SECTION 7.05. Limitation on Bond Owners' Right to Sue.** Notwithstanding any other provision hereof, no Owner of any Bonds has the right to institute any suit, action or proceeding at law or in equity, for the protection or enforcement of any right or remedy under this Indenture, the Installment Sale Agreement or any other applicable law with respect to such Bonds, unless (a) such Owner has given to the Trustee written notice of the occurrence of an Event of Default; (b) the Owners of a majority in aggregate principal amount of the Bonds then Outstanding have requested the Trustee in writing to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name; (c) such Owner or Owners have tendered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; (d) the Trustee has failed to comply with such request for a period of 60 days after such written request has been received by, and said tender of indemnity has been made to, the Trustee; and (e) no direction inconsistent with such written request has been given to the Trustee during such 60 day period by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of Bonds of any remedy hereunder or under law; it being understood and intended that no one or more Owners of Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Indenture or the rights of any other Owners of Bonds, or to enforce any right under the Bonds, this Indenture, the Installment Sale Agreement or other applicable law with respect to the Bonds, except in the manner herein provided, and that all proceedings at law or in equity to enforce any such right shall be instituted, had and maintained in the manner herein provided and for the benefit and protection of all Owners of the Outstanding Bonds, subject to the provisions of this Indenture.

**SECTION 7.06. Absolute Obligation of Authority.** Nothing in Section 7.06 or in any other provision of this Indenture or in the Bonds contained affects or impairs the obligation of the Authority, which is absolute and unconditional, to pay the principal of and interest and premium (if any) on the Bonds to the respective Owners of the Bonds at their respective dates of maturity, or upon acceleration or call for redemption, as herein provided, but only out of the Revenues and other assets herein pledged therefor, or affect or impair the right of such Owners, which is also absolute and unconditional, to enforce such payment by virtue of the contract embodied in the Bonds.

**SECTION 7.07. Termination of Proceedings.** In case any proceedings taken by the Trustee or by any one or more Bond Owners on account of any Event of Default have been discontinued or abandoned for any reason or have been determined adversely to the Trustee or the Bond Owners, then in every such case the Authority, the Trustee and the Bond Owners, subject to any determination in such proceedings, shall be restored to their former positions and rights hereunder, severally and respectively, and all rights, remedies, powers and duties of the Authority, the Trustee and the Bond Owners shall continue as though no such proceedings had been taken.

**SECTION 7.08. Remedies Not Exclusive.** No remedy herein conferred upon or reserved to the Trustee or any other Bond Insurer, or to the Owners of the Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

**SECTION 7.09. No Waiver of Default.** No delay or omission of the Trustee or any Owner of the Bonds to exercise any right or power arising upon the occurrence of any default or

Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or an acquiescence therein; and every power and remedy given by this Indenture to the Trustee or to the Owners of the Bonds may be exercised from time to time and as often as may be deemed expedient by the Trustee or the Bond Owners.

## ARTICLE VIII

### THE TRUSTEE

**SECTION 8.01. Appointment of Trustee.** U.S. Bank National Association is hereby appointed Trustee by the Authority for the purpose of receiving all moneys required to be deposited with the Trustee hereunder and to allocate, use and apply the same as provided in this Indenture. The Authority will maintain a Trustee which is qualified under the provisions of the foregoing provisions of this Article VIII so long as any Bonds are Outstanding.

**SECTION 8.02. Acceptance of Trusts; Removal and Resignation of Trustee.** The Trustee hereby accepts the express trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

(a) The Trustee shall, prior to an Event of Default, and after the curing or waiver of all Events of Default which may have occurred, perform such duties and only such duties as are expressly and specifically set forth in this Indenture and no implied duties or covenants shall be read into this Indenture against the Trustee.

(b) The Authority may remove the Trustee at any time, unless an Event of Default has occurred and is then continuing, and shall remove the Trustee (a) if at any time requested to do so by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding (or their attorneys duly authorized in writing) or (b) if at any time the Trustee ceases to be eligible in accordance with Section 8.02, or becomes incapable of acting, or is adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property is appointed, or any public officer takes control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation.

(c) The Trustee may at any time resign by giving written notice of such resignation to the Authority and the City, and by giving the Bond Owners notice of such resignation by mail at the addresses shown on the Registration Books.

(d) Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. If no successor Trustee has been appointed and accepted appointment within 45 days of giving notice of removal or notice of resignation as aforesaid, the Authority, upon its own direction or the direction of the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Indenture, must signify its acceptance of such appointment by executing and delivering to the Authority and to its predecessor Trustee a written acceptance thereof, and after payment by the Authority of all unpaid fees and expenses of the predecessor Trustee, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein. At the Written Request of the Authority or the

request of the successor Trustee, such predecessor Trustee shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Upon request of the successor Trustee, the Authority shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the Authority shall promptly mail or cause the successor trustee to mail a notice of the succession of such Trustee to the trusts hereunder to each rating agency which is then rating the Bonds and to the Bond Owners at the addresses shown on the Registration Books. If the Authority fails to mail such notice within 15 days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the Authority.

(e) Any Trustee appointed under this Indenture shall be a corporation or association organized and doing business under the laws of any state or the United States of America or the District of Columbia, shall be authorized under such laws to exercise corporate trust powers, shall have (or, in the case of a corporation or association that is a member of a bank holding company system, the related bank holding company has) a combined capital and surplus of at least \$50,000,000, and shall be subject to supervision or examination by a federal or state agency, so long as any Bonds are Outstanding. If such corporation or association publishes a report of condition at least annually under law or to the requirements of any supervising or examining agency above referred to, then for the purpose of this subsection (e), the combined capital and surplus of such corporation or association shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If the Trustee at any time ceases to be eligible in accordance with the provisions of this subsection (e), the Trustee shall resign immediately in the manner and with the effect specified in this Section.

**SECTION 8.03. Merger or Consolidation.** Any bank, federal savings association, or trust company into which the Trustee may be merged or converted or with which it may be consolidated or any bank, federal savings association, or trust company resulting from any merger, conversion or consolidation to which it shall be a party or any bank, federal savings association, or trust company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such bank, federal savings association, or trust company shall be eligible under subsection (e) of Section 8.02 shall be the successor to such Trustee, without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

**SECTION 8.04. Liability of Trustee.**

(a) The recitals of facts herein and in the Bonds contained shall be taken as statements of the Authority, and the Trustee shall not assume responsibility for the correctness of the same, or make any representations as to the validity or sufficiency of this Indenture, the Bonds or the Installment Sale Agreement, nor shall the Trustee incur any responsibility in respect thereof, other than as expressly stated herein in connection with the respective duties or obligations of Trustee herein or in the Bonds assigned to or imposed upon it. The Trustee shall, however, be responsible for its representations contained in its certificate of authentication on the Bonds. The Trustee shall not be liable in connection with the performance of its duties

hereunder, except for its own negligence. The Trustee may become the Owner of Bonds with the same rights it would have if it were not Trustee, and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bond Owners, whether or not such committee shall represent the Owners of a majority in principal amount of the Bonds then Outstanding.

(b) The Trustee is not liable for any error of judgment made by a responsible officer, unless it is proved that the Trustee was grossly negligent in ascertaining the pertinent facts.

(c) The Trustee is not liable with respect to any action taken or omitted to be taken by it in accordance with the direction of the Owners of a majority in aggregate principal amount of the Bonds at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture or assigned to it hereunder.

(d) The Trustee is not liable for any action taken by it and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture.

(e) The Trustee shall not be deemed to have knowledge of any Event of Default hereunder, or any other event which, with the passage of time, the giving of notice, or both, would constitute an Event of Default hereunder unless and until it shall have actual knowledge thereof, or a corporate trust officer shall have received written notice thereof at its Office from the City, the Authority or the Owners of at least 25% in aggregate principal amount of the Outstanding Bonds. Except as otherwise expressly provided herein, the Trustee shall not be bound to ascertain or inquire as to the performance or observance by the Authority or the City of any of the terms, conditions, covenants or agreements herein, under the Installment Sale Agreement or the Bonds or of any of the documents executed in connection with the Bonds, or as to the existence of a default or an Event of Default or an event which would, with the giving of notice, the passage of time, or both, constitute an Event of Default. The Trustee is not responsible for the validity, effectiveness or priority of any collateral given to or held by it. Without limiting the generality of the foregoing, the Trustee shall not be required to ascertain or inquire as to the performance or observance by the City or the Authority of the terms, conditions, covenants or agreements set forth in the Installment Sale Agreement, other than the covenants of the City to make Installment Payments to the Trustee when due and to file with the Trustee when due, such reports and certifications as the City is required to file with the Trustee thereunder.

(f) No provision of this Indenture requires the Trustee 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.

(g) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, receivers or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, receiver or attorney appointed with due care by it hereunder.

(h) The Trustee has no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of the Bond Owners under this Indenture, unless the such Owners have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities (including but not limited to fees and expenses of its attorneys) which might be incurred by it in compliance with such request or direction. No permissive power, right

or remedy conferred upon the Trustee hereunder shall be construed to impose a duty to exercise such power, right or remedy.

(i) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee is subject to the provisions of Section 8.02(a), this Section 8.04 and Section 8.05, and shall be applicable to the assignment of any rights to the Trustee hereunder.

(j) The Trustee is not accountable to anyone for the subsequent use or application of any moneys which are released or withdrawn in accordance with the provisions hereof.

(k) The Trustee makes no representation or warranty, expressed or implied as to the title, value, design, compliance with specifications or legal requirements, quality, durability, operation, condition, merchantability or fitness for any particular purpose for the use contemplated by the Authority or the City of the 2008 Series A Water Project or the 1998 Water Project. In no event shall the Trustee be liable for incidental, indirect, special or consequential damages in connection with or arising from the Installment Sale Agreement or this Indenture for the existence, furnishing or use of the 2008 Series A Water Project or the 1998 Water Project.

(l) The Trustee has no responsibility with respect to any information, statement, or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds.

(m) The Trustee shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay ("unavoidable delay") in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources or energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Trustee.

(n) The Trustee agrees to accept and act upon facsimile transmission of written instructions and/or directions pursuant to this Indenture of Trust, provided, however, that: (a) subsequent to such facsimile transmission of written instructions and/or directions the Trustee shall forthwith receive the originally executed instructions and/or directions, (b) such originally executed instructions and/or directions shall be signed by a person as may be designated and authorized to sign for the party signing such instructions and/or directions, and (c) the Trustee shall have received a current incumbency certificate containing the specimen signature of such designated person.

**SECTION 8.05. Right to Rely on Documents.** The Trustee shall be protected and shall incur no liability in acting or refraining from acting in reliance upon any notice, resolution, request, consent, order, certificate, report, opinion, bonds, requisition, facsimile transmission, electronic mail or other paper or document believed by them to be genuine and to have been signed or presented by the proper party or parties. The Trustee is under no duty to make any investigation or inquiry as to any statements contained or matter referred to in any paper or document but may accept and conclusively rely upon the same as conclusive evidence of the truth and accuracy of any such statement or matter and shall be fully protected in relying

thereon. The Trustee may consult with counsel, who may be counsel of or to the Authority, 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.

The Trustee may treat the Owners of the Bonds appearing in the Registration Books as the absolute owners of the Bonds for all purposes and the Trustee shall not be affected by any notice to the contrary.

Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee 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 be deemed to be conclusively proved and established by a Written Certificate, Written Request or Written Requisition of the Authority or the City, and such Written Certificate, Written Request or Written Requisition shall be full warrant to the Trustee for any action taken or suffered under the provisions of this Indenture in reliance upon such Written Certificate, Written Request or Written Requisition, and the Trustee shall be fully protected in relying thereon, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may deem reasonable.

**SECTION 8.06. Preservation and Inspection of Documents.** All documents received by the Trustee under the provisions of this Indenture shall be retained in its respective possession and in accordance with its retention policy then in effect and shall, upon reasonable notice to Trustee, be subject to the inspection of the Authority, the City, and any Bond Owner, and their agents and representatives duly authorized in writing, during business hours and under reasonable conditions as agreed to by the Trustee.

**SECTION 8.07. Compensation and Indemnification.** The Authority shall pay to the Trustee from time to time, on demand, the compensation for all services rendered under this Indenture and also all reasonable expenses, advances (including any interest on advances), charges, legal (including outside counsel and the allocated costs of internal attorneys) and consulting fees and other disbursements, incurred in and about the performance of its powers and duties under this Indenture.

The Authority shall indemnify the Trustee, its officers, directors, employees and agents against any cost, loss, liability or expense whatsoever (including but not limited to fees and expenses of its attorneys) incurred without negligence or willful misconduct on its part, arising out of or in connection with the acceptance or administration of this trust and this Indenture, including costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers hereunder or under the Installment Sale Agreement. As security for the performance of the obligations of the Authority under this Section 8.07, the Trustee shall have a lien prior to the lien of the Bonds upon all property and funds held or collected by the Trustee as such. The rights of the Trustee and the obligations of the Authority under this Section 8.07 shall survive the resignation or removal of the Trustee or the discharge of the Bonds and this Indenture and the Installment Sale Agreement.

## ARTICLE IX

### MODIFICATION OR AMENDMENT HEREOF

#### SECTION 9.01. Amendments Permitted.

(a) Amendments With Bond Owner Consent. This Indenture and the rights and obligations of the Authority and of the Owners of the Bonds and of the Trustee may be modified or amended from time to time and at any time by Supplemental Indenture, which the Authority and the Trustee may enter into when the written consents of the Owners of a majority in aggregate principal amount of all Bonds then Outstanding are filed with the Trustee. No such modification or amendment may (i) extend the fixed maturity of any Bonds, or reduce the amount of principal thereof or extend the time of payment, or change the method of computing the rate of interest thereon, or extend the time of payment of interest thereon, without the consent of the Owner of each Bond so affected, or (ii) reduce the aforesaid percentage of Bonds the consent of the Owners of which is required to effect any such modification or amendment, or permit the creation of any lien on the Revenues and other assets pledged under this Indenture prior to or on a parity with the lien created by this Indenture except as permitted herein, or deprive the Owners of the Bonds of the lien created by this Indenture on such Revenues and other assets (except as expressly provided in this Indenture), without the consent of the Owners of all of the Bonds then Outstanding. It is not necessary for the consent of the Bond Owners to approve the particular form of any Supplemental Indenture, but it is sufficient if such consent approves the substance thereof.

(b) Amendments Without Owner Consent. This Indenture and the rights and obligations of the Authority, of the Trustee and the Owners of the Bonds may also be modified or amended from time to time and at any time by a Supplemental Indenture, which the Authority and the Trustee may enter into without the consent of any Bond Owners if the Trustee has been furnished an opinion of counsel that the provisions of such Supplemental Indenture shall not materially adversely affect the interests of the Owners of the Bonds, including, without limitation, for any one or more of the following purposes:

(i) to add to the covenants and agreements of the Authority in this Indenture contained, other covenants and agreements thereafter to be observed, to pledge or assign additional security for the Bonds (or any portion thereof), or to surrender any right or power herein reserved to or conferred upon the Authority;

(ii) to cure any ambiguity, inconsistency or omission, or to cure or correct any defective provision, contained in this Indenture, or in regard to matters or questions arising under this Indenture, as the Authority deems necessary or desirable, provided that such modification or amendment does not materially adversely affect the interests of the Bond Owners, in the opinion of Bond Counsel filed with the Trustee;

(iii) to modify, amend or supplement this Indenture in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, and to add such other terms, conditions and provisions as may be permitted by said act or similar federal statute;

(iv) to modify, amend or supplement this Indenture in such manner as to assure that the interest on the Bonds remains excluded from gross income under the Tax Code;

(v) to modify any of the provisions of this Indenture in any other respect, including the substitution of a Qualified Reserve Account Credit Instrument as set forth in Section 5.05(c), provided that such modifications shall not have a material adverse effect on the interests of the Owners of the Bonds; or

(vi) to provide for the issuance of Additional Bonds pursuant to Section 3.06 hereof, including the addition of or revision to any provisions required with respect to Variable Rate Bonds and Swap Agreements.

(c) Limitation. The Trustee is not obligated to enter into any Supplemental Indenture authorized by subsections (a) or (b) of this Section 9.01 which materially adversely affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

(d) Bond Counsel Opinion Requirement. Prior to the Trustee entering into any Supplemental Indenture hereunder, the Authority shall deliver to the Trustee an opinion of Bond Counsel stating, in substance, that such Supplemental Indenture has been adopted in compliance with the requirements of this Indenture and that the adoption of such Supplemental Indenture will not, in and of itself, adversely affect the exclusion from gross income for purposes of federal income taxes of interest on the Bonds.

(e) Notice of Amendments. The Authority shall deliver or cause to be delivered a draft of any Supplemental Indenture to each rating agency which then maintains a rating on the Bonds, at least 10 days prior to the effective date of such Supplemental Indenture under this Section 9.01.

**SECTION 9.02. Effect of Supplemental Indenture.** Upon the execution of any Supplemental Indenture under this Article IX, this Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Authority, the Trustee, and all Owners of Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any such Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

**SECTION 9.03. Endorsement of Bonds; Preparation of New Bonds.** Bonds delivered after the execution of any Supplemental Indenture under this Article may, and if the Authority so determines shall, bear a notation by endorsement or otherwise in form approved by the Authority as to any modification or amendment provided for in such Supplemental Indenture, and, in that case, upon demand on the Owner of any Bonds Outstanding at the time of such execution and presentation of his Bonds for the purpose at the Office of the Trustee or at such additional offices as the Trustee may select and designate for that purpose, a suitable notation shall be made on such Bonds. If the Supplemental Indenture shall so provide, new Bonds so modified as to conform, in the opinion of the Authority, to any modification or amendment contained in such Supplemental Indenture, shall be prepared and executed by the Authority and authenticated by the Trustee, and upon demand on the Owners of any Bonds then Outstanding shall be exchanged at the Office of the Trustee, without cost to any Bond Owner, for Bonds then Outstanding, upon surrender for cancellation of such Bonds, in equal aggregate principal amount of the same maturity.

**SECTION 9.04. Amendment of Particular Bonds.** The provisions of this Article IX do not prevent any Bond Owner from accepting any amendment as to the particular Bonds held by such Owner.

## ARTICLE X

### DEFEASANCE

**SECTION 10.01. Discharge of Indenture.** Any or all of the Outstanding Bonds may be paid by the Authority in any of the following ways, provided that the Authority also pays or causes to be paid any other sums payable hereunder by the Authority:

- (a) by paying or causing to be paid the principal of and interest and premium (if any) on such Bonds, as and when the same become due and payable;
- (b) by depositing with the Trustee, in trust, at or before maturity, money or securities in the necessary amount (as provided in Section 10.03) to pay or redeem such Bonds; or
- (c) by delivering to the Trustee, for cancellation by it, such Bonds.

If the Authority pays all outstanding Bonds as provided above and also pays or causes to be paid all other sums payable hereunder by the Authority, then and in that case, at the election of the Authority (evidenced by a Written Certificate of the Authority, filed with the Trustee, signifying the intention of the Authority to discharge all such indebtedness and this Indenture), and notwithstanding that any of such Bonds shall not have been surrendered for payment, this Indenture and the pledge of Revenues and other assets made under this Indenture with respect to such Bonds and all covenants, agreements and other obligations of the Authority under this Indenture with respect to such Bonds shall cease, terminate, become void and be completely discharged and satisfied, subject to Section 10.02. In such event, upon the Written Request of the Authority, the Trustee shall execute and deliver to the Authority all such instruments as may be necessary or desirable to evidence such discharge and satisfaction, and the Trustee shall pay over, transfer, assign or deliver to the City all moneys or securities or other property held by it under this Indenture which are not required for the payment or redemption of any of such Bonds not theretofore surrendered for such payment or redemption. The Trustee is entitled to conclusively rely on any such Written Certificate or Written Request and, in each case, is fully protected in relying thereon.

**SECTION 10.02. Discharge of Liability on Bonds.** Upon the deposit with the Trustee, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 10.03) to pay or redeem any Outstanding Bonds (whether upon or prior to the maturity or the redemption date of such Bonds), provided that, if such Bonds are to be redeemed prior to maturity, notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice, then all liability of the Authority in respect of such Bonds shall cease, terminate and be completely discharged, and the Owners thereof shall thereafter be entitled only to payment out of such money or securities deposited with the Trustee as aforesaid for their payment, subject, however, to the provisions of Section 10.04.

The Authority may at any time surrender to the Trustee, for cancellation by Trustee, any Bonds previously issued and delivered, which the Authority may have acquired in any manner whatsoever, and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

**SECTION 10.03. Deposit of Money or Securities with Trustee.** Whenever in this Indenture it is provided or permitted that there be deposited with or held in trust by the Trustee money or securities in the necessary amount to pay or redeem any Bonds, the money or securities so to be deposited or held may include money or securities held by the Trustee in the funds and accounts established under this Indenture and shall be:

(a) lawful money of the United States of America in an amount equal to the principal amount of such Bonds and all unpaid interest thereon to maturity, except that, in the case of Bonds which are to be redeemed prior to maturity and in respect of which notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice, the amount to be deposited or held shall be the principal amount of such Bonds, premium, if any, and all unpaid interest thereon to the redemption date; or

(b) non-callable Defeasance Obligations, the principal of and interest on which when due will, in the written opinion of an Independent Accountant filed with the City, the Authority and the Trustee, provide money sufficient to pay the principal of and interest and premium (if any) on the Bonds to be paid or redeemed, as such principal, interest and premium become due, provided that in the case of Bonds which are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee has been made for the giving of such notice;

provided, in each case, that (i) the Trustee shall have been irrevocably instructed (by the terms of this Indenture or by Written Request of the Authority) to apply such money to the payment of such principal, interest and premium (if any) with respect to such Bonds, and (ii) the Authority shall have delivered to the Trustee an opinion of Bond Counsel to the effect that such Bonds have been discharged in accordance with this Indenture (which opinion may rely upon and assume the accuracy of the Independent Accountant's opinion referred to above). The Trustee shall be entitled to conclusively rely on such Written Request or opinion and shall be fully protected, in each case, in relying thereon.

**SECTION 10.04. Unclaimed Funds.** Notwithstanding any provisions of this Indenture, any moneys held by the Trustee in trust for the payment of the principal of, or interest on, any Bonds and remaining unclaimed for 2 years after the principal of all of the Bonds has become due and payable (whether at maturity or upon call for redemption or by acceleration as provided in this Indenture), if such moneys were so held at such date, or 2 years after the date of deposit of such moneys if deposited after said date when all of the Bonds became due and payable, shall be repaid to the Authority free from the trusts created by this Indenture, and all liability of the Trustee with respect to such moneys shall thereupon cease; *provided, however*, that before the repayment of such moneys to the Authority as aforesaid, the Trustee shall (at the cost of the Authority) first mail to the Owners of Bonds which have not yet been paid, at the addresses shown on the Registration Books, a notice, in such form as may be deemed appropriate by the Trustee with respect to the Bonds so payable and not presented and with respect to the provisions relating to the repayment to the Authority of the moneys held for the payment thereof.

## ARTICLE XI

### MISCELLANEOUS

**SECTION 11.01. Liability of Authority Limited to Revenues.** Notwithstanding anything in this Indenture or in the Bonds contained, the Authority is not required to advance any moneys derived from any source other than the Revenues and other assets pledged under this Indenture for any of the purposes in this Indenture mentioned, whether for the payment of the principal of or interest on the Bonds or for any other purpose of this Indenture. Nevertheless, the Authority may, but is not required to, advance for any of the purposes hereof any funds of the Authority which may be made available to it for such purposes.

**SECTION 11.02. Limitation of Rights to Parties and Bond Owners.** Nothing in this Indenture or in the Bonds expressed or implied is intended or shall be construed to give to any person other than the Authority, the Trustee, the City and the Owners of the Bonds, any legal or equitable right, remedy or claim under or in respect of this Indenture or any covenant, condition or provision therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Authority, the Trustee, the City and the Owners of the Bonds.

**SECTION 11.03. Funds and Accounts.** Any fund or account required by this Indenture to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee, either as a fund or an account, and may, for the purposes of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account; but all such records with respect to all such funds and accounts shall at all times be maintained in accordance with corporate trust industry standards to the extent practicable, and with due regard for the requirements of Section 6.05 and for the protection of the security of the Bonds and the rights of every Owner thereof. The Trustee may establish such funds and accounts as it deems necessary or appropriate to perform its obligations under this Indenture.

**SECTION 11.04. Waiver of Notice; Requirement of Mailed Notice.** Whenever in this Indenture the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver. Whenever in this Indenture any notice is required to be given by mail, such requirement may be satisfied by the deposit of such notice in the United States mail, postage prepaid, by first class mail.

**SECTION 11.05. Destruction of Bonds.** Whenever in this Indenture provision is made for the cancellation by the Trustee, and the delivery to the Authority, of any Bonds, the Trustee may, in lieu of such cancellation and delivery, destroy such Bonds as may be allowed by law, and at the written request of the Authority the Trustee shall deliver a certificate of such destruction to the Authority.

**SECTION 11.06. Severability of Invalid Provisions.** If any one or more of the provisions contained in this Indenture or in the Bonds shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Indenture and such invalidity, illegality or unenforceability shall not affect any other provision of this Indenture, and this Indenture shall be construed as if such invalid or illegal or unenforceable provision had never been contained

herein. The Authority hereby declares that it would have entered into this Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issuance of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Indenture may be held illegal, invalid or unenforceable.

**SECTION 11.07. Notices.** All notices or communications to be given under this Indenture shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. Notice shall be effective either (a) upon transmission by facsimile transmission or other form of telecommunication, confirmed by telephone, (b) 48 hours after deposit in the United States mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Authority, the City or the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the City or the Authority:	City of Beverly Hills 450 North Rexford Drive Beverly Hills, California 90210 Attention: Director of Finance Administration Telephone: (310) 285-2411 Fax: (805) 525-6278
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If to the Trustee:	U.S. Bank National Association 633 West Fifth Street, 24th Floor Los Angeles, California 90071 Attention: Corporate Trust Telephone: (213) 615-6024 Fax: (213) 615-6199
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**SECTION 11.08. Evidence of Rights of Bond Owners.** Any request, consent or other instrument required or permitted by this Indenture to be signed and executed by Bond Owners may be in any number of concurrent instruments of substantially similar tenor and shall be signed or executed by such Bond Owners in person or by an agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, or of the holding by any person of Bonds transferable by delivery, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and the Authority if made in the manner provided in this Section 11.08.

The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument 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.

The ownership of Bonds shall be proved by the Registration Books.

Any request, consent, or other instrument or writing of the Owner of any Bond shall bind every future Owner of the same Bond and the Owner of every Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Authority in accordance therewith or reliance thereon.

**SECTION 11.09. Disqualified Bonds.** In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are known by the Trustee to be owned or held by or for the account of the Authority or the City, or by any other obligor on the Bonds, or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority or the City or any other obligor on the Bonds, shall be disregarded and deemed not to be Outstanding for the purpose of any such determination. Bonds so owned which have been pledged in good faith may be regarded as Outstanding for the purposes of this Section if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds and that the pledgee is not a person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority or the City or any other obligor on the Bonds. In case of a dispute as to such right, the Trustee shall be entitled to rely upon the advice of counsel in any decision by Trustee and shall be fully protected in relying thereon.

Upon request, the Authority shall specify to the Trustee those Bonds disqualified under this Section 11.09.

**SECTION 11.10. Money Held for Particular Bonds.** The money held by the Trustee for the payment of the interest, premium, if any, or principal due on any date with respect to particular Bonds (or portions of Bonds in the case of Bonds redeemed in part only) shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Owners of the Bonds entitled thereto, *subject, however,* to the provisions of Section 10.04 but without any liability for interest thereon.

**SECTION 11.11. Waiver of Personal Liability.** No member, officer, agent or employee of the Authority shall be individually or personally liable for the payment of the principal of or interest or premium (if any) on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law or by this Indenture.

**SECTION 11.12. Successor Is Deemed Included in All References to Predecessor.** Whenever in this Indenture either the Authority, the City or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the Authority, the City or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

**SECTION 11.13. Execution in Several Counterparts.** This Indenture may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Authority and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

**SECTION 11.14. Payment on Non-Business Day.** In the event any payment is required to be made hereunder on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day and with the same effect as if made on such preceding non-Business Day.

**SECTION 11.15. Governing Law.** This Indenture shall be governed by and construed in accordance with the laws of the State of California.

**IN WITNESS WHEREOF**, the CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY has caused this Indenture to be signed in its name by its Executive Director and attested to by its Secretary, and U.S. BANK NATIONAL ASSOCIATION, in token of its acceptance of the trusts created hereunder, has caused this Indenture to be signed in its corporate name by its officer thereunto duly authorized, all as of the day and year first above written.

**CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY, as Seller**

By \_\_\_\_\_  
Chief Financial Officer

**U.S. BANK NATIONAL ASSOCIATION, as Trustee**

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

**APPENDIX A**

**BOND FORM**

NO. R-\_\_\_\_\_

\*\*\*\$\_\_\_\_\_\*\*\*

UNITED STATES OF AMERICA  
STATE OF CALIFORNIA

**CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY  
2008 WATER REVENUE BONDS, SERIES A**

INTEREST RATE: \_\_\_\_\_%      MATURITY DATE: June 1, \_\_\_\_\_      ORIGINAL ISSUE DATE: April \_\_, 2008      CUSIP:

REGISTERED OWNER:      CEDE & CO.

PRINCIPAL AMOUNT: \*\*\*      \*\*\*

The CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority duly organized and existing under the laws of the State of California (the "Authority"), for value received, hereby promises to pay to the Registered Owner specified above or registered assigns (the "Registered Owner"), on the Maturity Date specified above (subject to any right of prior redemption hereinafter provided for), the Principal Amount specified above, in lawful money of the United States of America, and to pay interest thereon in like lawful money from the Interest Payment Date (as hereinafter defined) next preceding the date of authentication of this Bond unless (i) this Bond is authenticated on or before an Interest Payment Date and after the close of business on the 15<sup>th</sup> day of the month preceding such interest payment date, in which event it shall bear interest from such Interest Payment Date, or (ii) this Bond is authenticated on or before May 15, 2008, in which event it shall bear interest from the Original Issue Date specified above; *provided, however*, that if at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment on this Bond, at the Interest Rate per annum specified above, payable semiannually on June 1 and December 1 in each year, commencing June 1, 2008 (the "Interest Payment Dates"), calculated on the basis of a 360-day year composed of twelve 30-day months.

Principal hereof and premium, if any, upon early redemption hereof are payable upon presentation and surrender hereof at the corporate trust office of U.S. Bank National Association, in St. Paul, Minneapolis, (the "Trust Office"), as trustee (the "Trustee"). Interest hereon is payable by check of the Trustee mailed to the Registered Owner hereof at the Registered Owner's address as it appears on the registration books of the Trustee as of the close of business on the fifteenth day of the month preceding each Interest Payment Date (a "Record Date"), or, upon written request filed with the Trustee as of such Record Date by a registered owner of at least \$1,000,000 in aggregate principal amount of Bonds, by wire transfer

in immediately available funds to an account in the United States designated by such registered owner in such written request.

This Bond is not a debt of the City of Beverly Hills (the "City"), the County of Los Angeles, the State of California, or any of its political subdivisions, and neither the City, said County, said State, nor any of its political subdivisions, is liable hereon nor in any event shall this Bond be payable out of any funds or properties of the Authority other than the Revenues.

This Bond is one of a duly authorized issue of bonds of the Authority designated as the "City of Beverly Hills Public Financing Authority 2008 Water Revenue Bonds, Series A (the "Bonds"), in an aggregate principal amount of \$\_\_\_\_\_, all of like tenor and date (except for such variation, if any, as may be required to designate varying numbers, maturities, interest rates or redemption provisions) and all issued pursuant to the provisions of Articles 4 of Chapter 5, Division 7, Title 1 of the California Government Code, commencing with Section 6584 of said Code, and under an Indenture of Trust dated as of April 1, 2008 (the "Indenture"), between the Authority and the Trustee, and a resolution of the Authority adopted on March \_\_\_\_\_, 2008, authorizing the issuance of the Bonds. Reference is hereby made to the Indenture (copies of which are on file at the office of the Authority) and all supplements thereto for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Revenues, and the rights thereunder of the owners of the Bonds and the rights, duties and immunities of the Trustee and the rights and obligations of the Authority thereunder, to all of the provisions of which the Registered Owner of this Bond, by acceptance hereof, assents and agrees.

The Bonds have been issued by the Authority to finance and refinance certain improvements to the City's Water Enterprise. This Bond and the interest and premium, if any, hereon are special obligations of the Authority, payable from the Revenues, and secured by a charge and lien on the Revenues as defined in the Indenture, consisting principally of installment payments made by the City under an Installment Sale Agreement dated as of April 1, 2008, between the Authority and the City (the "Installment Sale Agreement"). As and to the extent set forth in the Indenture, all of the Revenues are exclusively and irrevocably pledged in accordance with the terms hereof and the provisions of the Indenture, to the payment of the principal of and interest and premium (if any) on the Bonds and any Additional Bonds, which may be issued only in accordance with the terms of the Indenture.

The rights and obligations of the Authority and the owners of the Bonds may be modified or amended at any time in the manner, to the extent and upon the terms provided in the Indenture, but no such modification or amendment shall extend the fixed maturity of any Bonds, or reduce the amount of principal thereof or premium (if any) thereon, or extend the time of payment, or change the method of computing the rate of interest thereon, or extend the time of payment of interest thereon, without the consent of the owner of each Bond so affected.

The Bonds maturing on or before June 1, 20\_\_\_, are not subject to optional redemption prior to their respective stated maturity dates. The Bonds maturing on or after June 1, 20\_\_\_, are subject to redemption in whole, or in part at the Written Request of the Authority among maturities on such basis as the Authority may designate and by lot within a maturity, at the option of the Authority, on any Interest Payment Date on or after June 1, 20\_\_\_, from any available source of funds, at a redemption price equal the principal amount of the Bonds to be redeemed, plus accrued interest to the date of redemption, without premium.

The Bonds are also subject to redemption as a whole, or in part by lot, on any date, to the extent of any net proceeds of hazard or title insurance with respect to the water system of

the City (the "Water Enterprise") or any portion thereof which are not used to repair or replace the System pursuant to the Installment Sale Agreement, or to the extent of any net proceeds arising from the disposition of the Water Enterprise or any portion thereof in eminent domain proceedings which the City elects to be used for such purpose pursuant to the Installment Sale Agreement, at a redemption price equal to the principal amount thereof plus interest accrued thereon to the date fixed for redemption, without premium.

The Bonds maturing June 1, 20\_\_ and June 1, 20\_\_ (the "Term Bonds") shall also be subject to redemption in whole, or in part by lot, on June 1 in each of the years as set forth in the following table, from deposits made for such purpose pursuant to the Indenture, at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium, or in lieu thereof shall be purchased pursuant to the Indenture, in the aggregate respective principal amounts and on the respective dates as set forth in the following table; provided, however, that if some but not all of the Term Bonds have been redeemed pursuant to the optional or mandatory redemption provisions described above, the total amount of all future payments with respect to such Term Bonds shall be reduced by the aggregate principal amount of such Term Bonds so redeemed, to be allocated among such payments on a pro rata basis in integral multiples of \$5,000 as determined by the Authority (written notice of which determination shall be given by the Authority to the Trustee).

Term Bonds Maturing June 1, 20\_\_

Sinking Fund Redemption Date <u>(June 1)</u>	Principal Amount To Be <u>Redeemed</u>
--	--

Term Bonds Maturing June 1, 20\_\_

Sinking Fund Redemption Date <u>(June 1)</u>	Principal Amount To Be <u>Redeemed</u>
--	--

Term Bonds Maturing June 1, 20\_\_

Sinking Fund  
Redemption Date  
(June 1)

Principal  
Amount To Be  
Redeemed

As provided in the Indenture, notice of redemption will be mailed by the Trustee by first class mail not less than 30 nor more than 60 days prior to the redemption date to the respective owners of any Bonds designated for redemption at their addresses appearing on the registration books of the Trustee, but neither failure to receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for redemption or the cessation of accrual of interest thereon from and after the date fixed for redemption.

If this Bond is called for redemption and payment is duly provided therefor as specified in the Indenture, interest shall cease to accrue hereon from and after the date fixed for redemption.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Trust Office, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, 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. This Bond may be exchanged at the Trust Office for Bonds of the same tenor, aggregate principal amount, interest rate and maturity, of other authorized denominations.

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

Unless this Bond is presented by an authorized representative of The Depository Trust Company to the Authority or the Trustee for registration of transfer, exchange or payment, and any Bond issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

It is hereby certified by the Authority 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, form and manner as required by the Indenture and the laws of the State of California and that the amount of this Bond, together with all other indebtedness of the Authority, does not exceed any limit prescribed by the Indenture or any laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until the certificate of authentication hereon endorsed shall have been manually signed by the Trustee.

IN WITNESS WHEREOF, the City of Beverly Hills Public Financing Authority has caused this Bond to be executed in its name and on its behalf with the facsimile signature of its Executive Director and attested to by the facsimile signature of its Secretary, all as of the Original Issue Date specified above.

**CITY OF BEVERLY HILLS PUBLIC  
FINANCING AUTHORITY**

By \_\_\_\_\_  
Executive Director

Attest:

\_\_\_\_\_  
Secretary

**CERTIFICATE OF AUTHENTICATION**

This is one of the Bonds described in the within-mentioned Indenture.

Dated:

**U.S. BANK NATIONAL ASSOCIATION, as**  
*Trustee*

By \_\_\_\_\_  
Authorized Signatory

**ASSIGNMENT**

For value received the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ whose address and social security or other tax identifying number is \_\_\_\_\_, the within-mentioned Bond and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_ attorney, to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_  
Note: Signature(s) must be guaranteed by an eligible guarantor institution.

\_\_\_\_\_  
Note: The signature(s) 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.

**APPENDIX B**  
**FORM OF**  
**PROJECT FUND WRITTEN REQUISITION**

**WRITTEN REQUISITION NO.:** \_\_\_\_\_

U.S. Bank National Association  
633 West Fifth Street, 24th Floor  
Los Angeles, California 90071  
Attention: Corporate Trust

Re: \$\_\_\_\_\_ City of Beverly Hills Public Financing Authority 2008 Water  
Revenue Bonds, Series A

Ladies and Gentlemen:

In accordance with the terms of an Indenture, dated as of April 1, 2008 (the "Indenture"), by and between you and the City of Beverly Hills Public Financing Authority, you are hereby authorized and requested to make immediate disbursement of funds held by you in the Project Fund for Project Costs (as defined in the Indenture) pursuant to Section 3.04 of the Indenture.

You are hereby requested to pay from the Project Fund established by the Indenture, to the person(s), corporation(s) or other entity(ies) designated on Schedule A attached hereto, in payment of all or a portion of the Project Costs, as described on said Schedule.

The undersigned hereby certifies that (i) no part of the amount requested herein has been included in any other request previously filed with you; (ii) to the knowledge of the undersigned, there has not been filed with or served upon the City any notice of any lien or attachment upon or claim (except for any preliminary notice of lien as may be filed in accordance with law) affecting the right of the person, corporation or other entity stated below to receive payment of the amount stated below, which lien has not been released or will not be released simultaneously with the payment requested hereunder; and (iii) the labor, services and/or materials covered hereby have been performed upon or furnished relating to the Project Costs and the payment requested herein is due and payable under a purchase order, contract or other authorization;

Dated: \_\_\_\_\_, 200\_.

CITY OF BEVERLY HILLS

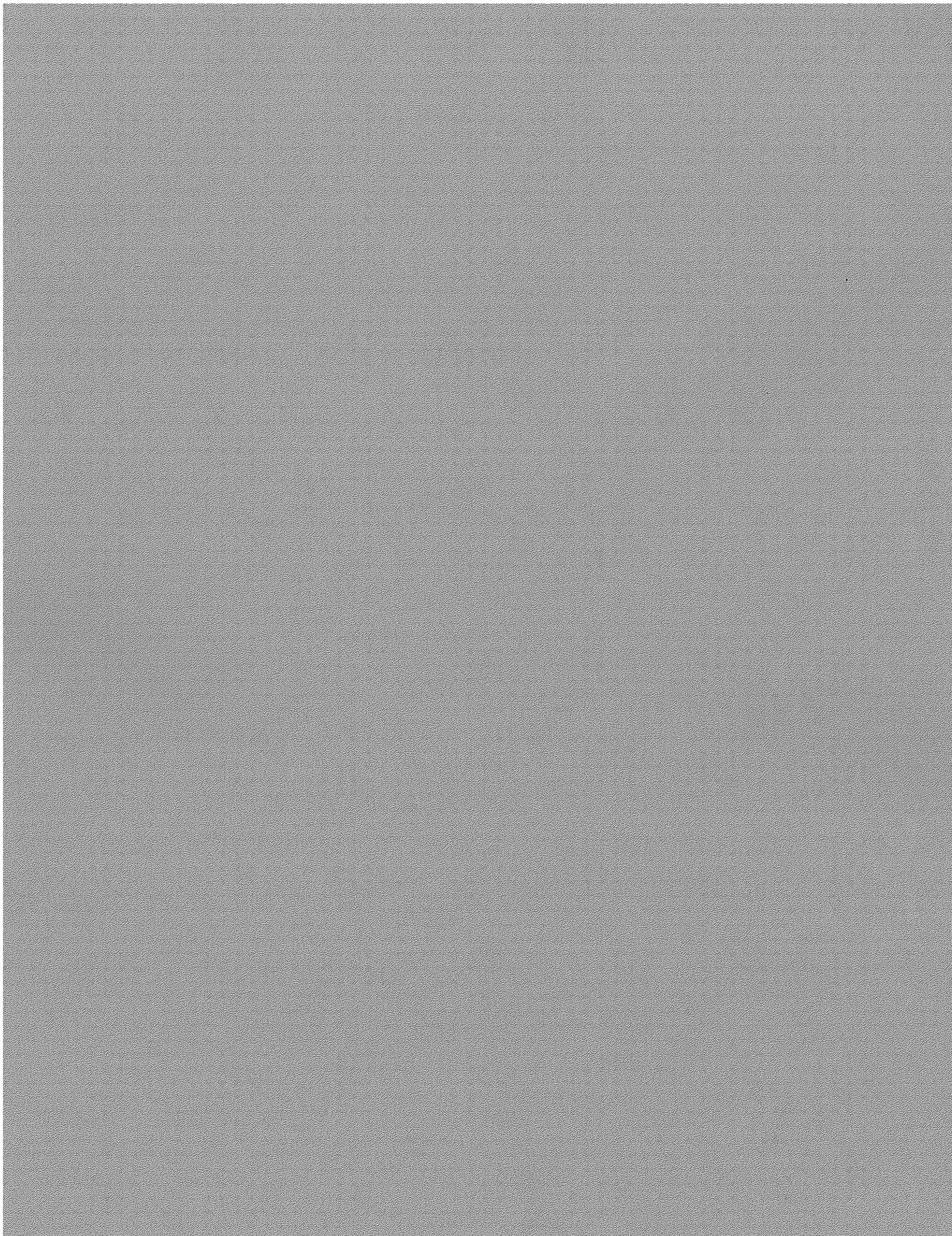
By: \_\_\_\_\_  
Authorized Representative

SCHEDULE A

Payee  
(include address)

Description  
of Costs

Amount



# IRREVOCABLE REFUNDING INSTRUCTIONS

Relating to

\$ \_\_\_\_\_  
**City of Beverly Hills Public Financing Authority**  
**2008 Water Revenue Bonds, Series A**

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These IRREVOCABLE REFUNDING INSTRUCTIONS (these "Instructions"), are dated April \_\_, 2008, and are given by the CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority organized and existing under the laws of the State of California (the "Authority"), the CITY OF BEVERLY HILLS, a municipal corporation duly organized and existing under the laws of the State of California (the "City"), to U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, acting as trustee (the "1998 Trustee") for the Series 1998A Bonds (as defined below).

## *BACKGROUND:*

1. The Authority has previously financed and refinanced the acquisition and construction of certain improvements to the City's water enterprise (the "Water Enterprise") through the issuance of its bonds captioned "City of Beverly Hills Public Financing Authority Water Revenue Refunding Bonds, Series 1998A" (the "Series 1998A Bonds") pursuant to an Indenture of Trust dated as of September 1, 1998, between the Authority and the 1998 Trustee (the "1998 Indenture").

2. The principal of and interest on the Series 1998A Bonds were payable from certain payments made by the City pursuant to an Installment Sale Agreement dated as of September 1, 1998 (the "1998 Agreement"), between the Authority and the City, under which the City was obligated to make certain installment payments (the "1998 Installment Payments") and certain additional payments to the Authority in order to provide the Authority with sufficient revenues to pay debt service on the Series 1998A Bonds.

3. The Series 1998A Bonds are subject to redemption in full on any date on or after June 1, 2008.

4. In order to raise funds to provide for the redemption of the Series 1998A Bonds, among others purposes, the Authority has authorized the issuance of its bonds captioned "City of Beverly Hills Public Financing Authority 2008 Water Revenue Bonds, Series A," in the aggregate principal amount of \$ \_\_\_\_\_ (the "2008 Bonds") under an Indenture of Trust dated as of April 1, 2008 (the "2008 Indenture"), between the Authority and U.S. Bank National Association, as trustee (the "2008 Trustee").

5. The Authority and the City wish to apply a portion of the proceeds of the 2008 Bonds, together with certain other moneys, to pay debt service on the Series 1998A Bond maturing on June 1, 2008, and to redeem the Series 1998A Bonds maturing on and after June 1, 2009, as set forth in Exhibit B hereto, on June 1, 2008, and to discharge the City's obligations to make the corresponding 1998 Installment Payments under the 1998 Agreement.

6. The City and the Authority have determined that it is in their best financial interests at this time to reduce the interest rate on its obligations by the current refunding and discharge of all obligations with respect to the outstanding Series 1998A Bonds and the 1998 Agreement.

7. The Authority and the City wish to give these Instructions to the 1998 Trustee for the purpose of establishing an irrevocable escrow fund and providing the terms and conditions relating to the deposit and application of moneys and securities to provide for the prepayment of the 1998 Installment Payments under the 1998 Agreement (under Sections 8.1 and 8.2 of the 1998 Agreement) and the redemption in full of the Series 1998A Bonds (under Section 4.01(a) of the 1998 Indenture) on June 1, 2008.

NOW, THEREFORE, the Authority and the City hereby irrevocably instruct the 1998 Trustee as follows:

**Section 1. Establishment of Escrow Fund.** The 1998 Trustee is hereby directed to establish and hold a special fund to be known as the "Escrow Fund." All cash and securities in the Escrow Fund are hereby irrevocably pledged as a special trust fund for the prepayment of the City's obligations under the 1998 Agreement pursuant to Sections 4.4 and 8.1 thereof, the payment of the principal and interest coming due on the Series 1998A Bonds on June 1, 2008, and the redemption of the outstanding Series 1998A Bonds accordance with Section 4.01(a) of the 1998 Indenture. The 1998 Trustee shall have no lien upon or right of set off against the securities and cash at any time on deposit in the Escrow Fund.

**Section 2. Deposit into Escrow Fund; Investment of Amounts.** (a) Concurrently with delivery of the Bonds, the Authority shall cause the 2008 Trustee to transfer to the 1998 Trustee for deposit into the Escrow Fund the amount of \$\_\_\_\_\_ in immediately available funds to be derived from a portion of the proceeds of sale of the 2008 Bonds. Additionally, the 1998 Trustee shall transfer the following amounts into the Escrow Fund: (i) \$\_\_\_\_\_ on deposit in the Interest Account and Principal Account of the Bond Fund established under the 1998 Indenture, and (ii) \$\_\_\_\_\_ on deposit in the Reserve Account of the Bond Fund established under the 1998 Indenture. As a result, the total amount on deposit in the Escrow Fund as of the date hereof shall be \$\_\_\_\_\_.

(b) The 1998 Trustee shall invest \$\_\_\_\_\_ of the amounts deposited in the Escrow Fund in the securities described in Exhibit A hereto (the "Investment Security"). The Investment Security shall be deposited with and held by the 1998 Trustee in the Escrow Fund solely for the uses and purposes set forth herein. Earnings on the investment of amounts deposited in the Escrow Fund shall be credited to and deposited in the Escrow Fund. Upon the receipt by the 1998 Trustee of any cash from the maturity of the Investment Security or otherwise, the 1998 Trustee shall hold such cash uninvested until required to make a payment pursuant to Section 4 hereof. The remaining amount on deposit in the Escrow Fund, being \$\_\_\_\_\_, shall be held by the Trustee uninvested.

**Section 3. Proceedings for Redemption of Series 1998A Bonds.** The City hereby irrevocably elects, and directs the 1998 Trustee, to redeem, on June 1, 2008, the outstanding Series 1998A Bonds (other than the Series 1998A Bond maturing on June 1, 2008, which is being paid at its maturity) pursuant to the provisions of Section 4.01(a) of the 1998 Indenture. The 1998 Trustee shall give notice of this redemption on a timely basis in accordance with Section 4.03 of the 1998 Indenture.

**Section 4. Application of Funds to Redeem Series 1998A Bonds.** The 1998 Trustee shall apply the amounts on deposit in the Escrow Fund to pay regularly scheduled debt service

on the Series 1998A Bonds on June 1, 2008, and to redeem the Series 1998A Bonds maturing on and after June 1, 2009, on June 1, 2008, at a redemption price equal to 101% of the principal amount thereof plus accrued and unpaid interest thereon.

**Section 5. Transfer of Remaining Funds.** On June 1, 2008, following the payment, prepayment and redemption described above, and payment of any amounts then owed to the 1998 Trustee, the 1998 Trustee shall withdraw any amounts remaining on deposit in the Escrow Fund or in any other funds or accounts established under the 1998 Indenture and transfer those amounts to the Interest Account of the Bond Fund established under the 2008 Indenture for the 2008 Bonds.

**Section 6. Amendment.** These Instructions shall be irrevocable by the Authority and the City. These Instructions may be amended or supplemented by the Authority and the City, but only if the Authority and the City file with the 1998 Trustee (a) an opinion of nationally recognized bond counsel engaged by the Authority or the City stating that such amendment or supplement will not, of itself, adversely affect the exclusion from gross income of interest represented by the Series 1998A Bonds or the 2008 Bonds under federal income tax law, and (b) a certification of an independent accountant or independent financial adviser engaged by the Authority or the City stating that such amendment or supplement will not affect the sufficiency of funds invested and held hereunder to make the payments required by Section 4.

**Section 7. Concerning the 1998 Trustee.** The 1998 Trustee shall not be liable for any loss from any investment made by it in accordance with the terms of these Instructions.

The 1998 Trustee shall not be liable for the recitals or representations contained in these Instructions and shall not be responsible for the sufficiency of the Escrow Fund or the moneys and Investment Security to pay the principal, interest and redemption premium on the Series 1998A Bonds.

The protections, limitations from liability and indemnities provided to the 1998 Trustee under the 1998 Indenture shall be afforded to the 1998 Trustee in acting pursuant to these Instructions and such provisions of the 1998 Indenture are incorporated by reference herein, including, without limitation, Article VI of the 1998 Indenture.

\* \* \* \* \*

**Section 8. Governing Law.** These Instructions shall be construed in accordance with and governed by the Constitution and laws of the State of California.

Dated: \_\_\_\_\_, 2008

**CITY OF BEVERLY HILLS**

By \_\_\_\_\_  
Director of Administrative Services and  
Chief Financial Officer

**CITY OF BEVERLY HILLS PUBLIC  
FINANCING AUTHORITY**

By \_\_\_\_\_  
Chief Financial Officer

EXHIBIT A

DESCRIPTION OF INVESTMENT SECURITY

<u>Type</u>	<u>Coupon</u>	<u>Maturity</u>	<u>Par Amount</u>	Total Purchase <u>Price</u>
_____	_____%	June 1, 2008	\$ _____	\$ _____

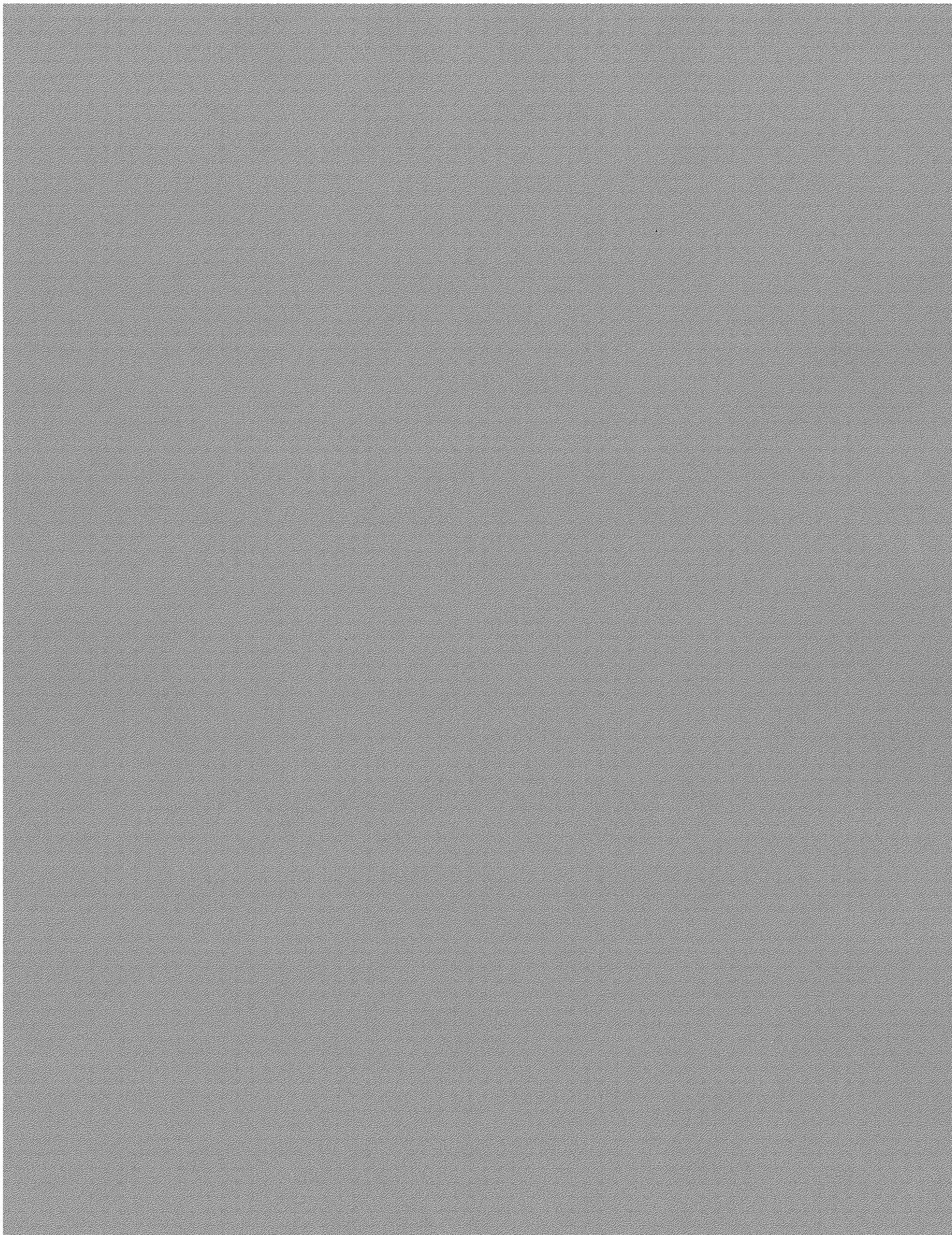
## EXHIBIT B

### Outstanding Series 1998A Bonds

<u>Maturity Date</u> <u>(June 1)</u>	<u>Par</u> <u>Amount</u>	<u>Coupon</u>
2008 [1]	\$520,000	4.200%
2009 [2]	540,000	4.300
2010 [2]	565,000	4.400
2011 [2]	590,000	4.500
2012 [2]	610,000	4.600
2013 [2]	640,000	4.700
2014 [2]	670,000	4.750
2015 [2]	705,000	4.750
2016 [2]	735,000	4.750
2017 [2]	775,000	4.750
2018 [2]	810,000	4.750
2019 [2]	845,000	4.750
2020 [2]	885,000	4.750
2021 [2]	925,000	4.750
2022 [2]	975,000	4.750

[1] To be paid at maturity on June 1, 2008.

[2] To be redeemed on June 1, 2008, at a redemption price equal to the principal amount thereof, plus a redemption premium equal to 1% of the principal amount thereof, plus accrued and unpaid interest thereon.



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**INSTALLMENT SALE AGREEMENT**

**Dated as of April 1, 2008**

**between the**

**CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY,  
*as Seller***

**and the**

**CITY OF BEVERLY HILLS,  
*as Purchaser***

**Relating to**

**\$ \_\_\_\_\_  
City of Beverly Hills Public Financing Authority  
2008 Water Revenue Bonds, Series A**

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## TABLE OF CONTENTS

		<u>Page</u>
<b>ARTICLE I</b>		
Definitions; Rules of Interpretation		
SECTION 1.1.	Definitions .....	3
SECTION 1.2.	Interpretation.....	3
<b>ARTICLE II</b>		
Representations, Covenants and Warranties		
SECTION 2.1.	Representations, Covenants and Warranties of the City .....	4
SECTION 2.2.	Representations, Covenants and Warranties of Authority .....	5
<b>ARTICLE III</b>		
Issuance of 2008 Series A Bond; Acquisition of 2008 Series A Water Project		
SECTION 3.1.	The 2008 Series A Bonds. ....	7
SECTION 3.2.	Deposit and Application of Funds.....	7
SECTION 3.3.	Acquisition of the 2008 Series A Water Project .....	7
SECTION 3.4.	Appointment of City as Agent.....	7
SECTION 3.5.	Certificate of Completion.....	7
<b>ARTICLE IV</b>		
Sale of Projects Installment Payments		
SECTION 4.1.	Sale of 2008 Series A Water Project .....	8
SECTION 4.2.	Term .....	8
SECTION 4.3.	Title .....	8
SECTION 4.4.	Installment Payments.....	8
SECTION 4.5.	Pledge and Application of Net Revenues .....	9
SECTION 4.6.	Special Obligation of the City; Obligations Absolute .....	10
SECTION 4.7.	Additional Payments .....	11
<b>ARTICLE V</b>		
Covenants of the City		
SECTION 5.1.	Disclaimer of Warranties; Maintenance, Utilities and Taxes. ....	12
SECTION 5.2.	Release and Indemnification Covenants .....	12
SECTION 5.3.	Sale or Eminent Domain of Water Enterprise .....	12
SECTION 5.4.	Insurance .....	13
SECTION 5.5.	Records and Accounts .....	13
SECTION 5.6.	Rates and Charges .....	13
SECTION 5.7.	Superior and Subordinate Obligations.....	14
SECTION 5.8.	Issuance of Parity Obligations .....	14
SECTION 5.9.	Governmental Loans.....	15
SECTION 5.10.	Operation of Water System in Efficient and Economical Manner.....	15
SECTION 5.11.	Assignment and Amendment. ....	15
SECTION 5.12.	Continuing Disclosure. ....	16

ARTICLE VI  
Events of Default

SECTION 6.1.	Events of Default Defined.....	17
SECTION 6.2.	Remedies on Default.....	17
SECTION 6.3.	No Remedy Exclusive .....	18
SECTION 6.4.	Agreement to Pay Attorneys' Fees and Expenses .....	18
SECTION 6.5.	No Additional Waiver Implied by One Waiver .....	18
SECTION 6.6.	Trustee and Bond Owners to Exercise Rights .....	18

ARTICLE VII  
Prepayment of Installment Payments

SECTION 7.1.	Security Deposit.....	19
SECTION 7.2.	Optional Prepayment Relating to the 2008 Series A Bonds.....	19
SECTION 7.3.	Mandatory Prepayment From Proceeds of Insurance, Sale or Condemnation.....	19
SECTION 7.4.	Credit for Amounts on Deposit .....	20

ARTICLE VIII  
Miscellaneous

SECTION 8.1.	Further Assurances.....	21
SECTION 8.2.	Notices.....	21
SECTION 8.3.	Governing Law.....	21
SECTION 8.4.	Binding Effect.....	21
SECTION 8.5.	Severability of Invalid Provisions .....	21
SECTION 8.6.	Article and Section Headings and References .....	22
SECTION 8.7.	Payment on Non-Business Days.....	22
SECTION 8.8.	Execution of Counterparts.....	22
SECTION 8.9.	Waiver of Personal Liability .....	22
SECTION 8.10.	Trustee as Third Party Beneficiary .....	22

APPENDIX A	Schedule of Installment Payments
APPENDIX B	Description of 2008 Series A Water Project

## INSTALLMENT SALE AGREEMENT

This INSTALLMENT SALE AGREEMENT (this "Agreement"), dated as of April 1, 2008, is between the CITY OF BEVERLY HILLS PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority duly organized and existing under the laws of the State of California (the "Authority"), as seller, and the CITY OF BEVERLY HILLS, a municipal corporation duly organized and existing under the laws of the State of California (the "City"), as purchaser.

### BACKGROUND:

1. The City presently operates facilities and property for the supply, treatment and distribution of water within the service area of the City (the "Water Enterprise"), and the City wishes to raise funds to finance additional improvements to the Water Enterprise as described in Appendix B hereto (the "2008 Series A Water Project").

2. The Authority has previously financed and refinanced the acquisition and construction of certain improvements to the Water Enterprise through the issuance of its City of Beverly Hills Public Financing Authority Water Revenue Refunding Bonds, Series 1998A (the "Series 1998A Bonds") and its City of Beverly Hills Public Financing Authority 2007 Water Revenue Bonds (the "2007 Bonds").

3. In connection with the issuance of the Series 1998A Bonds, the Authority and the City entered into an Installment Sale Agreement dated as of September 1, 1998 (the "1998 Agreement"), under which the City is obligated to make certain installment payments (the "1998 Installment Payments") and certain additional payments to the Authority in order to provide the Authority with sufficient revenues to pay debt service on the Series 1998A Bonds.

4. In connection with the issuance of the 2007 Bonds, the Authority and the City entered into an Installment Sale Agreement dated as of January 1, 2007 (the "2007 Agreement"), under which the City is obligated to make certain installment payments (the "2007 Installment Payments") and certain additional payments to the Authority in order to provide the Authority with sufficient revenues to pay debt service on the 2007 Bonds.

5. The Authority and the City at this time desire to prepay and discharge the 1998 Agreement by refunding, in full, the Series 1998A Bonds, and to raise additional funds for the acquisition of certain improvements to the City's Water Enterprise (as more specifically described in the Indenture, the "2008 Series A Water Project").

6. Section 5.8 of the 2007 Agreement permit the issuance of obligations payable on a parity with the 2007 Installment Payments (such obligations being referred to in the 2007 Agreement as "Parity Obligations").

7. The City, at this time, is entering into this Agreement with the Authority in order to prepay the 1998 Agreement and to finance the 2008 Series A Water Project, and intends that the installment payments payable by the City to the Authority hereunder be Parity Obligations under the 2007 Agreement.

8. For the purpose of obtaining funds to refund the Series 1998A Bonds and to finance the 2008 Series A Water Project, the Authority has authorized the issuance of its City of Beverly Hills Public Financing Authority 2008 Water Revenue Bonds, Series A (the "2008 Series A Bonds"), in the aggregate principal amount of \$\_\_\_\_\_ under an Indenture of Trust

dated as of April 1, 2008, by and between the Authority and U.S. Bank National Association, as trustee (the "Indenture"), and under the provisions of Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code (the "Bond Law"). The 2008 Series A Bonds will be payable from Installment Payments made under this Agreement.

*A G R E E M E N T :*

In consideration of the foregoing and the material covenants hereinafter contained, the City and the Authority formally covenant, agree and bind themselves as follows:

## ARTICLE I

### DEFINITIONS; RULES OF INTERPRETATION

**SECTION 1.1. Definitions.** Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms in this Agreement have the respective meanings given them in Article I of the Indenture.

#### **SECTION 1.2. Interpretation.**

(a) Unless the context otherwise indicates, words expressed in the singular include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and do not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof.

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

**SECTION 2.1. Representations, Covenants and Warranties of the City.** The City represents, covenants and warrants to the Authority and the Trustee as follows:

(a) Due Organization and Existence. The City is a municipal corporation duly organized and validly existing under the laws of the State of California, has full legal right, power and authority under said laws to enter into this Agreement and to carry out and consummate all transactions contemplated hereby and thereby, and by proper action the City Council of the City has duly authorized the execution and delivery of this Agreement.

(b) Due Execution. The officers of the City executing this Agreement are fully authorized to execute the same.

(c) Valid, Binding and Enforceable Obligations. This Agreement has been duly authorized, executed and delivered by the City and constitutes the legal, valid and binding agreement of the City enforceable against the City in accordance with its terms; except as the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and except as such enforceability may be subject to the exercise of judicial discretion in accordance with principles of equity.

(d) No Conflicts. The execution and delivery of this Agreement, the consummation of the transactions herein contemplated and the fulfillment of or compliance with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the City is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially adversely affect the consummation of the transactions contemplated by this Agreement or the financial condition, assets, properties or operations of the City, including but not limited to the performance of the City's obligations under this Agreement.

(e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Indenture, or the consummation of any transaction herein contemplated, except as have been obtained or made and as are in full force and effect.

(f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the City after reasonable investigation, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Indenture, or upon the financial condition, assets, properties or operations of the City, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially adversely affect the consummation of the transactions contemplated by this Indenture, or the financial conditions, assets, properties or operations of the City, including but not limited to the payment and performance of the City's obligations under this Indenture.

(g) Encumbrances. There are no easements, encumbrances or interests with respect to the Water Enterprise or the 2008 Series A Water Project that prohibit or materially impair the execution, delivery and performance of this Installment Sale Agreement or the acquisition or use of the 2008 Series A Water Project or the use of the Water Enterprise.

(h) Prior Indebtedness. The City has not issued or incurred any obligations which are currently outstanding having any priority in payment out of the Gross Revenues or the Net Revenues over the payment of the Installment Payments as provided herein.

**SECTION 2.2. Representations, Covenants and Warranties of Authority.** The Authority represents, covenants and warrants to the City and the Trustee as follows:

(a) Due Organization and Existence. The Authority is a joint exercise of powers authority organized and existing under the laws of the State of California, and has power to enter into this Agreement and the Indenture and to perform the duties and obligations imposed on it hereunder and thereunder. The Board of Directors of the Authority has duly authorized the execution and delivery of this Agreement and the Indenture.

(b) Due Execution. The representatives of the Authority executing this Agreement and the Indenture are fully authorized to execute the same.

(c) Valid, Binding and Enforceable Obligations. This Agreement and the Indenture have been duly authorized, executed and delivered by the Authority and constitute the legal, valid and binding agreements of the Authority with the Authority, enforceable against the Authority in accordance with their respective terms; except as the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and except as such enforceability may be subject to the exercise of judicial discretion in accordance with principles of equity.

(d) No Conflicts. The execution and delivery hereof and of the Indenture, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions

hereof and thereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the Authority is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Authority, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially adversely affect the consummation of the transactions contemplated hereby and by the Indenture or the financial condition, assets, properties or operations of the Authority, including but not limited to the performance of the Authority's obligations under this Agreement and the Indenture.

(e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the Authority, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery hereof or of the Indenture, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

(f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the Authority after reasonable investigation, threatened against or affecting the Authority or the assets, properties or operations of the Authority which, if determined adversely to the Authority or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Agreement or the Indenture, or upon the financial condition, assets, properties or operations of the Authority, and the Authority is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially adversely affect the consummation of the transactions contemplated by this Agreement or the Indenture or the financial conditions, assets, properties or operations of the Authority, including but not limited to the performance of the Authority's obligations hereunder and under the Indenture.

(g) Encumbrances. To the best knowledge of the Authority, there are no easements, encumbrances or interests with respect to the Water Enterprise or the 2008 Series A Water Project that prohibit or materially impair the execution, delivery and performance of this Installment Sale Agreement or the acquisition or use of the 2008 Series A Water Project or the use of the Water Enterprise.

### ARTICLE III

#### ISSUANCE OF 2008 SERIES A BOND; ACQUISITION OF 2008 SERIES A WATER PROJECT

**SECTION 3.1. The 2008 Series A Bonds.** The Authority shall cause the 2008 Series A Bonds to be issued under the Indenture in the aggregate principal amount of \$\_\_\_\_\_. The Trustee shall deposit the proceeds of sale of the 2008 Series A Bonds received by it on the Closing Date in accordance with the Indenture. The City hereby approves the Indenture, the assignment thereunder to the Trustee of certain rights of the Authority, and the issuance of the 2008 Series A Bonds.

**SECTION 3.2. Deposit and Application of Funds.** The proceeds received by the Trustee from the sale of the 2008 Series A Bonds to the Original Purchaser shall be deposited in the respective funds and accounts, and in the respective amounts, as set forth in Section 3.02 of the Indenture.

**SECTION 3.3. Acquisition of the 2008 Series A Water Project.** The Authority hereby agrees with due diligence to supervise and provide for, or cause to be supervised and provided for, the acquisition of the 2008 Series A Water Project in accordance with all documents relating thereto and approved by the City under all applicable requirements of law. All contracts for the acquisition of the 2008 Series A Water Project are subject to all applicable provisions of law relating to the acquisition of public works by the City. The Authority expects that the 2008 Series A Water Project will be completed on or before \_\_\_\_\_, 2008. The failure of the Authority to complete the 2008 Series A Water Project by that date does not constitute an Event of Default hereunder or a grounds for termination hereof, nor does any such failure result in the diminution, abatement or extinguishment of the obligations of the City hereunder to pay the Installment Payments when due hereunder.

**SECTION 3.4. Appointment of City as Agent.** The Authority hereby appoints the City as its agent to carry out all phases of the acquisition of the 2008 Series A Water Project under and in accordance with the provisions hereof. The City hereby accepts such appointment and assumes all rights, liabilities, duties and responsibilities of the Authority regarding the acquisition of the 2008 Series A Water Project. As agent of the Authority hereunder, the City shall enter into, administer and enforce all purchase orders or other contracts relating to the 2008 Series A Water Project. Payment of Project Costs shall be made by the City from amounts held by the Trustee in the Project Fund in accordance with the provisions of this Agreement and the provisions of the Indenture.

**[SECTION 3.5. Certificate of Completion.** Upon the completion of the 2008 Series A Water Project, but in any event not later than 30 days following such completion, an Authorized Representative of the City shall execute and deliver to the Authority and the Trustee a Written Certificate of the City which (a) states that the construction of the 2008 Series A Water Project has been substantially completed, and (b) identifies the total Project Costs thereof.]

## ARTICLE IV

### SALE OF PROJECTS; INSTALLMENT PAYMENTS

**SECTION 4.1. Sale of 2008 Series A Water Project and 1998 Water Project.** The Authority hereby sells, bargains and conveys the 2008 Series A Water Project and the 1998 Water Project to the City, and the City hereby purchases the 2008 Series A Water Project and the 1998 Water Project from the Authority, upon the terms and conditions set forth in this Agreement.

**SECTION 4.2. Term.** The Term of this Agreement commences on the Closing Date, and ends on June 1, 20\_\_, or such later or earlier date on which the Bonds cease to be Outstanding under and within the meaning of the Indenture.

**SECTION 4.3. Title.** Title to the Water Enterprise, including the 2008 Series A Water Project and the 1998 Water Project, and each component thereof, shall be deemed conveyed by the Authority to and vested in the City upon the completion of the acquisition thereof. The Authority and the City will execute, deliver and cause to be recorded any and all documents reasonably required by the City to consummate the transfer of title to the Water Enterprise, including the 2008 Series A Water Project and the 1998 Water Project to the City.

#### **SECTION 4.4. Installment Payments.**

(a) Obligation to Pay. The City hereby agrees to pay to the Authority, as the purchase price of the 2008 Series A Water Project and the 1998 Water Project hereunder, the aggregate principal amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) together with interest (calculated on the basis of a 360-day year of twelve 30-day months) on the unpaid principal balance thereof, payable in semiannual installment payments in the respective amounts and on the respective Installment Payment Dates specified in Appendix A hereto. The total Installment Payments shall be allocated between the 2008 Series A Water Project and the 1998 Water Project in accordance with the respective schedules set forth in Appendix A.

The City shall deposit the Installment Payment coming due and payable on any Interest Payment Date with the Trustee, as assignee of the Authority under the Indenture, on the related Installment Payment Date (as set forth in Exhibit A hereto) in an amount which, together with amounts then held by the Trustee in the Installment Payment Fund, is equal to the full amount of such Installment Payment. The Installment Payments are secured by and payable solely from the sources specified in Section 4.5.

The Installment Payments shall constitute Parity Obligations under the 2007 Agreement.

(b) Effect of Prepayment. If the City prepays all remaining Installment Payments in full under Section 7.2 or Section 7.3, or under the relevant provisions of any Supplemental Agreement, the City's obligations under this Agreement shall thereupon cease and terminate, including but not limited to the City's obligation to pay Installment Payments therefor under this Section 4.4; *provided, however*, that the City's obligations to compensate and indemnify the Trustee under Sections 4.7 and 5.2 will survive such prepayment. If the City prepays the Installment Payments in part but not in whole under Section 7.2 or Section 7.3, or under the relevant provisions of any Supplemental Agreement, the principal component of each

succeeding Installment Payment will be reduced as provided in such Sections or in the such Supplemental Agreement, and the interest component of each remaining Installment Payment will be reduced by the aggregate corresponding amount of interest which would otherwise be payable with respect to the Bonds thereby redeemed under the applicable provisions of the Indenture.

(c) Rate on Overdue Payments. If the City fails to make any of the payments required in this Section 4.4 and Section 4.8, the payment in default will continue as an obligation of the City until fully paid, and the City agrees to pay the same with interest thereon, from the date of default to the date of payment, at the Overdue Rate.

(d) Assignment. The City understands and agrees that certain rights of the Authority, including but not limited to the right of the Authority to receive payment of the Installment Payments, have been assigned by the Authority to the Trustee in trust under the Indenture, for the benefit of the Owners of the Bonds, and the City hereby consents to such assignment. The Authority hereby directs the City, and the City hereby agrees, to pay to the Trustee at its Trust Office, all payments payable by the City under this Section 4.4 and all amounts payable by the City under Article VII.

#### **SECTION 4.5. Pledge and Application of Net Revenues.**

(a) Pledge of Net Revenues. All of the Net Revenues and all moneys on deposit in any of the funds and accounts established and held by the Trustee under the Indenture are hereby irrevocably pledged, charged and assigned to the punctual payment of the Installment Payments. Such pledge, charge and assignment constitute a lien on the Net Revenues and such other moneys for the payment of the Installment Payments in accordance with the terms hereof, on a parity with the pledge and lien which secures any Parity Obligations.

(b) Deposit of Net Revenues Into Water Enterprise Fund; Transfers to Make Payments. The City has previously established the Water Enterprise Fund, which the City will continue to hold and maintain for the purposes and uses set forth herein. The City shall deposit all of the Gross Revenues in the Water Enterprise Fund immediately upon receipt. The City shall apply amounts in the Water Enterprise Fund as set forth in this Agreement and any Parity Obligations Documents. Amounts on deposit in the Water Enterprise Fund shall be applied by the City to pay when due the following amounts in the following order of priority:

- (i) all Operation and Maintenance Costs;
- (ii) the Installment Payments and all payments of principal of and interest on any Parity Obligations;
- (iii) to the Trustee the amount of any deficiency in the Reserve Account established for the Bonds and in any reserve fund established for Parity Obligations, the notice of which deficiency has been given to the City in accordance with the Indenture and the related Parity Obligations Documents, respectively;
- (iv) any other payments required to comply with the provisions of this Agreement (including Additional Payments) and any Parity Obligations Documents; and

(v) any other purposes authorized under subsection (d) of this Section 4.5.

(c) No Preference or Priority. Payment of the Installment Payments and the principal of and interest on any Parity Obligations shall be made without preference or priority among the Installment Payments and such Parity Obligations. If the amount of Net Revenues on deposit in the Water Enterprise Fund is any time insufficient to enable the City to pay when due the Installment Payments and the principal of and interest on any Parity Obligations, such payments shall be made on a pro rata basis.

(d) Other Uses of Gross Revenues Permitted. The City shall manage, conserve and apply the Gross Revenues on deposit in the Water Enterprise Fund in such a manner that all deposits required to be made under the preceding subsection (b) will be made at the times and in the amounts so required. Subject to the foregoing sentence, so long as no Event of Default has occurred and is continuing, the City may use and apply moneys in the Water Enterprise Fund for (i) the payment of any subordinate obligations or any unsecured obligations, (ii) the acquisition and construction of improvements to the Water Enterprise, (iii) the prepayment of any other obligations of the City relating to the Water Enterprise, or (iv) any other lawful purposes of the City.

(e) Budget and Appropriation of Installment Payments. During the Term of this Agreement, the City shall adopt all necessary budgets and make all necessary appropriations of the Installment Payments from the Net Revenues. If any Installment Payment requires the adoption by the City of any supplemental budget or appropriation, the City shall promptly adopt the same. The covenants on the part of the City contained in this subsection (e) constitute duties imposed by law and it is the duty of each and every public official of the City to take such actions and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this subsection (e).

**SECTION 4.6. Special Obligation of the City; Obligations Absolute.** The City's obligation to pay the Installment Payments and any other amounts coming due and payable hereunder is a special obligation of the City limited solely to the Net Revenues. Under no circumstances is the City required to advance moneys derived from any source of income other than the Net Revenues and other sources specifically identified herein for the payment of the Installment Payments and such other amounts. No other funds or property of the City are liable for the payment of the Installment Payments and any other amounts coming due and payable hereunder.

The obligations of the City to pay the Installment Payments from the Net Revenues and to perform and observe the other agreements contained herein are absolute and unconditional and are not subject to any defense or any right of set-off, counterclaim or recoupment arising out of any breach by the Authority or the Trustee of any obligation to the City or otherwise with respect to the Water Enterprise, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the City by the Authority or the Trustee. Until all of the Installment Payments, all of the Additional Payments and all other amounts coming due and payable hereunder are fully paid or prepaid, the City (a) will not suspend or discontinue payment of any Installment Payments, Additional Payments or such other amounts, (b) will perform and observe all other agreements contained in this Agreement, and (c) will not terminate this Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Water Enterprise, failure to complete the acquisition of the 2008

Series A Water Project by the estimated completion date thereof, sale of the Water Enterprise, the taking by eminent domain of title to or temporary use of any component of the Water Enterprise, commercial frustration of purpose, any change in the tax or law other laws of the United States of America or the State of California or any political subdivision of either thereof, or any failure of the Authority or the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Indenture or this Agreement.

The foregoing provisions of this Section 4.6 do not release the Authority from the performance of any of the agreements on its part contained herein or in the Indenture, and if the Authority fails to perform any such agreements, the City may institute such action against the Authority as the City deems necessary to compel performance, so long as such action does not abrogate the obligations of the City contained in the preceding paragraph. The City may, however, at its cost and expense and in its name or in the name of the Authority, prosecute or defend any action or proceeding or take any other action involving third persons which the City deems reasonably necessary in order to secure or protect the City's rights hereunder, and in such event the Authority shall cooperate fully with the City and shall take such action necessary to effect the substitution of the City for the Authority in such action or proceeding if the City may request.

**SECTION 4.7. Additional Payments.** In addition to the Installment Payments, the City shall pay when due the following amounts to the following parties:

- (a) to the Authority, all costs and expenses incurred by the Authority to comply with the provisions of this Agreement and the Indenture;
- (b) to the Trustee upon request therefor, all of its fees, costs and expenses payable as a result of the performance of and compliance with its duties hereunder or under the Indenture or any related documents;
- (c) to the Authority and the Trustee, all amounts required to indemnify the Authority and the Trustee under Section 5.2 hereof and Section 8.07 of the Indenture; and
- (d) all costs and expenses of auditors, engineers and accountants for professional services relating to the Water Enterprise or the Bonds.

The Additional Payments shall be payable from, but shall not be secured by a pledge or lien upon, the Net Revenues. The rights of the Trustee and the Authority under this Section 4.7, and the obligations of the City under this Section 4.7, shall survive the termination of this Agreement.

## ARTICLE V

### COVENANTS OF THE CITY

#### **SECTION 5.1. Disclaimer of Warranties; Maintenance, Utilities and Taxes.**

(a) The Trustee makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the City of the Project or any component thereof, or any other representation or warranty with respect to any of the Project or any component thereof. In no event is the Authority liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Agreement or the Indenture for the existence, furnishing, functioning or use of the Project.

(b) Throughout the Term of this Agreement, all improvement, repair and maintenance of the Water Enterprise shall be the responsibility of the City, and the City shall pay for or otherwise, arrange for the payment of all utility services supplied to the Water Enterprise, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, water and all other utility services, and shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Water Enterprise resulting from ordinary wear and tear.

The City shall also pay or cause to be paid all taxes and assessments of any type or nature, if any, charged to the Authority or the City affecting the Water Enterprise or the respective interests or estates therein; provided, however, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the City shall be obligated to pay only such installments as are required to be paid during the Term of this Agreement as and when the same become due.

**SECTION 5.2. Release and Indemnification Covenants.** The City agrees to indemnify the Authority and the Trustee and their respective officers, agents, successors and assigns, against all claims, losses and damages, including legal fees and expenses, arising out of (a) the use, maintenance, condition or management of, or from any work or thing done on or about the Water Enterprise by the City, (b) any breach or default on the part of the City in the performance of any of its obligations under this Agreement or the Indenture, (c) any act or omission of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Water Enterprise, and (d) any act or omission of any lessee of the City with respect to the Water Enterprise. No indemnification is made under this Section 5.2 or elsewhere in this Agreement for willful misconduct or negligence under this Agreement by the Authority, or the Trustee, or their respective officers, agents, employees, successors or assigns. The provisions of this Section 5.2 shall survive the expiration of the Term of this Agreement.

**SECTION 5.3. Sale or Eminent Domain of Water Enterprise.** Except as provided herein, the City covenants that the Water Enterprise shall not be encumbered, sold, leased, pledged, have any charge placed thereon, or otherwise be disposed of, as a whole or substantially as a whole, if such encumbrance, sale, lease, pledge, charge or other disposition would materially impair the ability of the City to pay the Installment Payments or the principal of or interest on any Parity Obligations, or would materially adversely affect its ability to comply with the terms of this Agreement or any Parity Obligations Documents. The City may not enter into any agreement which impairs the operation of the Water Enterprise or any part of it necessary to secure adequate Net Revenues to pay the Installment Payments or any Parity

Obligations, or which otherwise would impair the rights of the Bond Owners or the Trustee with respect to the Net Revenues. If any substantial part of the Water Enterprise is sold, the payment therefor shall either (a) be used for the acquisition or construction of improvements to the Water Enterprise, or (b) be applied on a pro rata basis to (i) prepay the Installment Payments on the next available prepayment date under Section 7.3, and (ii) redeem any Parity Obligations in accordance with the related Parity Obligations Documents.

Any amounts received as awards as a result of the taking of all or any part of the Water Enterprise by the lawful exercise of eminent domain, if and to the extent that such right can be exercised against such property of the City, shall either (a) be used for the acquisition or construction of improvements to the Water Enterprise, or (b) be applied on a pro rata basis to (i) prepay the Installment Payments on the next available prepayment date under Section 7.3, and (ii) redeem any Parity Obligations in accordance with the related Parity Obligations Documents.

**SECTION 5.4. Insurance.** The City shall at all times maintain with responsible insurers all such insurance on the Water Enterprise as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to the Water Enterprise. The City shall apply any amounts collected from insurance against accident to or destruction of any portion of the Water Enterprise, at its option, either (a) to repair or rebuild such damaged or destroyed portion of the Water Enterprise, or (b) to prepay on a pro rata basis (i) the Installment Payments on the next available prepayment date under Section 7.3 or the applicable Supplemental Agreement, and (ii) any Parity Obligations in accordance with the related Parity Obligations Documents.

The City shall also maintain, with responsible insurers, worker's compensation insurance and insurance against public liability and property damage to the extent reasonably necessary to protect the City, the Authority, the Trustee and the Owners of the Bonds.

Any policy of insurance required under this Section 5.4 may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of self-insurance by the City or in the form of the participation by the City in a joint powers agency or other program providing pooled insurance.

**SECTION 5.5. Records and Accounts.** The City shall keep proper books of record and accounts of the Water Enterprise in which complete and correct entries shall be made of all transactions relating to the Water Enterprise. Said books shall, upon prior request, be subject to the reasonable inspection of the Owners of not less than 10% of the Outstanding Bonds, or their representatives authorized in writing, upon not less than 2 Business Days' prior notice to the City.

The City shall cause the books and accounts of the Water Enterprise to be audited annually by an Independent Accountant not more than 9 months after the close of each Fiscal Year, and shall make a copy of such report available for inspection by the Bond Owners at the office of the City and at the Trust Office of the Trustee. Such report may be part of a combined financial audit or report covering all or part of the City's finances.

**SECTION 5.6. Rates and Charges.**

(a) Covenant Regarding Gross Revenues. The City shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Water Enterprise during each Fiscal Year, which are at least sufficient, after making allowances for contingencies

and error in the estimates, to yield Gross Revenues sufficient to pay the following amounts in the following order of priority:

(i) All Operation and Maintenance Costs estimated by the City to become due and payable in such Fiscal Year;

(ii) All Installment Payments and all payments of principal of and interest on any Parity Obligations as they become due and payable during such Fiscal Year, without preference or priority, except to the extent such Installment Payments or the principal of and interest on such Parity Obligations are payable from the proceeds of the Bonds or such Parity Obligations, as applicable, or from any source of legally available funds of the City (other than the Gross Revenues of the Water Enterprise) that have been deposited with the Trustee for such purpose before the beginning of that Fiscal Year;

(iii) All amounts, if any, required to restore the balance in the Reserve Account to the full amount of the Reserve Requirement; and

(iv) All payments required to meet any other obligations of the City which are charges, liens, encumbrances upon, or which are otherwise payable from, the Gross Revenues or the Net Revenues during such Fiscal Year, except to the extent other sources of funds are reserved or encumbered therefore.

(b) Covenant Regarding Net Revenues. In addition, the City shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Water Enterprise during each Fiscal Year that are sufficient, after making allowances for contingencies and errors in estimates, to yield Net Revenues that are at least equal to 125% of the amount described in the preceding clause (b) (i), (ii) and (iii) for such Fiscal Year.

**SECTION 5.7. Superior and Subordinate Obligations.** The City may not issue or incur any additional bonds or other obligations during the Term of this Agreement having any priority in payment of principal or interest out of the Gross Revenues or the Net Revenues over the Installment Payments. Nothing herein is intended or shall be construed to limit or affect the ability of the City to issue, enter into or incur (a) Governmental Loans payable on a priority basis to payments due hereunder or in connection with any Parity Obligations, (b) Parity Obligations under Section 5.8, or (c) obligations which are either unsecured or which are secured by an interest in the Net Revenues which is junior and subordinate to the pledge of and lien upon the Net Revenues established hereunder.

**SECTION 5.8. Issuance of Parity Obligations.** Except for obligations incurred to prepay or discharge the Installment Payments or any Parity Obligations, the City may not issue or incur any Parity Obligations during the Term hereof unless all of the following conditions are satisfied:

(a) No Event of Default has occurred and is continuing;

(b) The Net Revenues, calculated in accordance with sound accounting principles, as shown by the books of the City for the most recent completed Fiscal Year for which audited financial statements of the City are available, or for any more recent consecutive 12 month period selected by the City, in either case verified by a certificate or an opinion of an Independent Accountant or a Fiscal Consultant, plus (at the option of the City) any Additional

Revenues, at least equal 125% of Maximum Annual Debt Service (including the Parity Obligations then proposed to be issued); and

(c) There must be deposited in a reserve fund for the security of such Parity Obligations, an amount equal to the least of (i) the maximum amount of debt service required to be paid by the City with respect to such Parity Obligations during any Fiscal Year, (ii) 125% of average annual debt service required to be paid by the City with respect to such Parity Obligations during each fiscal year, and (iii) 10% of the net proceeds of such Parity Obligations; and

(d) If any of such Parity Obligations relate to Variable Rate Bonds, or a Swap Agreement is being entered in connection therewith or the related Variable Rate Bonds, the Maximum Annual Debt Service on such Variable Rate Bonds shall be calculated in accordance with the definition of Annual Debt Service and of Maximum Annual Debt Service set forth in the Indenture, including Section 3.7 thereof.

In the event the Parity Obligations are being issued solely to refund outstanding Parity Obligations, and the resulting Annual Debt Service for each Bond Year is less than the Annual Debt Service for each Bond Year prior to the issuance of the refunding Parity Obligations, the City need not comply with the provisions of paragraphs (a) and (b) above. The Parity Obligations may be, but are not required to be, in the form of Supplemental Agreements, and may, but are not required to, secure the payment of debt service on Bonds.

#### **SECTION 5.9. Governmental Loans.**

(a) The City may borrow money from a Governmental Agency and incur a Governmental Loan to finance improvements to the Water Enterprise. A Governmental Loan may be treated as a Parity Obligation for purposes of this Agreement, so long as the City complies with Sections 5.8 (a), (b) and (d) of this Agreement before incurring the Governmental Loan; the City need not comply with the provisions of Section 5.8 (c) of this Agreement in order for such Governmental Loan to be treated as a Parity Obligation hereunder.

(b) (i) A Governmental Agency shall not be entitled to be paid from monies then on hand in the Reserve Account in the event the Net Revenues are ever insufficient to make a timely payment on the Governmental Loan, and (ii) the City shall not make a payment on any Governmental Loan (except as expressly permitted in subsection (c) below) to the extent it would have the effect of causing the City to fail to make a timely payment on the Bonds.

(c) If Net Revenues are ever insufficient to pay the full amount of Installment Payments and other Parity Obligations then Outstanding and such Governmental Loan, the City shall make payments on the Installment Payments and other Parity Obligations and such Governmental Loan on a pro rata basis.

#### **SECTION 5.10. Operation of Water Enterprise in Efficient and Economical Manner.**

The City covenants and agrees to operate the Water Enterprise in an efficient and economical manner and to operate, maintain and preserve the Water Enterprise in good repair and working order.

**SECTION 5.11. Assignment and Amendment.** The Authority and the City may at any time amend or modify any of the provisions of this Agreement, but only: (a) with the prior written consents of the Owners of a majority in aggregate principal amount of the Outstanding Bonds:

or (b) without the consent of the Trustee or any of the Bond Owners, but only if such amendment or modification is for any one or more of the following purposes:

(i) to add to the covenants and agreements of the City contained in this Agreement, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or power herein reserved to or conferred upon the City;

(ii) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained herein, to conform to the original intention of the City and the Authority;

(iii) to modify, amend or supplement this Agreement in such manner as to assure that the interest on the Bonds remains excluded from gross income under the Tax Code (provided that this provision shall not apply to bonds the interest on which is intended to be included in gross income for purposes of federal income taxation);

(iv) in any other respect whatsoever as the Authority and the City deem necessary or desirable, if in the opinion of Bond Counsel such modifications or amendments do not materially adversely affect the interests of the Owners of the Bonds; and

(v) to provide for the issuance of Parity Obligations pursuant to Section 5.8 hereof, including the addition of any provisions required with respect to Parity Obligations relating to Variable Rate Bonds, and to Swap Agreements.

No such modification or amendment may (a) extend or have the effect of extending any Installment Payment Date or reducing any Installment Payment or any premium payable upon the prepayment thereof, without the express consent of the Owners of the affected Bonds, or (b) modify any of the rights or obligations of the Trustee without its written assent thereto.

**SECTION 5.12. Continuing Disclosure.** The City hereby covenants and agrees to comply with and carry out all of the provisions of the continuing disclosure certificate (the "Continuing Disclosure Certificate") as originally executed as of the date of issuance and delivery of the Bonds, and as it may be amended from time to time in accordance with its terms. The City shall direct the Dissemination Agent to provide all Annual Reports and notices of Listed Events to the Insurer, when and as such documents are provided by the City under the Continuing Disclosure Certificate. Notwithstanding any other provision of this Agreement, failure by the City to comply with the Continuing Disclosure Certificate shall not constitute a default hereunder or under the Indenture of Trust; provided, however, that any Participating Underwriter or any Owner or beneficial owner of the Bonds may take such action as may be necessary and appropriate to compel performance by the City of its obligations under this Section 5.12, including seeking mandamus or specific performance by court order. All capitalized terms used but not defined in this Section 5.12 shall have the meanings given in the Continuing Disclosure Certificate.

## ARTICLE VI

### EVENTS OF DEFAULT

**SECTION 6.1. Events of Default Defined.** The following events constitute Events of Default hereunder:

(a) Failure by the City to pay any Installment Payment when due and payable hereunder.

(b) Failure by the City to pay any Additional Payment when due and payable hereunder, and the continuation of such failure for a period of 30 days.

(c) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in the preceding clauses (a) or (b), for a period of 60 days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Authority or the Trustee; *provided, however*, that if the City notifies the Authority and the Trustee that in its reasonable opinion the failure stated in the notice can be corrected, but not within such 60-day period, such failure will not constitute an event of default hereunder if the City commences to cure such failure within such 60 day period and thereafter diligently and in good faith cures the failure in a reasonable period of time.

(d) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.

(e) The occurrence of any event defined to be an event of default under any Parity Obligations Documents.

**SECTION 6.2. Remedies on Default.** If an Event of Default occurs and is continuing, the Trustee as assignee of the Authority has the right, at its option and without any further demand or notice, to take any one or more of the following actions:

(a) Declare all principal components of the unpaid Installment Payments, together with accrued interest thereon at the Overdue Rate from the immediately preceding Interest Payment Date on which payment was made, to be immediately due and payable, whereupon the same shall immediately become due and payable.

Notwithstanding the foregoing provisions of this subsection (a), the Trustee shall rescind and annul such declaration and its consequences if, before any judgment or decree for the payment of the moneys due has been obtained or entered, if (i) the City deposits with the Trustee a sum sufficient to pay all principal components of the Installment Payments coming due prior to such declaration and all matured interest components (if any) of the Installment

Payments, with interest on such overdue principal and interest components calculated at the Overdue Rate, and (ii) the City pays the reasonable expenses of the Trustee (including any fees and expenses of its attorneys), and (iii) any and all other defaults known to the Trustee (other than in the payment of the principal and interest components of the Installment Payments due and payable solely by reason of such declaration) have been made good. No such rescission and annulment will extend to or shall affect any subsequent default, or impair or exhaust any right or power consequent thereon.

(b) Take whatever action at law or in equity may appear necessary or desirable to collect the Installment Payments then due or thereafter to become due during the Term of this Agreement, or enforce performance and observance of any obligation, agreement or covenant of the City under this Agreement.

(c) As a matter of right, in connection with the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and the Bond Owners hereunder, cause the appointment of a receiver or receivers of the Gross Revenues and other amounts pledged hereunder, with such powers as the court making such appointment may confer.

**SECTION 6.3. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Authority is intended to be exclusive. Every such remedy is cumulative and in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default impairs any such right or power or operates as a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article VI, it is not necessary to give any notice, other than such notice as may be required in this Article VI or by law.

**SECTION 6.4. Agreement to Pay Attorneys' Fees and Expenses.** If either party to this Agreement defaults under any of the provisions hereof and the nondefaulting party, the Trustee or the Owner of any Bonds employs attorneys or incurs other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party, the Trustee or such Owner, as the case may be, the reasonable fees of such attorneys and such other expenses so incurred. The provisions of this Section 6.4 survive the expiration of the Term of this Agreement.

**SECTION 6.5. No Additional Waiver Implied by One Waiver.** If any agreement contained in this Agreement is breached by either party and thereafter waived by the other party, such waiver is limited to the particular breach so waived and does not waive any other breach hereunder.

**SECTION 6.6. Trustee and Bond Owners to Exercise Rights.** Such rights and remedies as are given to the Authority under this Article VI have been assigned by the Authority to the Trustee under the Indenture, to which assignment the City hereby consents. Such rights and remedies shall be exercised by the Trustee and the Owners of the Bonds as provided in the Indenture.

## ARTICLE VII

### PREPAYMENT OF INSTALLMENT PAYMENTS

**SECTION 7.1. Security Deposit.** Notwithstanding any other provision hereof, the City may on any date secure the payment of Installment Payments, in whole or in part, by irrevocably depositing with the Trustee an amount of cash which, together with other available amounts, is either:

(a) sufficient to pay all such Installment Payments, including the principal and interest components thereof, when due under Section 4.4(a), or

(b) invested in whole or in part in non-callable Federal Securities in such amount as will, in the opinion of an Independent Accountant (which opinion is addressed and delivered to the Trustee), together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient to pay all such Installment Payments when due under Section 4.4(a) or when due on any optional prepayment date under Section 7.2, as the City instructs at the time of said deposit.

If the City makes a security deposit under this Section for the payment of all remaining Installment Payments, all obligations of the City hereunder, and the pledge of Net Revenues and all other security provided by this Agreement for said obligations, will thereupon cease and terminate, excepting only the obligation of the City to make, or cause to be made, all Installment Payments from the security deposit. The security deposit will be deemed to be and will constitute a special fund for the payment of the Installment Payments in accordance with the provisions hereof.

**SECTION 7.2. Optional Prepayment Relating to the 2008 Series A Bonds.** The City may exercise its option to prepay the principal components of the Installment Payments relating to the 2008 Series A Bonds in whole or in part on any date on or after June 1, 2012. The City may exercise such option by payment of a prepayment price equal to the sum of (a) the aggregate principal components of the Installment Payments relating to the 2008 Series A Bonds to be prepaid, (b) the interest component of the Installment Payment relating to the 2008 Series A Bonds required to be paid on or accrued to such date, and (c) the premium (if any) then required to be paid upon the corresponding redemption of the 2008 Series A Bonds under Section 4.01(a) of the Indenture. The Trustee shall deposit the prepayment price in the Installment Payment Fund to be applied to the redemption of 2008 Series A Bonds under Section 4.01(a) of the Indenture. If the City prepays the Installment Payments in part but not in whole, the principal components will be prepaid among such maturities and in such integral multiples of \$5,000 as the City designates in written notice to the Trustee.

**SECTION 7.3. Mandatory Prepayment From Proceeds of Insurance, Sale or Condemnation.** The City shall prepay the Installment Payments on any date, in whole, or in part among maturities on a pro rata basis in any integral multiple of \$5,000, from and to the extent of any proceeds of insurance, sale or condemnation awards with respect to the Water Enterprise theretofore paid to the Trustee for such purpose under Sections 5.3 or 5.4. The City and the Authority hereby agree that such proceeds, to the extent remaining after payment of any delinquent Installment Payments, will be deposited in the Installment Payment Fund and credited towards the City's obligations under this Section 7.3.

**SECTION 7.4. Credit for Amounts on Deposit.** If the City prepays the Installment Payments in full under this Article VII, such that the Indenture is discharged by its terms as a result of the prepayment, and upon payment in full of all Additional Payments and other amounts then due and payable hereunder, all available amounts then on deposit in the funds and accounts established under the Indenture shall be credited towards the amounts then required to be so prepaid.

## ARTICLE VIII

### MISCELLANEOUS

**SECTION 8.1. Further Assurances.** The City agrees that it will execute and deliver any and all such further agreements, instruments, financing statements or other assurances as may be reasonably necessary or requested by the Authority or the Trustee to carry out the intention or to facilitate the performance of this Agreement, including, without limitation, to perfect and continue the security interests herein intended to be created.

**SECTION 8.2. Notices.** Any notice, request, complaint, demand or other communication under this Agreement must be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopier or other form of telecommunication, at its number set forth below. Notice is effective either (a) upon transmission by fax or other form of telecommunication, (b) upon actual receipt after deposit in the United States of America mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Authority, the City and the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the City  
or the Authority:

City of Beverly Hills  
450 North Rexford Drive  
Beverly Hills, California 90210  
Attention: Director of Finance Administration  
Telephone: (310) 285-2411  
Fax: (805) 525-6278

If to the Trustee:

U.S. Bank National Association  
633 West Fifth Street, 24th Floor  
Los Angeles, California 90071  
Attention: Corporate Trust  
Telephone: (213) 615-6024  
Fax: (213) 615-6199

**SECTION 8.3. Governing Law.** This Agreement will be construed in accordance with and governed by the laws of the State of California.

**SECTION 8.4. Binding Effect.** This Agreement inures to the benefit of and is binding upon the Authority and the City and their respective successors and assigns, subject, however, to the limitations contained herein.

**SECTION 8.5. Severability of Invalid Provisions.** If any one or more of the provisions contained in this Agreement are for any reason held to be invalid, illegal or unenforceable in any respect, then such provision or provisions will be deemed severable from the remaining provisions contained in this Agreement and such invalidity, illegality or unenforceability will not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The Authority and the City each hereby declares that it would have entered into this Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Agreement may be held illegal, invalid or unenforceable.

**SECTION 8.6. Article and Section Headings and References.** The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, are solely for convenience of reference and do not affect the meaning, construction or effect of this Agreement. All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof; and words of the masculine gender mean and include words of the feminine and neuter genders.

**SECTION 8.7. Payment on Non-Business Days.** Whenever any payment is required to be made hereunder on a day which is not a Business Day, such payment shall be made on the immediate preceding Business Day.

**SECTION 8.8. Execution of Counterparts.** This Agreement may be executed in any number of counterparts, each of which will for all purposes be deemed to be an original and all of which together constitute but one and the same instrument.

**SECTION 8.9. Waiver of Personal Liability.** No member of the City Council, officer, agent or employee of the City has any individual or personal liability for the payment of Installment Payments or Additional Payments or be subject to any personal liability or accountability by reason of this Agreement; but nothing herein contained relieves any such member of the City Council, officer, agent or employee from the performance of any official duty provided by law or by this Agreement.

**SECTION 8.10. Trustee as Third Party Beneficiary.** The Trustee is hereby made a third party beneficiary hereof and is entitled to the benefits of this Agreement with the same force and effect as if the Trustee was a party hereto.

IN WITNESS WHEREOF, the Authority and the City have caused this Agreement to be executed in their respective names by their duly authorized officers, all as of the date first above written.

**CITY OF BEVERLY HILLS PUBLIC FINANCING  
AUTHORITY, as Seller**

By \_\_\_\_\_  
Chief Financial Officer

**CITY OF BEVERLY HILLS, as Purchaser**

By \_\_\_\_\_  
Director of Administrative Services and Chief  
Financial Officer

APPENDIX A

SCHEDULE OF INSTALLMENT PAYMENTS  
(COMBINED)

<u>Interest Payment Date(1)</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Total Payment</u>
6/1/08			
12/1/08			
6/1/09			
12/1/09			
6/1/10			
12/1/10			
6/1/11			
12/1/11			
6/1/12			
12/1/12			
6/1/13			
12/1/13			
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6/1/28			
12/1/28			
12/1/29			
6/1/30			
12/1/30			

<u>Interest Payment Date(1)</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Total Payment</u>
6/1/31			
12/1/31			
6/1/32			
12/1/32			
6/1/33			
12/1/33			
6/1/34			
12/1/34			
6/1/35			
12/1/35			
6/1/36			
12/1/36			
6/1/37			

(1) Installment Payment Dates are the third (3<sup>rd</sup>) Business Day immediately preceding each Interest Payment Date shown in the table.

**SCHEDULE OF INSTALLMENT PAYMENTS  
(2008 SERIES A WATER PROJECT)**

<u>Interest Payment Date(1)</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Total Payment</u>
6/1/08			
12/1/08			
6/1/09			
12/1/09			
6/1/10			
12/1/10			
6/1/11			
12/1/11			
6/1/12			
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12/1/30			
6/1/31			
12/1/31			

<u>Interest Payment Date(1)</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Total Payment</u>
6/1/32			
12/1/32			
6/1/33			
12/1/33			
6/1/34			
12/1/34			
6/1/35			
12/1/35			
6/1/36			
12/1/36			
6/1/37			

- (1) Installment Payment Dates are the third (3<sup>rd</sup>) Business Day immediately preceding each Interest Payment Date shown in the table.

**SCHEDULE OF INSTALLMENT PAYMENTS  
(1998 WATER PROJECT)**

<u>Interest Payment Date(1)</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Total Payment</u>
6/1/08			
12/1/08			
6/1/09			
12/1/09			
6/1/10			
12/1/10			
6/1/11			
12/1/11			
6/1/12			
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6/1/30			
12/1/30			
6/1/31			
12/1/31			

<u>Interest Payment Date(1)</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Total Payment</u>
6/1/32			
12/1/32			
6/1/33			
12/1/33			
6/1/34			
12/1/34			
6/1/35			
12/1/35			
6/1/36			
12/1/36			
6/1/37			

(1) Installment Payment Dates are the third (3<sup>rd</sup>) Business Day immediately preceding each Interest Payment Date shown in the table.

## **APPENDIX B**

### **DESCRIPTION OF 2008 SERIES A WATER PROJECT**

The 2008 Series A Water Project will consist primarily of the acquisition of the City's existing Water Treatment Plant from Earth Tech, Inc., pursuant to the exercise of an option granted under the Design, Build, Operate and Finance Agreement dated as of February 27, 2001, between the City and Earth Tech, Inc.