INSTALLMENT PURCHASE AGREEMENT

by and between the

ANAHEIM PUBLIC FINANCING AUTHORITY,
    as Seller

and the

CITY OF ANAHEIM,
    as Purchaser

Dated as of July 1, 2008

Relating to
$_________
Anaheim Public Financing Authority
Revenue Bonds, Series 2008
(Water System Project)
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>ARTICLE I</th>
<th>DEFINITIONS AND EXHIBITS ................................................................................................................................. 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 1.1</td>
<td>Definitions .................................................................................................................................................. 1</td>
</tr>
<tr>
<td>Section 1.2</td>
<td>Content of Statements and Opinions ................................................................................................................. 8</td>
</tr>
<tr>
<td>Section 1.3</td>
<td>Exhibits ......................................................................................................................................................... 9</td>
</tr>
<tr>
<td>ARTICLE II</td>
<td>REPRESENTATIONS AND WARRANTIES ..................................................................................................................... 9</td>
</tr>
<tr>
<td>Section 2.1</td>
<td>Representations and Warranties of the City ......................................................................................................... 9</td>
</tr>
<tr>
<td>Section 2.2</td>
<td>Representations and Warranties of the Authority ............................................................................................. 10</td>
</tr>
<tr>
<td>ARTICLE III</td>
<td>PURCHASE AND SALE OF THE WATER SYSTEM; FUNDS AND ACCOUNTS; FLOW OF REVENUES; SECURITY ............................... 11</td>
</tr>
<tr>
<td>Section 3.1</td>
<td>Purchase and Sale of the Water System ........................................................................................................... 11</td>
</tr>
<tr>
<td>Section 3.2</td>
<td>Purchase Payment Account .................................................................................................................................. 11</td>
</tr>
<tr>
<td>Section 3.3</td>
<td>Reserve Account ............................................................................................................................................... 11</td>
</tr>
<tr>
<td>Section 3.4</td>
<td>Qualified Obligations Account ......................................................................................................................... 11</td>
</tr>
<tr>
<td>Section 3.5</td>
<td>WRAN Account ............................................................................................................................................... 12</td>
</tr>
<tr>
<td>Section 3.6</td>
<td>Remaining Surplus Account .................................................................................................................................. 12</td>
</tr>
<tr>
<td>Section 3.7</td>
<td>Water System Surplus Revenue Fund ............................................................................................................... 12</td>
</tr>
<tr>
<td>Section 3.8</td>
<td>Funds and Accounts ........................................................................................................................................ 12</td>
</tr>
<tr>
<td>Section 3.9</td>
<td>Flow of Revenues ............................................................................................................................................... 12</td>
</tr>
<tr>
<td>Section 3.10</td>
<td>Flow of Surplus Revenues .................................................................................................................................. 13</td>
</tr>
<tr>
<td>Section 3.11</td>
<td>Security for the 2008 Purchase Payments ......................................................................................................... 14</td>
</tr>
<tr>
<td>ARTICLE IV</td>
<td>EFFECTIVE DATE OF THIS AGREEMENT; DURATION; PAYMENT PROVISIONS; LIABILITY ............................................. 14</td>
</tr>
<tr>
<td>Section 4.1</td>
<td>Effective Date of this Installment Purchase Agreement; Duration ....................................................................... 14</td>
</tr>
<tr>
<td>Section 4.2</td>
<td>Purchase Price; 2008 Purchase Payments ......................................................................................................... 14</td>
</tr>
<tr>
<td>Section 4.3</td>
<td>Additional Purchase Payments ......................................................................................................................... 15</td>
</tr>
<tr>
<td>Section 4.4</td>
<td>Source for City Payments .................................................................................................................................. 16</td>
</tr>
<tr>
<td>Section 4.5</td>
<td>Obligations of the City Unconditional; Net Contract; Obligations of Authority Unconditional ............................. 16</td>
</tr>
<tr>
<td>Section 4.6</td>
<td>No Prepayment of 2008 Purchase Payments ................................................................................................... 17</td>
</tr>
<tr>
<td>Section 4.7</td>
<td>Termination of Installment Purchase Agreement ............................................................................................. 17</td>
</tr>
<tr>
<td>ARTICLE V</td>
<td>PARTICULAR COVENANTS ................................................................................................................................... 18</td>
</tr>
<tr>
<td>Section 5.1</td>
<td>Limitation on Encumbrances; Against Sale ....................................................................................................... 18</td>
</tr>
<tr>
<td>Section 5.2</td>
<td>Accounting Records .......................................................................................................................................... 18</td>
</tr>
<tr>
<td>Section 5.3</td>
<td>Rates and Charges ............................................................................................................................................ 18</td>
</tr>
<tr>
<td>Section 5.4</td>
<td>Tax Covenants ............................................................................................................................................... 18</td>
</tr>
<tr>
<td>Section 5.5</td>
<td>Limits on Bonds and Obligations ..................................................................................................................... 22</td>
</tr>
<tr>
<td>Section 5.6</td>
<td>Continuing Disclosure ....................................................................................................................................... 22</td>
</tr>
<tr>
<td>ARTICLE VI</td>
<td>MAINTENANCE AND INSURANCE ........................................................................................................................... 23</td>
</tr>
<tr>
<td>Section 6.1</td>
<td>Maintenance and Operation of the Water System .............................................................................................. 23</td>
</tr>
<tr>
<td>Section 6.2</td>
<td>Insurance ......................................................................................................................................................... 23</td>
</tr>
</tbody>
</table>
TABLE OF CONTENTS
(continued)

ARTICLE VII   NON-LIABILITY OF AUTHORITY; EXPENSES, INDEMNIFICATION ...........23

Section 7.1   Non-Liability of Authority ................................................................. 23
Section 7.2   Expenses ....................................................................................... 24
Section 7.3   Indemnification ............................................................................. 24
Section 7.4   Survive Termination ................................................................. 24

ARTICLE VIII   DEFAULTS AND REMEDIES .......................................................... 24

Section 8.1   Events of Default ........................................................................... 24
Section 8.2   Remedies on Default ...................................................................... 25
Section 8.3   Remedies Not Exclusive; No Waiver of Rights ......................... 25
Section 8.4   Expenses on Default ...................................................................... 26
Section 8.5   Notice of Default ........................................................................ 26

ARTICLE IX   MISCELLANEOUS ................................................................. 26

Section 9.1   Further Assurances ...................................................................... 26
Section 9.2   Notices ....................................................................................... 26
Section 9.3   Governing Law ............................................................................ 26
Section 9.4   Binding Effect .............................................................................. 26
Section 9.5   Severability of Invalid Provisions ............................................. 27
Section 9.6   Article and Section Headings and References ....................... 27
Section 9.7   Amendments .............................................................................. 27
Section 9.8   Disclaimer of Warranties ............................................................. 27
Section 9.9   Claims; Warranties, etc ................................................................. 27
Section 9.10  Waiver of Personal Liability ...................................................... 27
Section 9.11  Execution of Counterparts ......................................................... 28
Section 9.12  Assignment .............................................................................. 28

EXHIBIT A   -  DESCRIPTION OF WATER SYSTEM COMPONENTS ......................... A-1
EXHIBIT B   -  SCHEDULE OF 2008 PURCHASE PAYMENTS .................................... B-1
INSTALLMENT PURCHASE AGREEMENT

THIS INSTALLMENT PURCHASE AGREEMENT, dated as of July 1, 2008 (the “Installment Purchase Agreement”), between the ANAHEIM PUBLIC FINANCING AUTHORITY, a joint powers authority organized and existing under the laws of the State of California (hereinafter referred to as the “Authority”), as seller, and the CITY OF ANAHEIM (hereinafter referred to as the “City”), as purchaser.

WITNESSETH:

WHEREAS, the Authority is authorized to assist the City in the financing and refinancing of costs related to capital improvements; and

WHEREAS, the City has the power to purchase real and personal property; and

WHEREAS, the City owns and operates a water system (the “Water System”); and

WHEREAS, the Authority has approved the issuance of its Revenue Bonds, Series 2008 (Water System Project) (the “2008 Bonds”) to assist the City in providing funds to finance the acquisition and construction of additional capital assets of the City’s Water System, to provide funds for the Reserve Account and to pay related costs of issuance; and

WHEREAS, the Authority will purchase certain components of the Water System described in Exhibit A hereto (the “Components”) in consideration for providing proceeds of the 2008 Bonds, and the City will purchase the Components back from the Authority in consideration for 2008 Purchase Payments equal in time and amount to the debt service on the 2008 Bonds; and

WHEREAS, the Authority will transfer in trust and assign to the Trustee all of the right, title and interest of the Authority in and to the 2008 Purchase Payments and all rights to enforce the payment of the 2008 Purchase Payments under this Installment Purchase Agreement; and

WHEREAS, the City and the Authority have duly authorized the execution and delivery of this Installment Purchase Agreement;

NOW, THEREFORE, for and in consideration of the premises and the material covenants hereinafter contained, the parties hereto mutually agree as follows:

ARTICLE I

DEFINITIONS AND EXHIBITS

SECTION 1.1 Definitions. The following terms shall, for all purposes of this Installment Purchase Agreement, have the respective meanings ascribed to them. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires. All capitalized terms used herein which are defined in the Indenture and not defined herein shall have the meanings specified in the Indenture.

“Accountant” shall mean any independent certified public accountant or firm of such accountants selected by the City.
“Additional Purchase Payments” shall mean the payments so designated and required to be made by the City pursuant to Section 4.3 hereof.

“Balloon Indebtedness” shall mean, with respect to any Series of Qualified Obligations twenty-five percent (25%) or more of the principal of which matures on the same date or within a 12-month period (with sinking fund payments deemed to be payments of matured principal), that portion of such Series of Qualified Obligations which matures on such date or within such 12-month period; provided, however, that to constitute Balloon Indebtedness the amount of indebtedness maturing on a single date or over a 12-month period must equal or exceed 150% of the amount of such Series of Qualified Obligations which matures during any preceding 12-month period. For purposes of this definition, the principal amount maturing on any date shall be reduced by the amount of such indebtedness which is required, by the documents governing such indebtedness, to be amortized by prepayment or redemption prior to its stated maturity date.

“Bond” shall mean any revenue bond, revenue note, warrant or other evidence of indebtedness issued, incurred or delivered for the financing or refinancing of extensions of, additions to, repairs and replacements to, renewals of, and improvements of, the Water System, designated by the City at the initial delivery thereof as payable from Surplus Revenues in the Qualified Obligations Account, to the extent the payments under such revenue bonds, revenue note, warrant or other evidence of indebtedness are payable from Surplus Revenues in the Qualified Obligations Account. “Bond” shall not include any Obligation.

“Charter” shall mean the charter of the City adopted by the electors of the City on June 2, 1964 and as amended from time to time.

“City Council” shall mean the City Council of the City.

“Components” shall mean the components of the Water System purchased under this Installment Purchase Agreement as described in Exhibit A hereto.

“Continuing Disclosure Agreement” shall mean the Continuing Disclosure Agreement between the City and the Trustee dated the date of issuance of the 2008 Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“Delivery Date” shall mean the date on which the 2008 Bonds are delivered pursuant to the Indenture to the original purchasers thereof.

“DWR Funding Agreement” shall mean the Funding Agreement between the State of California Department of Water Resources and the City of Anaheim, Project Number 3010001-02 (contract number SRF 1998RX103), providing for a loan to the City in the original principal amount of $18,062,849 at an interest rate of 2.7934% per annum.

“Fiscal Year” shall mean the twelve-month fiscal period of the City which commences on July 1 in every year and ends on June 30 of the succeeding year, or any other twelve-month, or fifty-two week, period hereafter selected and designated as the official fiscal year period of the City.

“Fitch” shall mean Fitch, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a statistical rating organization, any other nationally recognized securities rating agency designated by the City, with the approval of the Authority, by notice to the Trustee.
“Indenture” shall mean the Indenture of Trust dated as of July 1, 2008, by and between the Authority and the Trustee, authorizing the issuance of the 2008 Bonds, as originally executed or as it may from time to time be supplemented, modified or amended.

“Joint Exercise of Powers Agreement” shall mean the Joint Exercise of Powers Agreement, dated January 28, 1992, by and between the Anaheim Redevelopment Agency and the City, as originally executed or as it may from time to time be supplemented, modified or amended.

“Maximum Annual Debt Service” shall mean Maximum Annual Debt Service as defined in Resolution No. 93R-71 of the City Council.

“Maximum Annual Qualified Obligation Service” shall mean, as of any date, the maximum amount of Qualified Obligation Service payable in the then current or any subsequent Fiscal Year. For purposes of calculating Maximum Annual Qualified Obligation Service, the following assumptions shall be used to calculate the principal and interest becoming due in any fiscal year:

(i) in determining the principal amount due in each year, payments shall (except to the extent a different paragraph of this definition applies for purposes of determining principal maturities or amortization) be assumed to be made in accordance with any amortization schedule established for such debt, including the amount of any Qualified Obligations which are or have the characteristics of commercial paper and which are not intended at the time of issuance to be retired from the sale of a corresponding amount of Qualified Obligations, and including any scheduled mandatory redemption or prepayment of Qualified Obligations, and for such purpose, the redemption payment shall be deemed a principal payment; in determining the interest due in each year, interest payable at a fixed rate (except to the extent paragraph (ii) or (iii) of this definition applies) shall be assumed to be made at such fixed rate and on the required payment dates;

(ii) if all or any portion or portions of an Outstanding Series of Qualified Obligations constitutes Balloon Indebtedness or if all or any portion or portions of a Series of Qualified Obligations then proposed to be issued would constitute Balloon Indebtedness, then, for purposes of determining Maximum Annual Qualified Obligation Service, each maturity which constitutes Balloon Indebtedness shall be treated as if it were to be amortized in substantially equal annual installments of principal and interest over a term of 25 years commencing in the year the stated maturity of such Balloon Indebtedness occurs, and the interest rate used for such computations shall be determined as provided in paragraph (iv) or (v) below, as appropriate, and all payments of principal and interest becoming due prior to the year of the stated maturity of the Balloon Indebtedness shall be treated as described in paragraph (i) above;

(iii) if any of the Outstanding Series of Qualified Obligations constitutes Tender Indebtedness or if Qualified Obligations proposed to be issued would constitute Tender Indebtedness, then, for purposes of determining Maximum Annual Qualified Obligation Service, Tender Indebtedness shall be treated as if the principal amount of such Qualified Obligations were to be amortized in accordance with the amortization schedule set forth in such Tender Indebtedness or in the standby purchase or liquidity facility established with respect to such Tender Indebtedness, or if no such amortization schedule is set forth, then such Tender Indebtedness shall be deemed to be amortized in substantially equal annual installments of principal and interest over a term of 25 years commencing in the year in which such Series is first subject to tender, and the interest rate used for such computation shall be determined as provided in paragraph (iv) or (v) below, as appropriate;
(iv) if any Outstanding Qualified Obligations constitutes Variable Rate Indebtedness (except to the extent paragraph (ii) relating to Balloon Indebtedness or paragraph (iii) relating to Tender Indebtedness applies), the interest rate on such obligations shall be assumed to be 110% of the daily average interest rate on such Qualified Obligations during the 12 months ending with the month preceding the date of calculation, or such shorter period that such Qualified Obligations shall have been Outstanding; provided that in the event that such Variable Rate Indebtedness has been issued in connection with a Qualified Swap Agreement, the interest rate for purposes of computing Maximum Annual Qualified Obligation Service shall be determined by (x) calculating the annualized net amount paid by the City under such Variable Rate Indebtedness and Qualified Swap Agreement (after giving effect to payments made under the Variable Rate Indebtedness and made and received by the City under the Qualified Swap Agreement) during the 12 months ending with the month preceding the date of calculation, or such shorter period that such Qualified Swap Agreement has been in effect, and (y) dividing the amount calculated in clause (x) by the average daily balance of the related Qualified Obligations Outstanding during the 12-month period contemplated by clause (x);

(v) if Qualified Obligations proposed to be issued will be Variable Rate Indebtedness (except to the extent paragraph (ii) relating to Balloon Indebtedness or paragraph (iii) relating to Tender Indebtedness applies), then such Qualified Obligations shall be assumed to bear interest at the rate quoted in The Bond Buyer 25 Revenue Bond Index for the last week of the month preceding the date of sale of such additional Qualified Obligations, as published in The Bond Buyer, or if that index is no longer published, another similar index selected by the City, or if the City fails to select a replacement index, an interest rate equal to 80% of the yield for outstanding United States Treasury bonds having an equivalent maturity, or if there are no such Treasury bonds having such maturities, 80% of the lowest prevailing prime rate of any of the five largest commercial banks in the United States ranked by assets; provided that in the event that such Variable Rate Indebtedness will be issued in connection with a Qualified Swap Agreement, the interest rate for purposes of computing Maximum Annual Qualified Obligation Service shall be determined by (a) calculating the net amount to be paid by the City under such Variable Rate Indebtedness and Qualified Swap Agreement (after giving effect to payments to be made under the Variable Rate Indebtedness and to be made and received by the City under the Qualified Swap Agreement) for the first year during which the Qualified Swap Agreement is to be in effect, and (b) dividing the amount calculated in clause (a) by the average principal amount of the related Qualified Obligations to be Outstanding during the first year after the issuance of such Qualified Obligations;

(vi) if moneys or Permitted Investments have been deposited by the City into a separate fund or account or are otherwise held by the City or by a fiduciary to be used to pay principal and/or interest on specified Qualified Obligations, then the principal and/or interest to be paid from such moneys, Permitted Investments or from the earnings thereon shall be disregarded and not included in calculating Maximum Annual Qualified Obligation Service;

(vii) if Qualified Obligations are Paired Obligations, the interest thereon shall be the resulting linked rate or effective fixed rate to be paid with respect to such Paired Obligations; and

(viii) in the event that an agreement or commitment which, at the time of calculation is a Qualified Swap Agreement, is or is to be in effect with respect to Qualified Obligations which are not Variable Rate Indebtedness, the interest rate of such Qualified Obligations for purposes of calculating Maximum Annual Qualified Obligation Service shall be calculated as follows:
(a) for such a Qualified Swap Agreement which is in effect on the date of calculation, the interest rate shall be calculated in the same manner as is specified in paragraph (iv) for a Qualified Swap Agreement issued in connection with Variable Rate Indebtedness which is Outstanding on the date of calculation; and

(b) for such a Qualified Swap Agreement which is not in effect on the date of calculation, the interest rate shall be calculated in the same manner as is specified in paragraph (v) for a Qualified Swap Agreement to be issued in connection with Variable Rate Indebtedness to be Outstanding after the date of calculation, and for this purpose any variable rate of interest agreed to be paid thereunder shall be assumed to be the rate assumed for Variable Rate Indebtedness described in paragraph (v).

“Moody’s” shall mean Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a statistical rating organization, any other nationally recognized securities rating agency designated by the City, with the approval of the Authority, by notice to the Trustee.

“Net Revenues” of the Water System shall mean the amount of the Revenues less the Operating Expenses.

“Notes” shall mean the City of Anaheim Water Revenue Anticipation Notes of the City, authorized by Ordinance No. 5376 of the City Council.

“Obligation” shall mean any contract, instrument or other agreement for the purchase, acquisition or lease of facilities, properties, structures or equipment for the Water System, designated by the City at the initial delivery thereof as payable from Surplus Revenues in the Qualified Obligations Account, to the extent the payments under such contract, instrument or agreement are payable from Surplus Revenues in the Qualified Obligations Account, and the final payments under which are due more than one year following the incurrence thereof. “Obligation” shall not include any Bond.

“Operating Expenses” of the Water System shall mean the reasonable and necessary current expenses of maintaining, repairing and operating the Water System, including City administrative expenses directly attributable to Water System functions, but excluding depreciation and amortization, transfers to the City’s general fund, and debt service requirements of the City’s general obligation water bonds, all computed in accordance with sound accounting principles and consistent with existing accounting practices of the City.

“Opinion of Counsel” shall mean a written opinion of counsel selected by the City. If and to the extent required by the provisions of Section 1.2 hereof, each Opinion of Counsel shall include the statements provided for in Section 1.2 hereof.

“Outstanding,” when used as of any particular time with respect to Qualified Obligations, shall mean all such obligations theretofore or thereupon executed, authenticated and delivered by the City, a conduit issuer for the City or any trustee or other fiduciary, except (i) such obligations theretofore canceled or surrendered for cancellation; (ii) such obligations paid or deemed to be paid within the meaning of any defeasance provisions thereof; (iii) such obligations owned by the City or the such conduit issuer; and (iv) such obligations in lieu of or in substitution for which other obligations have been executed and delivered.
“Paired Obligations” shall mean any Series (or portion thereof) of Qualified Obligations or related conduit obligations designated as such in the document authorizing the issuance or incurrence thereof, which are simultaneously issued or incurred, (i) the principal of which is of equal amount maturing and to be redeemed (or canceled after acquisition thereof) on the same dates and in the same amounts, and (ii) the interest rates of which, taken together, result in an irrevocably fixed interest rate obligation of the City for the terms thereof.

“Person” shall mean an individual, corporation, firm, association, partnership, trust or other legal entity or group of entities, including a governmental entity or any agency or political subdivision thereof.

“Purchase Payment Dates” shall mean the dates on which the 2008 Purchase Payments are required to be made as provided in this Installment Purchase Agreement, such dates being each April 1 and October 1, commencing October 1, 2008.

“Purchase Price” shall mean the amount to be paid by the City to the Authority for the Water System as specified in Section 4.2 hereof.

“Qualified Obligations” shall mean, without duplication, (i) 2008 Purchase Payments; (ii) obligations of the City under the DWR Funding Agreement; and (iii) Bonds and Obligations which at the time of initial delivery thereof satisfy the covenant set forth in Section 5.5 hereof.

“Qualified Obligation Service” shall mean, with respect to any period, the amount of principal and interest or other payments accrued or to accrue in such period with respect to all outstanding Qualified Obligations (excluding the amount of proceeds of Qualified Obligations held in any fund or account for the payment of Qualified Obligation Service accrued or to accrue during such period). For purposes of accrual under this definition, all payments with respect to Qualified Obligations due in a calendar month shall be deemed due on the first day of such calendar month.

“Qualified Swap Agreement” shall mean a contract or agreement, payable from Surplus Revenues on a basis subordinate to Qualified Obligations, intended to place payment obligations on the interest rate, currency, cash flow or other basis desired by the City, including, without limitation, any interest rate swap agreement, currency swap agreement, forward payment conversion agreement or futures contract, any contract providing for payments based on levels of, or changes in, interest rates, currency exchange rates, stock or other indices, any contract to exchange cash flows or a series of payments, or any contract, including, without limitation, an interest rate floor or cap, or an option, put or call, to hedge payment, currency, rate, spread or similar exposure, between the City and a counterparty; provided that not less than 30 days prior to the City’s execution of such contract or agreement, each Rating Agency which maintains a rating with respect to any Qualified Obligations receives notice in writing of the City’s pending execution thereof; and provided further that at the time of origination each Rating Agency which maintains a rating with respect to any Qualified Obligations confirms in writing to the City that the City’s execution and delivery of such contract will not result in a downgrading, withdrawal or suspension of such rating.

“Rating Agency” shall mean either S&P or Fitch.

“Revenues” shall mean all rates, fees and charges for providing water service to persons and real property (including connection fees) and all other fees, rents and charges and other income derived by the City from the ownership, operation, use or services of the Water System.
“Senior Bond Resolution” shall mean any resolution authorizing the issuance of Senior Bonds.

“Senior Bonds” shall mean the outstanding revenue bonds, revenue notes or other similar evidences of indebtedness hereafter issued for the acquisition, construction or financing of additions to, and improvements of the Water System, payable out of and secured by Net Revenues.

“Series” shall mean Qualified Obligations issued at the same time or sharing some other common term or characteristic and designated as a separate Series.

“S&P” shall mean Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, a corporation organized and existing under the laws of the State of New York, its successors and their assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a statistical rating organization, any other nationally recognized securities rating agency designated by the City, with the approval of the Authority, by notice to the Trustee.

“Statement,” “Request,” “Requisition” or “Order” of the Authority or the City shall mean, respectively, a written statement, request, requisition or order signed in the name of the Authority or the City by an Authorized Authority Representative or Authorized City Representative, as the case may be. 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. If and to the extent required by Section 1.2 hereof, each such instrument shall include the statements provided for in Section 1.2 hereof.

“Surplus Revenues” shall mean moneys in the Water System Surplus Revenue Fund.

“Tax Certificate” shall mean the Tax Certificate, executed and delivered by the City on the Delivery Date, as amended or supplemented from time to time.

“Tender Indebtedness” means any Qualified Obligations or portions thereof, a feature of which is an option, on the part of the holders thereof, or an obligation, under the terms of such Qualified Obligations, to tender all or a portion of such Qualified Obligations to the City, a conduit issuer for the City, a paying agent or other fiduciary or agent for payment or purchase and requiring that such obligation or that such rights to payments or portions of payments thereof be purchased if properly presented.

“Treasurer” shall mean the Treasurer of the City.

“Variable Rate Indebtedness” shall mean any portion of indebtedness or other payment obligations, the interest rate on which is not established at the time of incurrence and has not at some subsequent date been established at a single numerical rate for the entire term thereof.

“Water System” shall mean the entire water system of the City and all additions to, and improvements and extensions of, said system later constructed or acquired.

“Water System Surplus Revenue Fund” shall mean the Water System Surplus Revenue Fund of the City held by the Treasurer and created by Ordinance No. 5376 of the City Council.

“WRAN Account” shall mean the account described in Section 3.5 hereof, heretofore created under Ordinance No. 5376 of the City Council.
“1984 Bond Resolution” shall mean Resolution No. 84R-396 of the City Council, adopted October 9, 1984, authorizing the issuance of the 1984 Bonds.

“1984 Bonds” shall mean the $6,650,000 water revenue bonds designated “Water Revenue Bonds, 1984 Series.”

“1986 Bond Resolution” shall mean Resolution No. 86R-91 of the City Council, adopted March 4, 1986, authorizing the issuance of the 1986 Bonds.

“1986 Bonds” shall mean the $7,160,000 refunding water revenue bonds designated “Water Revenue Bonds, 1986 Series.”

“1988 Bond Resolution” shall mean Resolution No. 88R-11 of the City Council, adopted January 12, 1988, authorizing the issuance of the 1988 Bonds.

“1988 Bonds” shall mean the $5,000,000 water revenue bonds designated “Water Revenue Bonds, 1988 Series.”

“1990 Bond Resolution” shall mean Resolution No. 90R-293 of the City Council adopted August 14, 1990, authorizing the issuance of the 1990 Bonds.

“1990 Bonds” shall mean the $9,000,000 water revenue bonds designated “Water Revenue Bonds, 1990 Series.”

“1993 Bond Resolution” shall mean Resolution No. 93R-71 of the City Council adopted May 4, 1993, authorizing the issuance of the 1993 Bonds.

“1993 Bonds” shall mean the $13,545,000 water revenue bonds designated “Water Revenue Bonds, 1993 Series.”


“2004 Bonds” shall mean the $12,105,000 water revenue bonds designated “Water Revenue Refunding Bonds, 2004 Series (Water System Refunding).”

“2008 Bonds” shall mean the $________ in aggregate principal amount of bonds designated “Anaheim Public Financing Authority Revenue Bonds, Series 2008 (Water System Project).”

“2008 Purchase Payments” shall mean the payments so designated and required to be made by the City pursuant to Section 4.2 hereof.

SECTION 1.2  Content of Statements and Opinions. Every statement or opinion provided for in this Installment Purchase Agreement with respect to compliance with any provision hereof shall include (1) a statement that the person making or giving such statement or opinion has read such provision and the definitions herein relating thereto; (2) a brief statement as to the nature and scope of the examination or investigation upon which the statement or opinion is based, (3) a statement (a) that, in the opinion of such person, he or she has made or caused to be made such examination or investigation as is necessary to enable him or her to express an informed opinion with respect to the subject matter or (b) that he or she has made or caused to be made his or her examination or investigation with respect to
the subject matter in accordance with specified professional standards; and (4) a statement as to whether, in the opinion of such person, such provision has been complied with.

Any such statement or opinion made or given by an officer of the Authority or the City may be based, insofar as it relates to legal, accounting or City matters, upon a statement or opinion of or representation by counsel or an Accountant, unless such officer knows, or in the exercise of reasonable care should have known, that the statement, opinion or representation with respect to the matters upon which such statement or statements may be based, as aforesaid, is erroneous. Any such statement or opinion made or given by counsel or an Accountant may be based, insofar as it relates to factual matters (with respect to which information is in the possession of the Authority or the City, as the case may be) upon a statement or opinion of or representation by an officer of the Authority or the City, unless such counsel or Accountant knows, or in the exercise of reasonable care should have known, that the statement or opinion or representation with respect to the matters upon which such person’s statement or opinion or representation may be based, as aforesaid, is erroneous. The same officer of the Authority or the City, or the same counsel or Accountant, as the case may be, need not certify to all of the matters required to be certified under any provision of this Installment Purchase Agreement, but different officers, counsel or Accountants may certify to different matters, respectively.

SECTION 1.3 Exhibits. The following Exhibits are attached to and by this reference made a part of this Installment Purchase Agreement:

Exhibit A: Description of Water System Components.
Exhibit B: Schedule of 2008 Purchase Payments.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

SECTION 2.1 Representations and Warranties of the City. The City makes the following representations and warranties to the Authority as of the date of the execution and delivery of this Installment Purchase Agreement and as of the Delivery Date (such representations and warranties to remain operative and in full force and effect regardless of delivery of the 2008 Bonds or any investigations by or on behalf of the Authority or the results thereof):

(i) The City is a municipal corporation organized and existing under a charter duly and regularly adopted pursuant to the provisions of the Constitution of the State, has full legal right, power and authority to enter into this Installment Purchase Agreement and to carry out and consummate all transactions contemplated by this Installment Purchase Agreement and by proper action has duly authorized the execution and delivery of this Installment Purchase Agreement.

(ii) The officers of the City executing this Installment Purchase Agreement are duly and properly in office and fully authorized to execute the same.

(iii) This Installment Purchase Agreement has been duly authorized, executed and delivered by the City, and constitutes a legal, valid and binding agreement of the City enforceable against the City in accordance with its terms.

(iv) The execution and delivery of this Installment Purchase Agreement, the consummation of the transactions herein contemplated and the fulfillment of or compliance with
the terms and conditions hereof, will not in any material respect conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under, the Charter or any indenture, mortgage, deed of trust, agreement, 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 any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any trust agreement, mortgage, deed of trust, loan agreement, lease, contract or other agreement 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 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 might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Installment Purchase Agreement, or the financial condition, assets, properties or operations of the City.

(v) No consent or approval of any trustee or holder of any indebtedness of the City or any other Person, 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 Installment Purchase Agreement, or the consummation of any transaction herein contemplated, or the fulfillment of or compliance with the terms and conditions hereof, except as have been obtained or made and as are in full force and effect and except such other permits as the City contemplates obtaining in due course.

SECTION 2.2 Representations and Warranties of the Authority. (a) The Authority makes the following representations and warranties to the City as of the date of the execution and delivery of this Installment Purchase Agreement and as of the Delivery Date (such representations and warranties to remain operative and in full force and effect regardless of delivery of the 2008 Bonds or investigations by or on behalf of the City or the results thereof):

(i) The Authority is a joint powers authority duly organized and existing under and pursuant to the laws of the State of California, has full legal right, power and authority to enter into this Installment Purchase Agreement and the Indenture and to carry out and consummate all transactions contemplated by this Installment Purchase Agreement and the Indenture, and by proper action has duly authorized the execution and delivery of this Installment Purchase Agreement and the Indenture.

(ii) The officers of the Authority executing this Installment Purchase Agreement and the Indenture are duly and properly in office and fully authorized to execute the same.

(iii) Each of this Installment Purchase Agreement and the Indenture has been duly authorized, executed and delivered by the Authority, and constitutes a legal, valid and binding agreement of the Authority enforceable against the Authority in accordance with its terms.

(iv) The execution and delivery of this Installment Purchase Agreement and 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, will not in any material respect conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both), under the Joint Exercise of Powers Agreement of the Authority or any indenture, mortgage, deed of trust, agreement, 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 any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any trust agreement, mortgage, deed of trust, loan agreement, lease, contract or other agreement 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 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 might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Installment Purchase Agreement or the Indenture, or the financial condition, assets, properties or operations of the Authority.

(v) No consent or approval of any trustee or holder of any indebtedness of the Authority or any other Person, 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 Installment Purchase Agreement or the Indenture, or the consummation of any transaction herein or therein contemplated, or the fulfillment of or compliance with the terms and conditions hereof or thereof, except as have been obtained or made and as are in full force and effect and except such other permits as the City contemplates obtaining in due course.

(vi) The Authority has determined that this Installment Purchase Agreement, the Indenture and the transactions contemplated hereby and thereby are just and reasonable as to the Authority.

(b) The Authority covenants that it will not intentionally take or consent to be taken any action which results in the interest paid on the 2008 Bonds being included in the gross income of the recipient thereof for purposes of federal or state income taxation.

ARTICLE III

PURCHASE AND SALE OF THE WATER SYSTEM; FUNDS AND ACCOUNTS; FLOW OF REVENUES; SECURITY

SECTION 3.1 Purchase and Sale of the Water System. (a) The City hereby sells, transfers and conveys to the Authority all of the City’s right, title and interest in and to the Components of the Water System. The Authority agrees to simultaneously sell to the City, and the City agrees to purchase from the Authority, the Components of the Water System at the Purchase Price (payable in installments) specified in Section 4.2 hereof and otherwise in the manner and in accordance with the provisions of this Installment Purchase Agreement and the Bond Law.

The Authority hereby transfers and assigns to the City all of the Authority’s right, title and interest to all or any portion of the Components of the Water System.

(b) From time to time, at the request of the City, the Authority shall promptly deliver to the City any instruments necessary to confirm the rights of the City to the Components of the Water System.

SECTION 3.2 Purchase Payment Account. The Authority shall create, or cause to be created, under the Indenture a Purchase Payment Account, into which it shall deposit or cause to be deposited on the Delivery Date the amount specified in Section 3.02 to the Indenture with respect to the Purchase Payment Account. The Authority shall cause the Trustee to make deposits to and payments
from the Purchase Payment Account in accordance with the terms of this Installment Purchase Agreement and the Indenture.

SECTION 3.3 Reserve Account. The Authority shall create, or cause to be created, under the Indenture, a Reserve Account into which it shall deposit or cause to be deposited on the Delivery Date, the amount specified in Section 3.02 to the Indenture with respect to the Reserve Account. The Authority shall cause the Trustee to make deposits to and payments from the Reserve Account in accordance with the terms of this Installment Purchase Agreement and the Indenture.

SECTION 3.4 Qualified Obligations Account. The Treasurer shall continue to maintain the Qualified Obligations Account, heretofore created under Ordinance No. 5376 of the City Council, so long as any of the 2008 Bonds remain Outstanding. The City shall make deposits to and payments from the Qualified Obligations Account in accordance with the terms of this Installment Purchase Agreement.

SECTION 3.5 WRAN Account. The Treasurer shall continue to maintain the WRAN Account, heretofore created under Ordinance No. 5376 of the City Council, so long as any of the 2008 Bonds remain Outstanding.

SECTION 3.6 Remaining Surplus Account. The Treasurer shall continue to maintain the Remaining Surplus Account, heretofore created under Ordinance No. 5376 of the City Council, so long as any of the 2008 Bonds remain Outstanding.

SECTION 3.7 Water System Surplus Revenue Fund. The Treasurer shall continue to maintain the Water System Surplus Revenue Fund, so long as any of the 2008 Bonds remain Outstanding.

SECTION 3.8 Funds and Accounts. (a) The Treasurer shall continue to maintain or cause to be maintained the following funds and accounts, heretofore created pursuant to Section 1210 of the City Charter, as provided for in the 1984 Bond Resolution, the 1986 Bond Resolution, the 1988 Bond Resolution, the 1990 Bond Resolution, the 1992 Bond Resolution, the 1993 Bond Resolution and the 2004 Bond Resolution so long as any Senior Bonds or Qualified Obligations remain Outstanding:

(1) Water Enterprise Fund (the “Water Enterprise Fund”), and the following accounts therein:

(A) Water System Revenue Account (the “Revenue Account”); and

(B) Water System Maintenance and Operating Account (the “M&O Account”); and

(C) Water System Renewal and Replacement Account (the “R&R Account”); and

(D) Water System Extension and Improvement Account (the “E&I Account”); and

(E) Water System Revenue Bond Reserve Fund (the “Reserve Fund”);
The Treasurer shall continue to maintain or cause to be maintained the following accounts, heretofore created under the 1984 Bond Resolution, so long as any Senior Bonds or Qualified Obligations remain outstanding:

1. Water System Revenue Bond and Interest Account (the “Bond Service Account”); and
2. Water System Revenue Bond Sinking Account (the “Sinking Account”).

SECTION 3.9 Flow of Revenues. The Treasurer shall deposit the Revenues of the Water System as received in the Revenue Account. On or before the twentieth day of each calendar month, there shall be withdrawn from the Revenue Account the entire amount on deposit in the Revenue Account and there shall be allocated and deposited such amount in the indicated priority to the following accounts and funds:

(i) First, so long as any of the Senior Bonds or Qualified Obligations are Outstanding, to the M&O Account, an amount sufficient for the payment of Operating Expenses of the Water System as said expenses become due and payable; and

(ii) Second, so long as any of the Senior Bonds are outstanding, to the Bond Service Account, (i) one-sixth of the interest becoming due and payable (less any interest which has already been provided for) on the outstanding Senior Bonds within the next six month period; and (ii) one-twelfth of the principal amount which will mature and be payable on the outstanding Senior Bonds within the next twelve month period; and to the Bond Sinking Account, the amount required with respect to any term Senior Bond to provide for mandatory sinking fund installments; and

(iii) Third, so long as any of the Senior Bonds are Outstanding, to the Reserve Fund, the amount required (when added to amounts on deposit therein) to provide a balance equal to Maximum Annual Debt Service; and

(iv) Fourth, so long as any of the Senior Bonds are Outstanding, to the R&R Account, an amount equal to two percent (2%) of the Revenues received in the preceding calendar month until a balance is established, or reestablished, therein equal to one percent (1%) of the depreciated book value of the land, general plant and equipment which constitute the net utility plant of the Water System or such other balance as the consulting engineer may recommend; and

(v) Fifth, so long as any of the Senior Bonds are Outstanding, to the E&I Account such amounts as shall be deemed desirable by the City Council or appropriate City staff by appointment of the City Council.

(vi) Sixth, to the Water System Surplus Revenue Fund, all moneys in the Revenue Account remaining after the above transfers have been made and all covenants required by the resolutions relating to the Senior Bonds have been performed, which moneys shall constitute Surplus Revenues.

SECTION 3.10 Flow of Surplus Revenues. So long as any Qualified Obligations are Outstanding, promptly after any deposit is made to the Water System Surplus Revenue Fund in any month, the entire amount of Surplus Revenues in the Water System Surplus Revenue Fund shall be transferred in the indicated priorities to the following accounts:
First, there shall be transferred to the Qualified Obligations Account the amount of Qualified Obligation Service with respect to such calendar month (to the extent not already transferred to such Account in such month), or the entire amount of surplus Revenues then available for transfer to the Qualified Obligations Account, whichever is less.

Second, there shall be transferred to the WRAN Account the amount required to be transferred thereto in such month for the payment of the principal of and interest on the Notes to the extent required by the ordinances and resolutions pursuant to which such Notes are issued (to the extent not already transferred to such Account in such month), or the entire amount of Surplus Revenues then available for transfer to the WRAN Account, whichever is less.

Third, all remaining Surplus Revenues shall be transferred to the Remaining Surplus Account. Moneys in the Remaining Surplus Account at any time may be used for any lawful purpose of the City, provided, that, moneys remaining on deposit in the Remaining Surplus Account at any time shall be transferred as needed, in the following order of priority:

(i) to the Qualified Obligations Account, the amount necessary (or all available moneys in the Remaining Surplus Account if less than the amount necessary) to make up any deficiency therein, and

(ii) to the WRAN Account, the amount necessary (or all available moneys in the Remaining Surplus Account if less than the amount necessary) to make up any deficiency therein.

SECTION 3.11 Security for the 2008 Purchase Payments. The City is obligated to make 2008 Purchase Payments solely from the Surplus Revenues in the Qualified Obligations Account. Notwithstanding the foregoing, the 2008 Purchase Payments shall be made from the proceeds of the sale of the 2008 Bonds deposited in the Purchase Payment Account, in the amounts and at the times set forth in the Indenture, and other moneys transferred to or deposited in the Purchase Payment Account pursuant to the Indenture. The 2008 Purchase Payments and all other payments with respect to Qualified Obligations shall be equally secured by the Surplus Revenues in the Qualified Obligations Account without priority for number or date of incurrence of such Qualified Obligations. The Surplus Revenues in the Qualified Obligations Account shall be held in trust by the Treasurer of the City for the benefit of the holders of the 2008 Bonds and any other Qualified Obligations.

ARTICLE IV

EFFECTIVE DATE OF THIS AGREEMENT; DURATION; PAYMENT PROVISIONS; LIABILITY

SECTION 4.1 Effective Date of this Installment Purchase Agreement; Duration. This Agreement shall become effective upon its execution and delivery, and shall expire on such date as shall be determined in accordance with Section 4.7 hereof.

SECTION 4.2 Purchase Price; 2008 Purchase Payments. (a) The City agrees to pay the Purchase Price for the Water System by making installment payments, referred to herein as “2008 Purchase Payments,” in the respective amounts and at the times shown in Exhibit B hereto, which the City agrees to pay to the Trustee, as assignee of the Authority, for deposit in the purchase Payment Account held by the Trustee and which, in the aggregate, shall be in an amount sufficient for the payment in full of all obligations to the Owners of the 2008 Bonds from time to time Outstanding under the Indenture, including (i) the total Interest Components due and payable with respect to the 2008 Purchase
Payments and (ii) the total Principal Components of such 2008 Purchase Payments; less the amount of other funds available for such payment as provided in the Indenture.

(b) On or before the last Business Day of March and September in each year, the City shall pay from the Qualified Obligations Account to the Trustee for deposit in the Purchase Payment Account the amount of the 2008 Purchase Payments due on the next succeeding April 1 and October 1, respectively.

(c) Each 2008 Purchase Payment hereunder shall be paid by the City in immediately available funds on the due date in lawful money of the United States of America to the Trustee at its Corporate Trust Office, and held, invested, disbursed and applied as provided in the Indenture. In the event the City fails to make any of the payments required by paragraph (a) of this Section 4.2, the installment so in default shall continue as an obligation of the City until the amount in default shall have been fully paid with interest thereon at a rate of interest equal to the highest rate of interest applicable to any then unpaid 2008 Bond. In the event that seven (7) days prior to an Interest Payment Date there are insufficient moneys in the Qualified Obligations Account to pay the amounts required by paragraph (a) of this Section 4.2 on the due date thereof, the City will notify the Trustee not later than five (5) days prior to the Interest Payment Date thereof that the amount available in the Qualified Obligations Account is less than the amount required on the following Interest Payment Date.

For purposes of determining the amount to be deposited into the Qualified Obligations Account with respect to the 2008 Bonds in any month, (i) each Principal Component of 2008 Purchase Payments shall accrue ratably over the twelve (12) months immediately preceding the Principal Payment Date on which such Principal Component is due; and (ii) each Interest Component of 2008 Purchase Payments shall accrue ratably over the six (6) months immediately preceding the Interest Payment Date on which such Interest Component is due.

SECTION 4.3  Additional Purchase Payments. (a) In addition to 2008 Purchase Payments, the City shall also pay to the Authority, the Trustee or to the United States Treasury Department, as the case may be, “Additional Purchase Payments,” as follows:

(i) All taxes and assessments of any type or character charged to the Authority or to the Trustee affecting the amount available to the Authority or the Trustee from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes, service charges, and assessments and other governmental charges lawfully assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Trustee and taxes based upon or measured by the net income of the Trustee; provided, however, that the City shall have the right to protest in good faith any such taxes or assessments and to require the Authority or the Trustee, at the City’s expense, to protest and contest any such taxes or assessments levied upon them and the City shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest could, in the reasonable opinion of the Authority, adversely affect the rights or interests of the Authority or the Trustee;

(ii) Any taxes which may be imposed on the sale, resale, use, possession or ownership of the Water System pursuant to this Installment Purchase Agreement;

(iii) All reasonable fees, charges and expenses of the Trustee, as and when the same become due and payable;
(iv) The reasonable fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the Authority or the Trustee to prepare audits, financial statements, reports, opinions or provide such other services required under this Installment Purchase Agreement or the Indenture;

(v) The reasonable costs and expenses of the Authority as provided herein in connection with this Installment Purchase Agreement, the 2008 Bonds or the Indenture, including any and all expenses incurred in connection with the issuance, sale and delivery of any such 2008 Bonds or in connection with any litigation which may at any time be instituted involving this Installment Purchase Agreement, the 2008 Bonds or the Indenture or any of the other documents contemplated thereby; and

(vi) Any amount required to be paid to the United States Treasury Department pursuant to Section 5.4 hereof.

(b) Such Additional Purchase Payments to the Authority or the Trustee shall be billed to the City by the Authority or the Trustee, as the case may be, from time to time, together with a statement certifying that the amount billed has been incurred or paid by the Authority or the Trustee, for one or more of the above items. After such a demand, amounts so billed shall be paid by the City within thirty (30) days after receipt of the bill by the City.

SECTION 4.4 Source for City Payments. (a) The City shall be obligated to make 2008 Purchase Payments hereunder solely from the Surplus Revenues in the Qualified Obligations Account.

(b) Notwithstanding Section 4.4(a) hereof, 2008 Purchase Payments shall not be made from Surplus Revenues in the Qualified Obligations Account to the extent of other moneys transferred to or deposited in the Purchase Payment Account pursuant to Section 4.03 of the Indenture.

(c) The City shall be obligated to make Additional Purchase Payments hereunder solely from the Surplus Revenues in the Remaining Surplus Account.

Subject to the foregoing provisions of this Section 4.4, nothing herein shall preclude the City from making 2008 Purchase Payments and Additional Purchase Payments from other lawfully available moneys of the City.

SECTION 4.5 Obligations of the City Unconditional; Net Contract; Obligations of Authority Unconditional. (a) Subject to Section 4.4 hereof, the obligations of the City to make the 2008 Purchase Payments and Additional Purchase Payments required hereunder and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional, and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever, while any 2008 Purchase Payments or Additional Purchase Payments remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Water System, commercial frustration of purpose, any change in the laws of the United States of America or of the State or any political subdivision of either or in the rules or regulations of any governmental authority, 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 this Installment Purchase Agreement or the Indenture.
This Installment Purchase Agreement shall be deemed and construed to be a “net contract,” and the City shall pay absolutely net the 2008 Purchase Payments, Additional Purchase Payments and all other payments required hereunder, regardless of any rights of set-off, recoupment, abatement or counterclaim that the City might otherwise have against the Authority or the Trustee or any other party or parties.

The Authority and the City understand, agree and intend that the obligation of the City to make 2008 Purchase Payments and to pay Additional Purchase Payments hereunder shall not in any way be construed to be a debt of the City, the Authority, or the State of California, or any political subdivision thereof, in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by the City, the Authority, the State of California, or any political subdivision thereof, nor shall anything contained herein constitute a pledge of general revenues, funds or moneys of the City or the Authority or an obligation of the City or the Authority for which the City or the Authority is obligated to levy or pledge any form of taxation or for which the City or the Authority has levied or pledged any form of taxation.

(b) The City covenants to take such action as may be necessary to include and maintain the 2008 Purchase Payments and Additional Purchase Payments due hereunder in its budget for the appropriate Fiscal Year or pursuant to separate resolution of the City Council and further shall make the necessary appropriations for all such 2008 Purchase Payments and Additional Purchase Payments required herein. The covenants on the part of the City contained in this subsection (b) shall be deemed to be and shall be construed to be ministerial duties and it shall be the ministerial duty of each and every public official of the City to take such action and do such things as are required by law in the performance of such official duty of such officials to enable the City to carry out and perform such covenants.

(c) The obligation of the Authority to perform and observe the agreements on its part contained herein shall be absolute and unconditional and, until such time as all of the 2008 Purchase Payments shall have been fully paid (or provision for the payment of Outstanding 2008 Bonds shall have been made in accordance with Section 9.03 of the Indenture), the Authority (i) will perform and observe all of its agreements contained in this Installment Purchase Agreement and (ii) will not terminate this Installment Purchase Agreement for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Water System, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either or any failure of the City to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Installment Purchase Agreement.

Nothing contained in this Section 4.5(c) shall be construed to release the City from the performance of any of the agreements on its part herein contained, and in the event the City should fail to perform any such agreement, the Authority may institute such action against the City as the Authority may deem necessary to compel performance or recover its damages for nonperformance so long as such action shall not violate the agreements of the Authority contained in the first paragraph of this Section 4.5.

SECTION 4.6 Prepayment of 2008 Purchase Payments. 2008 Purchase Payments are subject to prepayment as provided in this Section 4.6. All prepayments of 2008 Purchase Payments shall be made in funds immediately available on the Prepayment Date.

(a) Optional Prepayment. Prior to October 1, 2018, the City shall not have the option to prepay remaining Principal Components of 2008 Purchase Payments. From and after October 1, 2018, the City shall have the option to prepay remaining Principal Components of 2008 Purchase Payments...
Payments in whole or in part (in an amount equal to Authorized Denominations), in any order of maturity, to the extent the Authority has the ability to effect an optional redemption of the 2008 Bonds. Such prepayment shall be effected by depositing with the Trustee the Prepayment Price with respect thereto on or before the Prepayment Date. The City shall give the Trustee written notice of its intention to exercise its option to prepay not more than 90 and not less than 45 days in advance of the date of such prepayment.

(b) **Effect of Prepayment.** In the event that the City prepays the 2008 Purchase Payments in whole, the amount paid shall be applied to the redemption in full of the principal and interest with respect to the 2008 Bonds in accordance with the Indenture. In the event that the City prepays the 2008 Purchase Payments in part, such prepayment shall be applied to the prepayment of the 2008 Purchase Payments as follows: (i) the City shall designate which Principal Components are being prepaid, and to what extent, and the Principal Component of each remaining 2008 Purchase Payment shall be reduced accordingly, in each case in the amount equal to Authorized Denominations in excess thereof corresponding to the principal amount of 2008 Bonds redeemed pursuant to Section 2.02 of the Indenture; and (ii) the Interest Component of each remaining 2008 Purchase Payment shall be reduced by the aggregate corresponding amount of interest which would otherwise be payable on the 2008 Bonds thereby redeemed pursuant to the Indenture.

SECTION 4.7 **Termination of Installment Purchase Agreement.** Except as otherwise specifically provided herein, this Installment Purchase Agreement shall terminate upon the earlier of the following events:

(i) the payment or prepayment by the City of all remaining 2008 Purchase Payments as provided in Section 4.2 or 4.6 hereof and all other amounts to be paid by the City hereunder (including any Additional Purchase Payments which are then due or will become due) and the payment or defeasance of all 2008 Bonds; or

(ii) the payment, or deemed payment, of all 2008 Bonds in accordance with Section [9.03][10.03] of the Indenture and the payment of all amounts due and payable to the Trustee.

ARTICLE V

PARTICULAR COVENANTS

SECTION 5.1 **Limitation on Encumbrances; Against Sale.** The City covenants and agrees that it will not create, assume or suffer to exist any mortgage, deed of trust, pledge, security interest, encumbrance, lien or charge of any kind (including the charge upon property purchased under conditional sales or other title retention agreements) upon the Water System which impairs the ability of the City to comply with its covenant set forth in Section 5.3 hereof. The City covenants that the Water System shall not be sold, leased or disposed of as a whole or substantially as a whole if such sale, lease or disposal would impair the ability of the City to comply with its covenant set forth in Section 5.3 hereof.

Notwithstanding any other provisions contained herein, the City may: (i) sell or dispose of customer connections (and related distribution lines) located outside the City limits; (ii) take all action necessary to comply with its existing agreements with Yorba Linda Water District, and any subsequent implemental agreements; (iii) enter into, and take all actions necessary to fulfill its commitments under, contractual agreements concerning water service to all or part of any areas which are annexed to the City after the sale and delivery of the 2008 Bonds, with parties organized to provide water service to all or part of any such area; and (iv) take all action necessary to comply with the DWR Funding Agreement. Any proceeds from the sale or disposition of any part of the Water System or the granting of any service rights
or privileges pursuant to the preceding sentence shall be used to defray the cost of renewals, replacements, additions and extensions to the Water System or shall be held for the redemption of callable bonds prior to maturity or open market purchase of 2008 Bonds or Senior Bonds then outstanding. Any proceeds from the sale or disposition of any part of the Water System shall be placed in the Revenue Account.

**SECTION 5.2 Accounting Records.** The City covenants and agrees at all times to keep, or cause to be kept, proper books of record and account prepared in accordance with generally accepted accounting principles, in which complete and accurate entries shall be made of all transactions of or in relation to the business, properties and operations of the Water System. Such books of record and account shall be available for inspection by the Trustee at reasonable hours and under reasonable circumstances.

**SECTION 5.3 Rates and Charges.** The City shall prescribe, revise and collect such charges for the services and facilities of the Water System so that, in each Fiscal Year, the Surplus Revenues shall at least equal the sum of:

(i) 1.10 times the amount of Qualified Obligation Service with respect to such Fiscal Year;

(ii) 1.00 times the principal of and interest on the Notes due and payable and to be paid from Surplus Revenues in such Fiscal Year; and

(iii) 1.00 times all other payments required to be made from Surplus Revenues in such Fiscal Year.

**SECTION 5.4 Tax Covenants.** (a) **Special Definitions.** When used in this Section, the following terms have the following meanings:

“Computation Date” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“Gross Proceeds” means any proceeds as defined in section 1.148-1(b) of the Tax Regulations (referring to sales, investment and transferred proceeds), and any replacement proceeds as defined in section 1.148-1(c) of the Tax Regulations, of the 2008 Bonds.

“Investment” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“Nonpurpose Investment” means any investment property, as defined in section 148(b) of the Code, in which Gross Proceeds of the 2008 Bonds are invested and that is not acquired to carry out the governmental purposes of the 2008 Bonds.

“Rebate Amount” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“Tax Regulations” means the United States Treasury Regulations promulgated pursuant to sections 103 and 141 through 150 of the Code.

“Yield” of (i) any Investment has the meaning set forth in section 1.148-5 of the Tax Regulations; and (ii) the 2008 Bonds has the meaning set forth in section 1.148-4 of the Tax Regulations.
(b) **Not to Cause Interest to Become Taxable.** The Authority and the City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner that if made or omitted, respectively, would cause the interest on any of the 2008 Bonds to become includable in the gross income, as defined in section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the Authority or the City receives a written opinion of Bond Counsel to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any 2008 Bond, the Authority or the City, as the case may be, shall comply with each of the specific covenants in this Section.

(c) **No Private Use or Private Payments.** Except as would not cause any 2008 Bond to become a “private activity bond” within the meaning of section 141 of the Code and the Tax Regulations and rulings thereunder, the Authority and the City shall at all times prior to the payment and cancellation of the last 2008 Bond to be paid and canceled:

(i) use their best efforts to ensure that the City exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the 2008 Bonds, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(ii) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the 2008 Bonds or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the jurisdiction of the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) **No Private Loan.** Except as would not cause any 2008 Bond to become a “private activity bond” within the meaning of section 141 of the Code and the Tax Regulations and rulings thereunder, the Authority and the City shall not use Gross Proceeds of any 2008 Bond to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be “loaned” to a person or entity if: (a) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction that creates a debt for federal income tax purposes; (b) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (c) indirect benefits of such Gross Proceeds, or burdens and benefits of ownership of any property acquired, constructed or improved with such Gross Proceeds, are otherwise transferred in a transaction that is the economic equivalent of a loan.

(e) **Not to Invest at Higher Yield.** Except as would not cause any 2008 Bond to become an “arbitrage bond” within the meaning of section 148 of the Code and the Tax Regulations and rulings thereunder, the Authority and the City shall not at any time prior to the final maturity of the 2008 Bonds directly or indirectly invest Gross Proceeds in any Investment, if as a result of such investment the Yield of any Investment acquired with Gross Proceeds, whether then held or previously disposed of, would materially exceed the Yield of such 2008 Bond within the meaning of said section 148.
(f) **Not Federally Guaranteed.** Except to the extent permitted by section 149(b) of the Code and the Tax Regulations and rulings thereunder, the Authority and the City shall not take or omit to take any action that would cause any 2008 Bond to be “federally guaranteed” within the meaning of section 149(b) of the Code and the Tax Regulations and rulings thereunder.

(g) **Information Report.** The Authority shall timely file any information required by section 149(e) of the Code with respect to the 2008 Bonds with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) **Rebate of Arbitrage Profits.** Except to the extent otherwise provided in section 148(f) of the Code and the Tax Regulations and rulings thereunder:

(i) The Authority and the City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last 2008 Bond is discharged. However, to the extent permitted by law, the Authority or the City may commingle Gross Proceeds of the 2008 Bonds with its other money, provided that the Authority or the City, as the case may be, separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(ii) Not less frequently than each Computation Date, the Authority and the City shall calculate the Rebate Amount in accordance with rules set forth in section 148(f) of the Code and the Tax Regulations and rulings thereunder. The Trustee may rely conclusively upon the Authority’s and the City’s determinations, calculations and certifications with regard to the calculation of rebate. The Trustee shall have no responsibility to independently make any calculation or determination or to review the Authority’s and the City’s calculations hereunder. The Authority and the City shall maintain a copy of the calculation with its official transcript of proceedings relating to the issuance of the 2008 Bonds until six years after the final Computation Date.

(iii) In order to assure the excludability of the interest on the 2008 Bonds from the gross income of the owners thereof for federal income tax purposes, the Authority and the City, jointly and severally but without duplication, shall pay to the United States the amount that when added to the future value of previous rebate payments made for the 2008 Bonds equals (A) in the case of a Final Computation Date as defined in section 1.148-3(e)(2) of the Tax Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (B) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, such rebate payments shall be made by the Authority or the City at the times and in the amounts as are or may be required by section 148(f) of the Code and the Tax Regulations and rulings thereunder, and shall be accompanied by Form 8038-T prepared by the Authority or the City or such other forms and information as is or may be required by section 148(f) of the Code and the Tax Regulations and rulings thereunder for execution and filing by the Authority or the City.

(iv) The Authority and the City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (i) and (ii) above, and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it,
interest thereon, and any penalty imposed under section 1.148-3(h) or other provision of the Tax Regulations.

(i) **Not to Divert Arbitrage Profits.** Except to the extent permitted by section 148 of the Code and the Tax Regulations and rulings thereunder, the Authority shall not, at any time prior to the final maturity of the 2008 Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to paragraph (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm’s length and had the Yield on the 2008 Bonds not been relevant to either party.

(j) **2008 Bonds Not Hedge Bonds.**

(i) The Authority and the City each represents that none of the 2008 Bonds are or will become “hedge bonds” within the meaning of section 149(g) of the Code.

(ii) Without limitation of paragraph (i) above, with respect to the 2008 Bonds: (A) on the date of issuance of the 2008 Bonds, each of the Authority and the City reasonably expects that at least 85% of the spendable proceeds of the 2008 Bonds will be expended within the three-year period commencing on such date of issuance, and (B) no more than 50% of the proceeds of the 2008 Bonds will be invested in Nonpurpose Investments having a substantially guaranteed yield for a period of four years or more.

(k) **Elections.** The Authority hereby directs and authorizes any Authorized Authority Representative and the City hereby directs and authorizes any Authorized City Representative to make elections permitted or required pursuant to the provisions of the Code or the Tax Regulations, as such Authorized Authority Representative or Authorized City Representative (after consultation with Bond Counsel) deems necessary or appropriate in connection with the 2008 Bonds, in the Tax Certificate relating to the 2008 Bonds or similar or other appropriate certificate, form or document.

**SECTION 5.5  Limits on Bonds and Obligations.** (a) After the Delivery Date, no Bond or Obligation shall be issued, incurred or delivered unless, at the initial delivery thereof, the Surplus Revenues calculated on sound accounting principles, as shown by the books of the City for any consecutive twelve-month period selected by the City during the 18 months prior to the adoption of the resolution approving the delivery of such Bonds or Obligations, plus, at the option of the City, the allowance for earnings hereinafter set forth in subparagraph (c) of this Section 5.5, shall have amounted to at least 1.10 times the Maximum Annual Qualified Obligation Service on all Qualified Obligations to be outstanding immediately subsequent to the initial delivery of such Bond or Obligation.

(b) Subparagraph (a) of this Section 5.5 notwithstanding, Bonds or Obligations may be issued to refund outstanding Qualified Obligations if, after giving effect to the application of the proceeds thereof, either (i) total Qualified Obligation Service will not be increased in any Fiscal Year in which Qualified Obligations (outstanding on the date of issuance or incurrence of such refunding Bonds or Obligations, but excluding such refunding Bonds or Obligations) not being refunded are outstanding, or (ii) the Surplus Revenues, calculated on sound accounting principles, as shown by the books of the City for any consecutive twelve-month period selected by the City during the 18 months prior to the adoption of the resolution approving the delivery of such Bonds or Obligations, plus, at the option of the City, the allowance for earnings hereinafter set forth in subparagraph (c) of this Section 5.5, shall have amounted to at least 1.10 times total Qualified Obligation Service in the Fiscal Year next succeeding the Fiscal Year in which such Bond or Obligation is initially delivered.
(c) The following may be added to the Surplus Revenues of the Water System for the purpose of applying the restrictions contained in this Section 5.5:

An allowance for earnings arising from any increase in the charges made for service from the Water System which has become effective prior to the initial delivery of such Bond or Obligation but which, during all or any part of said twelve-month period, was not in effect, in an amount equal to the amount by which the Surplus Revenues would have been increased if such increase in charges had been in effect during the whole of said twelve-month period, as certified by the City.

(d) The City further covenants that the Surplus Revenues shall not be mortgaged, encumbered, sold, leased, pledged, any charge placed thereon, or disposed of or used except as authorized by the terms of this Installment Purchase Agreement.

SECTION 5.6 Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out all of its obligations under the Continuing Disclosure Agreement. Notwithstanding any other provision of this Agreement, failure of the City to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default; however, any Owner or Beneficial Owner or any Participating Underwriter (as defined in the Continuing Disclosure Agreement) 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 Section. For purposes of this Section, “Beneficial Owner” means any person which has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any 2008 Bonds (including persons holding 2008 Bonds through nominees, depositories or other intermediaries).

ARTICLE VI

MAINTENANCE AND INSURANCE

SECTION 6.1 Maintenance and Operation of the Water System. The City covenants and agrees that it will operate and maintain the Water System in accordance with all governmental laws, ordinances, approvals, rules, regulations and requirements including, without limitation, such zoning, sanitary, pollution and safety ordinances and laws and such rules and regulations thereunder as may be binding upon the City. The City further covenants and agrees that it will maintain and operate the Water System and all pumps, machinery, apparatus, fixtures, fittings and equipment of any kind in or that shall be placed in any building or structure now or hereafter at any time constituting part of the Water System in good repair, working order and condition, and that it will from time to time make or cause to be made all necessary and proper replacements, repairs, renewals and improvements thereto.

SECTION 6.2 Insurance. The City covenants that it shall at all times maintain with responsible insurers all such insurance on the Water System as is customarily maintained by similar utilities systems with respect to works and properties of like character against accident to, loss of or damage to such works or properties. If any useful part of the Water System shall be damaged or destroyed such part shall be restored to use. The money collected from insurance against accident, loss or damage shall be used for repairing or rebuilding the lost, damaged or destroyed works and properties, and to the extent not so applied, shall be applied to the retirement of outstanding Senior Bonds and Qualified Obligations and for such purpose paid into the appropriate funds or accounts.
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.

Notwithstanding the foregoing, the City may provide any insurance required by this covenant through a self-insurance program.

ARTICLE VII

NON-LIABILITY OF AUTHORITY; EXPENSES, INDEMNIFICATION

SECTION 7.1 Non-Liability of Authority. Other than set forth herein or in the Indenture, the Authority shall not be obligated to pay 2008 Purchase Payments. Neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of, premium, if any, or interest on the 2008 Bonds.

The City hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal of, premium, if any, and interest on the 2008 Bonds as the same shall become due (whether by maturity, redemption or otherwise), then upon notice from the Trustee, the City shall, subject to Section 4.4 hereof and to the extent permitted by law, pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal, premium or interest, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Trustee, the City, the Authority or any third party.

The City, the Trustee and/or the Owners shall have no right to compel the Authority to pay Principal Components or Interest Components of 2008 Purchase Payments.

SECTION 7.2 Expenses. The City covenants and agrees to pay and to indemnify, defend and hold harmless the Authority and the Trustee against all costs and charges, including reasonable fees of attorneys, accountants, consultants and other experts, incurred in good faith or arising out of or in connection with this Installment Purchase Agreement, the 2008 Bonds or the Indenture.

SECTION 7.3 Indemnification. The City agrees, to the extent permitted by law, to indemnify, defend and hold harmless the Authority and its directors, officers, employees, agents and the Trustee from and against any and all losses, claims, damages, liabilities or expenses, of every conceivable kind, character and nature whatsoever (which, in the case of the Trustee, are not a result of its negligence or willful misconduct), including, but not limited to, losses, claims, damages, liabilities, or expenses arising out of, resulting from or in any way connected with (1) the execution and delivery of any 2008 Bonds and the performance of any of the transactions contemplated by this Installment Purchase Agreement or the Indenture; or (2) the acceptance or administration of the trusts under the Indenture, or the exercise or performance of any of its powers or duties under the Indenture or this Installment Purchase Agreement, or (3) any untrue statement or alleged untrue statement of any material fact or omission or alleged omission to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading in any official statement or other offering circular utilized in connection with the sale of the 2008 Bonds. The City further agrees, to the extent permitted by law, to pay or to reimburse the Authority and its directors, officers, employees and agents and the Trustee for any and all costs, reasonable attorneys fees, liabilities or expenses incurred in connection with investigating, defending against or otherwise in connection with any such losses, claims, damages, liabilities, expenses or actions. However, the City shall not hold harmless or indemnify the Authority or its directors, officers, employees or agents and the Trustee for any losses, expenses or liabilities which are caused by the negligence, bad faith or willful misconduct of the Authority, its directors, officers, employees or agents and the Trustee.
SECTION 7.4  Survive Termination. Notwithstanding Section 4.7 hereof, the provisions of this Article shall survive payment in full of the 2008 Purchase Payments and the 2008 Bonds, the expiration of the Indenture, the termination of this Installment Purchase Agreement and the resignation or removal of the Trustee.

ARTICLE VIII
DEFAULTS AND REMEDIES

SECTION 8.1  Events of Default. Each of the following events shall be an “Event of Default”:

(a) If the City shall fail to pay in full any 2008 Purchase Payment pursuant to Section 4.2 hereof, Additional Purchase Payment or other payment required to be paid hereunder at the time and in the manner specified herein;

(b) If the City shall fail to observe or perform any covenant, condition, agreement or provision in this Installment Purchase Agreement on its part to be observed or performed, other than as referred to in subsection (a) of this Section 8.1, or shall breach any warranty by the City herein contained, for a period of sixty (60) days after written notice, specifying such failure or breach and requesting that it be remedied, has been given to the City by the Authority or the Trustee; except that, if in the reasonable opinion of the City such failure or breach can be remedied but not within such sixty (60) day period and if the City has taken all action reasonably possible to remedy such failure or breach within such sixty (60) day period, such failure or breach shall not become an Event of Default for so long as the City shall diligently proceed to remedy it in accordance with and subject to any directions or limitations of time established by the Authority or the Trustee, as the case may be;

(c) If the City files a petition in voluntary bankruptcy, for the composition of its affairs or for its corporate reorganization under any state or federal bankruptcy or insolvency law, or makes an assignment for the benefit of creditors, or admits in writing to its insolvency or inability to pay debts as they mature, or consents in writing to the appointment of a trustee or receiver for itself or for the whole or any substantial part of the Water System;

(d) If a court of competent jurisdiction shall enter an order, judgment or decree declaring the City an insolvent, or adjudging it bankrupt, or appointing a trustee or receiver of the City or of the whole or any substantial part of the Water System, or approving a petition filed against the City seeking reorganization of the City under any applicable law or statute of the United States of America or any state thereof, and such order, judgment or decree shall not be vacated or set aside or stayed within sixty (60) days from the date of the entry thereof; or

(e) If, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the City, and such custody or control shall not be terminated within sixty (60) days from the date of assumption of such custody or control.

SECTION 8.2  Remedies on Default. If an Event of Default specified in Section 8.1 hereof shall occur, then, and in each and every case during the continuance of such Event of Default:

(i) The Trustee may take whatever action, at law or in equity, as may appear necessary or desirable to collect the 2008 Purchase Payments, Additional Purchase Payments and any other payments then due and thereafter to become due under this Installment Purchase

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Agreement or to enforce the performance and observance of any obligation, covenant, agreement or provision contained in this Installment Purchase Agreement; and

(ii) The Trustee may take whatever other legal action may appear necessary or desirable to enforce its rights and the rights of the Owners of the 2008 Bonds.

SECTION 8.3 Remedies Not Exclusive; No Waiver of Rights. No remedy herein conferred upon or reserved to the Authority or the Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy, to the extent permitted by law, shall be cumulative and shall be in addition to every other remedy given under this Installment Purchase Agreement or now or hereafter existing at law or in equity or otherwise. In order to entitle the Authority or the Trustee to exercise any remedy, to the extent permitted by law, reserved to it or contained in this Installment Purchase Agreement, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. Such rights and remedies as are given to the Authority hereunder shall also extend to the Trustee, and the Trustee may exercise any rights under this Installment Purchase Agreement, and the Trustee and the owners of the 2008 Bonds issued under the Indenture shall be deemed third party beneficiaries of all covenants and conditions herein contained.

No delay in exercising or omitting to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

Notwithstanding any other provision of this Installment purchase Agreement, in no event shall the remedy of acceleration be available to the Authority, the Trustee or any other person, and the Trustee is not empowered to sell the Water System or any portion thereon and use the proceeds of such sale to make 2008 Purchase Payments.

SECTION 8.4 Expenses on Default. In the event the City should default under any of the provisions of this Installment purchase Agreement and the Trustee should employ attorneys or incur other expenses for the collection of the payments due hereunder or the enforcement of performance or observance of any obligation on the part of the defaulting party herein contained, the City agrees that it will on demand therefor pay to the Trustee the reasonable fee of such attorneys and such other expenses so incurred by the Trustee.

SECTION 8.5 Notice of Default. The City agrees that, as soon as is practicable, and in any event within ten (10) days, the City will furnish the Trustee notice of any event which is an Event of Default pursuant to Section 8.1 hereof which has occurred and is continuing on the date of such notice, which notice shall set forth the nature of such event and the action which the City proposes to take with respect thereto.

ARTICLE IX

MISCELLANEOUS

SECTION 9.1 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 Installment Purchase Agreement, including, without limitation, to perfect and continue the security interests herein intended to be created.
SECTION 9.2  Notices.  All notices or communications herein required or permitted to be given shall be in writing and, if to the City, mailed or delivered to it as follows: City Clerk, City of Anaheim, 200 South Anaheim Boulevard, Anaheim, California 92805 and concurrently therewith, City of Anaheim, Public Utilities Department, 201 South Anaheim Boulevard, Anaheim, California 92805, Attention: Public Utilities General Manager; and, if to the Authority, mailed or delivered to it as follows: Anaheim Public Financing Authority, 200 South Anaheim Boulevard, Anaheim, California 92805, Attention: Secretary; and if to the Trustee, mailed or delivered to it as provided in the Indenture.  A duplicate copy of each notice or communication given hereunder by either the Authority or the City to the other shall also be given to the Trustee. The Authority, the City and the Trustee may, by notice given hereunder, designate any further or different address to which subsequent notices, certificates and other communications shall be sent.

SECTION 9.3  Governing Law.  This Agreement shall be construed in accordance with and governed by the Constitution and laws of the State of California.

SECTION 9.4  Binding Effect.  This Agreement shall inure to the benefit of and shall be binding upon the Authority, the City and their respective successors and assigns, subject, however, to the limitations contained herein.

SECTION 9.5  Severability of Invalid Provisions.  If any one or more of the provisions contained in this Installment purchase Agreement 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 Installment Purchase Agreement and such invalidity, illegality or unenforceability shall not affect any other provision of this Installment Purchase Agreement, and this Installment Purchase 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 Installment Purchase 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 Installment Purchase Agreement may be held illegal, invalid or unenforceable.

SECTION 9.6  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, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Installment Purchase Agreement.  All references herein to “Articles,” “Sections” and other subsections are to the corresponding Articles, Sections or subsections of this Installment Purchase Agreement; the words “herein,” “hereof,” “hereby,” “hereunder” and other words of similar import refer to this Installment Purchase Agreement as a whole and not to any particular Article, Section or subsection hereof; and words of the masculine gender shall mean and include words of the feminine and neuter genders.

SECTION 9.7  Amendments.  This Agreement may not be effectively amended, changed, modified, altered or terminated except by the written agreement of the City and the Authority and the concurring written consent of the Trustee, given in accordance with the provisions of the Indenture.

SECTION 9.8  Disclaimer of Warranties.  The Authority 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 Water System or any portion thereof, or any other representation or warranty with respect to the Water System, or any portion thereof. In no event shall the Authority or assigns be liable for incidental, indirect, special or consequential damages in connection with this Installment Purchase Agreement or the existence, furnishing or
functioning of the Water System, or the City’s or the Authority’s or any other person’s use of the Water System, except such damages as may arise by reason of the Authority’s breach of this Installment Purchase Agreement.

SECTION 9.9 Claims; Warranties, etc. The Authority irrevocably appoints the City as its agent and attorney-in-fact, so long as the City shall not be in default hereunder, to assert from time to time whatever claims and rights, including warranties with respect to any portion of the Water System, which the Authority may have against the manufacturer, supplier or contractor of such portion of the Water System. As between the Authority and the City, the City’s sole remedy for the breach of any warranty, indemnification or representation shall be against the manufacturer, supplier or contractor of any portion of the Water System, and not against the Authority, nor shall such matter have any effect whatsoever on the rights of the Authority with respect to this Installment Purchase Agreement, including the rights to receive full and timely payments hereunder. The City expressly acknowledges that neither the Authority nor the Trustee makes, or has made, any representation or warranty whatsoever as to the existence or availability of such warranties of the manufacturer, supplier or contractor with respect to any item of the Water System.

SECTION 9.10 Waiver of Personal Liability. No director, officer, agent or employee of the Authority or member, director, officer, agent or employee of the City shall be individually or personally liable for the payment of 2008 Purchase Payments or any other sum hereunder or be subject to any personal liability or accountability by reason of the execution and delivery of this Installment Purchase Agreement; but nothing herein contained shall relieve any such director, member, officer, agent or employee from the performance of any official duty provided by law or by this Installment Purchase Agreement.

SECTION 9.11 Execution of Counterparts. This Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed to be original and all of which shall together constitute but one and the same instrument.

SECTION 9.12 Assignment. Pursuant to Section 4.01 of the Indenture, the Authority has assigned its right, title and interest in this Installment Purchase Agreement (other than its rights under Sections 7.2, 7.3 and 8.4 hereof) to the Trustee, for the benefit of the owners from time to time of the 2008 Bonds. The City hereby consents to such assignment.

The City shall not assign its interests in this Installment Purchase Agreement without the prior written consent of the Authority and the Trustee.
IN WITNESS WHEREOF, the Authority and the City have caused this Installment Purchase Agreement to be executed in their respective names by their duly authorized representatives, all as of the date first above written.

CITY OF ANAHEIM

By ______________________________________
Public Utilities Assistant General Manager—
Finance & Administration

Attest:

By ___________________________________
City Clerk

ANAHEIM PUBLIC FINANCING AUTHORITY

By ______________________________________
Executive Director

Attest:

By ________________________________
Secretary
EXHIBIT A

DESCRIPTION OF WATER SYSTEM ASSETS

Additions and improvements to the Water System, including:

**Wells**
- Well at Anaheim Substation – 335 Zone
- Well at Willow Park – 270 Zone
- Other Well Projects

**Pumping/Regulating Stations**
- PR Station # 68 and Langtree Main Repl
- Pressure Regulating Station # 68
- Other Pumping/Regulating Station Projects

**Water Mains**
- Santa Ana Canyon Road 30” Parallel Trans. Main
- Maychelle Dr 12” Main
- Other Water Main Projects

**Water Storage**
- Nohl Canyon Tank (OHR Replacement)
- Linda Vista Reservoir Replacement (two 2 MG)
- Walnut Canyon Reservoir
- Other Water Storage Projects

**Other Capital**
- Recycled Water Projects
- Water System Security Improvements
- Other Capital Projects

**Service Enhancement Projects**

[to be revised]
## EXHIBIT B

### SCHEDULE OF 2008 PURCHASE PAYMENTS

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* The City is obligated to make 2008 Purchase Payments to the Trustee not later than the last Business Day of each March and September immediately preceding the dates set forth herein.