

ORDER NO. _____

AN ORDER AUTHORIZING THE PURCHASE AND ACQUISITION OF CERTAIN PERSONAL PROPERTY AND THE FINANCING THEREOF; APPROVING CERTAIN INSTALLMENT PURCHASE TERMS UNDER THE AUTHORITY OF SECTION 271.001 ET SEQ., LOCAL GOVERNMENT CODE AND SECTION 56.242, TEXAS WATER CODE; AUTHORIZING A MAXIMUM LOAN IN THE PRINCIPAL AMOUNT OF FOUR HUNDRED SIX THOUSAND NINE HUNDRED EIGHTY DOLLARS (\$406,980) PAYABLE FROM AVAILABLE FUNDS FROM HIDALGO COUNTY DRAINAGE DISTRICT NO. 1, SUBJECT TO ANNUAL APPROPRIATION; PRESCRIBING THE TERMS AND FORM THEREOF; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL THEREOF AND INTEREST THEREON; AND APPROVING OTHER MATTERS INCIDENT THERETO.

ARTICLE I

FINDINGS AND DETERMINATIONS

1.1. Findings and Determinations. It is hereby officially found and determined as follows:

- (a) The County of Hidalgo Drainage District No. 1 (the "District") is authorized by the Public Property Finance Act, Local Government Code, Section 271.001, et seq., Vernon's Texas Civil Statutes, as amended, and Section 56.242, Texas Water Code (the "Acts"), to purchase, acquire or use certain personal property and finance its purchase thereof as necessary for the efficient and economic operation of the District.
- (b) The Commissioners Court, as the governing board of the District (the "Board"), desires to enter a purchase and financing agreement under the authority of the Acts to acquire personal property under terms considered appropriate by the Board and to authorize a maximum of Four Hundred Six Thousand Nine Hundred Eighty Dollars (\$406,980) for such acquisition.
- (c) The Vendor or Vendors, as hereinafter defined, (i) have submitted bids to the District to provide the personal property at the purchase prices as described in Attachment "A" attached hereto (the "Equipment"), or (ii) will submit bids to provide the Equipment under a procurement procedure in accordance with state law.
- (d) In recognition and consideration of Vendor's or Vendors' offers to supply the Equipment, the Board has awarded or will subsequently award (or authorized its staff to award) certain contracts to Vendor or Vendors, all as set out in Attachment "A".
- (e) The District has arranged for the financing of the purchase price of the Equipment through Plains Capital Bank, McAllen, Texas (the "Bank") to allow for the purchase plan.

ARTICLE II

DEFINITIONS AND INTERPRETATIONS

2.1. Definitions. As used herein, the following terms shall have the meanings specified unless the context clearly indicates otherwise:

Acceptance Certificate. A Certificate of District, in substantially the form set forth in Attachment "B" hereto, by which District accepts delivery of the Equipment from Vendor(s) and authorizes Bank or District's Purchasing Department to disburse funds for payment of the purchase price of said Equipment.

Acceptance Date. Unless otherwise agreed to by the prior written consent of District, the date on which the Acceptance Certificate is executed and delivered by District to Bank in connection with this Agreement.

Additional Payments. Those payments required to be made by District representing advances by Bank, if any, upon failure by the District, if any, for repairs or maintenance costs of the Equipment and insurance thereon, under the terms hereof.

Agreement. This agreement.

Authorized Officer. In the case of District, the Board's Presiding Officer, and when used in reference to an act or document of Bank, means any person authorized to perform the act or sign the document on behalf of Bank.

Available Funds. All funds of the District available for payment of its maintenance and operation expenses.

Bank. Plains Capital Bank, 7201 N. 10th Street, McAllen, Texas 78504.

District. Hidalgo County Drainage District No. 1.

Closing. The date of delivery of all executed documents related to this Agreement.

Commencement Date. The later of the date of the adoption of the Order or the delivery of proceeds from Bank's loan.

Depository. A commercial bank or other qualified financial institution eligible and qualified to serve as the custodian of the District's monetary accounts and funds.

Equipment Acquisition Account. An account on the books and records of the District so designated and established by District to account for disbursement of loan proceeds from Bank for purchase of the Equipment.

Equipment Purchase Agreement. Each of the purchase agreements between District and the Vendor(s) of the Equipment.

Equipment. The property to be acquired by District which shall be described in the form set out in Attachment "A" which will be attached to a Schedule hereunder, together and with any and all additions, modifications, attachments, replacements and parts thereof.

Governing Body. The governing board of the District, the Commissioners Court of the County of Hidalgo, Texas.

Order. This Order and all amendments hereof and supplements hereto.

Payments. The scheduled payments of principal and interest credited toward the Purchase of the Equipment by District under a Schedule approved hereunder.

Purchase Price. The purchase price for Equipment.

Schedule. One or more specifically numbered schedules authorized hereunder, between District and Bank, incorporating the provisions of the Order and containing a description of the Equipment to be purchased, Purchase Price, certain attachments and an amortization schedule.

Vendor or Vendors. The vendor of the Equipment, to include the manufacturer or seller of the Equipment.

ARTICLE III

Acquisition of Equipment; Conditions Precedent.

3.1. District has ordered or shall order the Equipment pursuant to one or more Equipment Purchase Agreements from one or more Vendors in compliance with the competitive procurement procedures authorized under state law. The District shall certify that it has fully complied with the legal procurement process.

3.2. The obligation of Bank to fund the loan or to pay or provide other consideration for the loan evidenced by the Note; or to advance a deposit the loan proceeds to the District's Equipment Acquisition Account, is strictly subject to the receipt by Bank of certain documents and the satisfaction of the certain conditions, as follows, all of which shall be satisfactory in form and substance to Bank:

(i) District shall have procured the Equipment in accordance with a competitive procurement procedure as required by state law and shall have completed a Schedule for each Vendor containing all of the information and certifications as set out in Attachment "A-1".

(ii) District shall have accepted the Equipment by delivery to Bank of an Acceptance Certificate in the form of Attachment "B", whereupon the item of

Equipment shall immediately become subject to and governed by the provisions of this Agreement and the term of the applicable Schedule;

(iii) There shall exist no Event of Default (as defined in Article VI hereof) under this Agreement, or any condition, event or act which with notice or lapse of time, or both, would become an Event of Default thereunder which has not been remedied or waived;

(iv) There shall exist no material adverse change in the financial condition of District;

(v) This Agreement, Attachments "A", "B", and "C", duly executed and delivered by District in connection with every Schedule;

(vi) Evidence of insurance as required under section 8.7 hereof;

(vii) A first priority security interest granted to Bank on the Equipment to secure payment of the Note and the obligations thereunder and an executed and filed UCC-1 for the financed Equipment;

(viii) To the extent permissible, assignment to Bank of all warranties on the Equipment;

(ix) Financial information and such other documents, instruments, certifications or other items as may be reasonably required by Bank

3.3. Upon satisfactory tender of all documents and conditions set out in section 3.2,

Bank shall deliver to District the funds to provide the Purchase Price for the Equipment in the applicable Schedule, and District shall promptly pay the Purchase Price for the Equipment and all related costs, all in accordance with the provisions of this Agreement and the applicable Schedule, and have and hold the Equipment for the term of the Note; subject to the terms and conditions hereof. District hereby acknowledges and agrees that Bank shall retain a perfected first priority security interest in the Equipment in accordance with this Agreement.

Alternatively, Bank may, at closing, deliver the purchase price to the Vendor(s).

ARTICLE IV

TERMS OF THE AGREEMENT

4.1. Amount, Purpose and Authorization. This Agreement is adopted by the District under and pursuant to the authority of, and in conformity with, section 271.001 et seq, Local Government Code, in the total authorized aggregate principal amount of FOUR HUNDRED SIX THOUSAND NINE HUNDRED EIGHTY DOLLARS (\$406,980.00) to finance the acquisition price of the Equipment to be used by the District and to pay for costs of issuance of the Agreement.

4.2. Designation and Dated Date. This Agreement shall be designated as the "County of Hidalgo Drainage District No. 1, Texas Note, Series 2014 and shall be dated February __, 2014 (the "Agreement"). The Note shall bear interest at the rate set forth in Section 4.4 of this Order. Any Schedule executed and incorporating the terms hereunder for the installment purchase of any Equipment shall make reference to this Agreement.

4.3. Execution of Agreement; Seal. The Agreement shall be signed by the District's Presiding Officer and countersigned by the County Clerk and the official seal of the District shall be impressed or placed in facsimile thereon. Any Schedule and the attachments and exhibits thereto or other attachments may be signed by the District's Presiding Officer and countersigned by the District's Manager. If any officer of the District whose signature shall be on the Agreement shall cease to be such officer before the authentication of the Agreement or before the delivery of the Agreement, such signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office.

4.4. Interest Rate. The Interest Rate is a fixed rate equal to _____ percent (_____, fixed.

4.5. Terms of Payment. Principal and accrued interest shall be due and payable on _____, _____ and _____, on which final date, all principal and interest then outstanding shall be due and payable in full. The District may prepay all or any part of the principal of the Agreement before maturity without penalty, and interest shall immediately cease to accrue on any amount so prepaid.

4.6. Payments to Be Unconditional. The obligations of District to make the Payments and Additional Payments and fees due hereunder, as well as to perform and observe all other covenants hereunder, shall be absolute and unconditional in all events, without abatement, diminution, deduction, set-off or defense for any reason, including without limitation, any failure of the Equipment to be delivered or installed, any defects, malfunctions, breakdowns or infirmities in the Equipment or any accident, condemnation, destruction or unforeseen circumstances. Notwithstanding any dispute between District and Bank, any Vendor or any other person, District shall make all Payments when due and shall not withhold any Payments pending final resolution of such dispute, nor shall District assert any right of set-off or counterclaim against its obligation to make such payments required under this Agreement.

ARTICLE V

SECURITY FOR THE AGREEMENT; USE OF PROCEEDS

5.1. Equipment Purchase Agreement Account.

(a) A special fund entitled "Hidalgo County Drainage District No. 1 Equipment Purchase Agreement, Series 2014 Account (the "Equipment Purchase Account") is hereby created and shall be established and maintained by the District on its books of account. The Equipment Purchase Account shall be used to pay the interest on and principal of the Note.

(b) As security for the payment of all of District's obligations under this Agreement, District shall assign to Bank a first priority perfected security interest in the Equipment and a pledge of the funds in the Equipment Purchase Account. District also hereby grants to Bank, as security for all of the obligations of District hereunder, a security interest in any and all of District's right, title and interest in and to this Agreement, the Equipment, all additions, attachments, accessions, substitutions and replacements thereto, and Payments due or to become due hereunder, and any and all proceeds thereof, including without limitation proceeds from warranty payments, the proceeds of insurance thereon and any amounts of loan proceeds on deposit in the Equipment Acquisition Account, and all investments and proceeds thereof. District agrees to execute and deliver all documents, instruments and financing statements necessary or appropriate to perfect or maintain the security interest granted hereby. At the request of Bank, District will keep and maintain a conspicuous marking or tag on the Equipment indicating that a security interest therein is held by Bank. It is the intention of the parties hereto that the relationship between such parties created herein is that Bank be the equivalent of a secured party under Article 9 of the Texas Business and Commerce Code (the "UCC") as in effect from time to time and that District be the equivalent of a debtor under such Article 9. To that end, the parties hereto agree that this Agreement shall be governed by Article 9 as if such Article 9 were applicable hereto and that Bank and District have the rights and obligations of a secured party and debtor, respectively, under such Article 9 of the UCC.

5.2. No Debt Created. This Agreement shall not constitute a debt or liability obligation of the State of Texas or a general obligation of the District or any political subdivision of the State of Texas, or a pledge of the faith and credit or taxing power of the State of Texas, or District, or any political subdivision of the State, but shall be a special obligation payable solely from the Available Funds subject to the provisions hereof. Available Funds of the District include funds received by the District for its operation and maintenance, but excludes funds received by the District for the payment of debt service on bonds and other long-term obligations. Further, under the provisions of the statutory authority under which the Agreement is issued, the District's obligation hereunder is subject to annual appropriation.

5.3. Covenants. The District covenants and agrees that it will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Agreement; that it will promptly pay or cause to be paid the Payments on the Agreement and on each Schedule, on the dates and in the places and manner prescribed in the Agreement.

ARTICLE VI

DEFAULT AND NON-APPROPRIATION

6.1. Non-appropriation. Subject to the requirement of prior notice herein, in the event sufficient funds are not appropriated for the payment of all Payments required to be paid in the next succeeding fiscal year, District may terminate this Agreement at the end of a current fiscal year prior to such proceeding fiscal year, and District shall not be obligated to make the Payments provided for in this Agreement for the subsequent fiscal year.

6.2. Remedies on Non-appropriation.

(a) Upon non-appropriation on one or more Schedules hereunder, this Agreement shall terminate at the end of the fiscal year for which sufficient funds have been appropriated, and the District shall immediately, upon the expiration of the said fiscal year, surrender possession and control of all Equipment acquired under any Schedule hereunder. The District shall provide the Bank written notice of such non-appropriation and non-availability within 72 hours following action by the Commissioners Court of the District which constitutes failure to appropriate funds sufficient to pay the Payments during the succeeding Fiscal Year.

(b) Upon termination of this Agreement for non-appropriation, if the District has not delivered possession and control of the Equipment to the Bank and conveyed or released its interest in the Equipment as therein required, the termination shall nevertheless be effective, but to the extent authorized by State Law, the District shall continue to be responsible, from and to the extent of Available Funds as provided in this agreement for the payment of damages in an amount equal to the amount of Payments thereafter coming due which are attributable to the number of days during which the District fails to take such actions.

6.3. Intent to Continue Payments. District presently intends to continue each of the purchase agreements set out separately in each Schedule issued or to be issued hereunder for the entire installment purchase term and to pay all Payments or other transfers and payments required hereunder. District reasonably believes that funds in an amount sufficient to make all such Payments or other transfers and payments will be available for such purposes.

6.4. Events of Default Defined. The terms "events of default" and "default" shall mean, whenever they are used in this Agreement, with respect to the Equipment, any one or more of the following events:

(a) After execution hereof and appropriation of funds for a subsequent fiscal year by the governing body of District, failure by the District to make a Payment or any other payment required to be paid hereunder at the time specified herein from funds appropriated by District, and such failure continues for ten (10) calendar days after the due date thereof;

(b) Failure by District to observe and perform any covenant, condition or agreement on its part to be observed or performed by it hereunder, other than as referred to in subsection (a) of this section, and such failure is not cured within twenty (20) calendar days after written notice thereof is provided to District by Bank; or

(c) Any material statement, representation, or warranty made by District in this Agreement or in any writing ever delivered by District pursuant to or in connection with this Agreement or a Schedule hereunder, is false, misleading or erroneous in any material respect.

6.5. Remedies Upon Default. Whenever any event of default referred to in this section shall have happened and be continuing with respect to any Equipment on any Schedule, Bank shall have the right, to the extent permitted by law, at its option and without any further demand or notice, to take one or any combination of the following remedial steps:

(a) With or without terminating this Agreement, or a Schedule hereunder, declare all Payments due or to become due during the then current fiscal year to be immediately due and payable by District to the extent Available Funds are appropriated, whereupon such Payments shall be, to the extent permitted by State law, immediately due and payable;

(b) With or without terminating this Agreement or a particular Schedule, re-enter and take possession of the Equipment and exclude District from using the Equipment; however, if this Agreement or a particular Schedule has not been terminated, Bank shall return possession of the Equipment to District when the event of default is cured (and District has made payment of all costs and expenses incurred by the Bank in taking and maintaining possession of the Equipment), and, further, District shall, during such period of repossession by Bank without termination of this Agreement or a Schedule, to the extent funds have been appropriated for such purposes, continue to be responsible for the Payments due or to become due during the period of time of the fiscal year for which funds are appropriated;

(c) With or without terminating this Agreement, or a Schedule, take possession of the Equipment, and sell, lease or sublease the Equipment (or any portion thereof), and, to the extent funds have been appropriated for such purposes, hold District liable for the difference between (i) the Payment and other amounts paid by a third party pursuant to such sale, lease or sublease and (ii) the balance of the Payments, and other amounts due or to become due during the Fiscal Year for which the appropriation of funds was made by District; provided, however, nothing contained herein shall impose an obligation upon Bank so to sell, lease or sublease the Equipment, and any excess proceeds from such disposition shall be returned to District;

(d) Take whatever action at law or in equity may appear necessary or desirable to collect the Payments then due and thereafter to become due during the Fiscal Year or to enforce performance and observance of any other obligation, agreement or covenant of District under this Agreement or a Schedule; or

(e) Sell, transfer or otherwise dispose of the Equipment or any interest in the Equipment, including, but not limited to, any interest in the Equipment and including any lease, sublease, license, privilege or right acquired as the result of the exercise of any of the other remedies specified in this Agreement.

6.6. Reversion During Event of Default. In the event of an event of default hereunder and for so long as such event of default is continuing, all interest of the District in the Equipment shall be revested immediately in and shall revert to Bank.

ARTICLE VII

PREPAYMENT; PURCHASE.

7.1. Purchase Rights. District shall be entitled to full title and all ownership interests in the Equipment identified in a particular Schedule, and Bank's security interest therein shall be terminated:

(a) Upon payment in full of all Payments of the applicable Schedule and all other amounts due under this Agreement, with respect to such Schedule; or

(b) Upon written notice by District delivered at least thirty (30) days in advance of any date on which a Payment is due, and upon the payment on such date of the Payment due, the Purchase Price, and all other amounts owed by District hereunder.

7.2 Optional Prepayment. District shall have the right to prepay the outstanding principal balance of each Schedule hereunder, in full at any time, provided, that as conditions precedent to District's right to make, and Bank's obligation to accept, any such prepayment: (i) Bank shall have actually received the notice required in section 7.1 above providing the amount of principal which will be prepaid (the "Prepaid Principal") and the date (the "Prepayment Date") on which the prepayment will be made; and (ii) each such prepayment shall be in the amount of 100% of the principal amount to be prepaid, plus accrued unpaid interest thereon to the Prepayment Date, plus any other sums which have become due to Bank under such Schedule on or before the Prepayment Date, but which have not been paid, provided, however, in no event shall any prepayment cause the interest rate on any Schedule to exceed the maximum interest rate allowed for similar governmental obligations pursuant to Chapter 1204, Texas Government Code, as amended, or other applicable laws in effect as of the date of such Schedule.

7.3 Consummation of Purchase. Bank's security interest in the Equipment identified in a particular Schedule shall be terminated and released automatically in conjunction with the receipt of the full Purchase Price or the final Payment due thereunder plus any other amounts then due from District hereunder, unless an Event of Default hereunder shall have occurred and be continuing as of such date. Such date may at the discretion of Bank be extended for such additional period as Bank reasonably determines to be necessary to reflect the impact of, and avoid the risks related to, bankruptcy-related laws. On such date, Bank shall deliver to District such deeds, termination statements, bills of sale and other documents and instruments as District shall reasonably require to evidence the transfer of all right, title and interest of Bank in such Equipment to District free and clear of all liens and encumbrances created by or arising, directly or indirectly, through Bank.

ARTICLE VIII

RESPONSIBILITIES OF DISTRICT; COVENANTS

8.1. Care and Use of Equipment. District shall use the Equipment in a careful and proper manner, in compliance with all applicable laws and regulations, and at its sole cost and expense, service, repair and maintain the Equipment so as to keep the Equipment in good condition, repair, appearance and working order for the purposes intended, ordinary wear and tear excepted, and shall replace any part of the Equipment as may from time to time become worn out, lost, stolen, destroyed or damaged or is unfit for use. Any and all such additions to or replacements of the Equipment and all parts thereof shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement or in any Schedule hereunder. If requested by Bank, District shall enter into or cause to be entered into, and maintained in full force and effect during the term of this Agreement, standard maintenance contracts satisfactory to Bank covering the

Equipment and shall comply with all its obligations thereunder. District shall furnish evidence to Bank of such signed maintenance agreement at or prior to the date of this Agreement and the payment of all charges and premiums therefor. Substitute maintenance may be used if necessary and if first approved by Bank in writing. Upon the early termination of this Agreement pursuant to section 6.1 or 6.4, District shall return the Equipment at its sole expense to Bank at a place designated by Bank in the same condition as originally received, ordinary wear and tear excepted, and in a condition which will permit Bank to be eligible for such standard maintenance contract without incurring any expense to repair or rehabilitate the Equipment.

8.2. Inspection. Bank shall have the right upon reasonable prior notice to District to enter onto and upon the premises where the Equipment is located to inspect the Equipment and observe its use during normal business hours.

8.3. Utilities. District shall pay all charges for gas, water, steam, electricity, light, heat or power, telephone or other utility service furnished to or used on or connection with the Equipment during the period of the Agreement. There shall be no abatement of Payments on account of interruption of any such services.

8.4. Taxes. During the term of the Agreement, District agrees to pay when due any and all taxes, if any, relating to the Equipment and District's obligations hereunder, including but not limited to, all license or registration fees, gross receipts tax, sales and use tax, if applicable, documentary stamp taxes, rental taxes, assessments, charges, ad valorem taxes, excise taxes, and all other taxes, licenses and charges imposed on the ownership, possession or use of the Equipment by any governmental body or agency, together with any interest and penalties, whether the taxes assessed are assessed against Bank or District, other than taxes on or measured by the net income of Bank.

8.5. Alterations. Without the prior written consent of Bank, which consent shall not be unreasonably withheld, District shall not make any alterations, modifications or attachments to the Equipment which cannot be removed without materially damaging the functional capabilities or economic value of the Equipment. Upon return of the Equipment and at Bank's request, District at its sole cost and expense, will remove all alterations, additions and attachments and repair the Equipment as necessary to return the Equipment to the condition in which it was furnished, ordinary wear and tear excepted.

8.6. Transportation and Installation Charges. District shall be responsible for all charges relating to the transportation of the Equipment to District's location and the installation at such location. Upon default by District hereunder, Bank may at its option either prepay such charges and invoice District or forward invoices to District as they are received and District shall remit payment within ten (10) days upon District's receipt of same as Additional Payments

8.7. Insurance. District shall maintain or cause to be maintained (a) casualty insurance naming Bank and its assigns as additional insured and loss payee and insuring the Equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State, and any other risks reasonably required by Bank, in an amount at least equal to the Purchase Price of the Equipment and with such deductibles as Bank may require in its sole discretion; (b) liability insurance that protects Bank from liability in all

events in form and amount satisfactory to Bank; and (c) worker's compensation coverage as required by the laws of the State; provided that, with Bank's prior written consent, District may self-insure against the risks described in clause (a). Upon request, District shall furnish to Bank evidence of such insurance or self-insurance coverage. District shall not cancel or modify such insurance or self-insurance coverage in any way that would affect the interests of Bank without first giving written notice thereof to Bank at least thirty (30) days in advance of such cancellation or modification.

8.8. Risk of Loss. District shall bear all risk of loss to the Equipment, after delivery of the Equipment to District, and in the event of loss or damage thereto, District shall as its option either (i) continue to make the Payments due hereunder and repair or replace the Equipment as mutually agreed between District and Bank, or (ii) purchase the Equipment for the Purchase Price.

8.9. Performance by Bank of District's Responsibilities; Advances. In the event District shall fail to keep the Equipment in good repair and working order, Bank may, but shall be under no obligation to, maintain and repair the Equipment and pay the costs thereof. Any performance required of District or any payments required to be made by District may, if not timely performed or paid, may be performed or paid by Bank, and in that event, Bank shall be immediately reimbursed as Additional Payments by District for such payments and for any costs and expense, legal or otherwise associated with the payments or other performance by Bank, with interest per annum thereon at the maximum rate for governmental obligations under Chapter 1204, Texas Government Code, as amended, or other applicable laws in effect as of the date such costs are incurred.

8.10. Financial Statements. District shall keep its books and records in accordance with generally accepted accounting principles. District agrees that it will furnish Bank: (a) District's current audited financial statements within 180 days of each fiscal year end including (i) a balance sheet, (ii) statement of revenues, expenses and changes in fund balances, (iii) statement of cash flows, (iv) operating fund budget analysis, and (v) appropriate notes, schedules and attachments to the financial statements; (b) within 90 days of each fiscal year end a copy of the annual budget for the then current fiscal year; and (c) such other financial information relating to the ability of District to continue performing hereunder (as submitted or approved) as Bank may from time to time reasonably request, and permit Bank or its agents and representatives to inspect District's books and records and make extracts therefrom. District represents and warrants to Bank that all financial statements which have been delivered to Bank fairly and accurately reflect District's financial condition and there has been no material adverse change in District's financial condition as reflected in the statements since the date thereof.

8.11. Purchase Agreement; Installation Contract. District shall provide to Bank a copy of any Equipment Purchase Agreement, installation contract and the projected installation schedule and any amendments thereto entered into for the Equipment being financed pursuant to this Agreement.

8.12. Warranties. District represents that it has at Closing, or will have within a reasonable time period thereafter, possession or all representations, warranties and service contracts relating to the Equipment made or entered into by the manufacturers or suppliers of the

Equipment, all of which, to the extent assignable as additional security, are assigned to the Bank, and Bank has made and makes no representation or warranty, express or implied, and assumes no obligation with respect to the title, merchantability, condition, quality or fitness of the Equipment described in Schedule for any particular purpose or the conformity of the Equipment to specifications or purchase order, its design, delivery, installation or operation. All claims or actions on any warranty so assigned to Bank shall be made or prosecuted by District, at its sole expense, upon prior written notice to Bank, Bank may, but shall have no obligation whatsoever to participate in such claim or action on such warranty, at Bank's expense. Any recovery under such a warranty shall be made payable jointly to District and Bank.

ARTICLE IX

DAMAGE, DESTRUCTION AND CONDEMNATION.

9. 1. Damage, Destruction and Condemnation. Unless District shall have exercised its option to purchase the Equipment by making payment of the Purchase Price and any other amounts then due from District hereunder, as provided in this Agreement and the related Schedule, if, prior to the termination of the applicable Installment Purchase Term, (a) the Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, District and Bank will cause the net proceeds (as hereinafter defined) of any insurance claim or condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment. Any balance of the net proceeds remaining after such work has been completed shall be paid to District.

Notwithstanding the foregoing, District may elect to replace the Equipment. If District elects to replace any item of the Equipment (the "Replaced Equipment") pursuant to this Section, the replacement equipment (the "Replacement Equipment") shall be of similar type, utility and condition to the Replaced Equipment and shall be of equal or greater value than the Replaced Equipment. District shall represent, warrant and covenant to Bank that each item of Replacement Equipment is free and clear of all claims, liens, security interests and encumbrances, excepting only those liens created by or through Bank, and shall provide to Bank any and all documents as Bank may reasonably request in connection with the replacement, including, but not limited to, documentation in form and substance satisfactory to Bank evidencing Bank's security interest in the Replacement Equipment. Bank and District hereby acknowledge and agree that any Replacement Equipment acquired pursuant to this paragraph shall constitute "Equipment" for purposes of this Agreement and the related Schedule. District shall notify Bank as soon as possible of its election to replace Equipment in accordance with the foregoing, and in any event, District shall complete the documentation of Replacement Equipment on or before the next Payment date after the occurrence of a casualty event, or be required to exercise the purchase option with respect to the damaged Equipment.

ARTICLE X

TITLE TO EQUIPMENT; SECURITY INTEREST.

10.1. Title. Legal title to the Equipment governed by a Schedule shall, so long as no Event of Default has occurred and is continuing under such Schedule and hereunder, be in District. The Equipment shall be registered in the name of District and, if applicable, title thereto shall be evidenced by a certificate of title, or such other instrument as may be required by or utilized by the laws of the State of Texas to demonstrate ownership. Such certificate may be held at all times during the term of this Agreement by Bank and shall expressly state thereon that (a) Bank holds a lien on the Equipment (Bank's name and address shall appear on such certificate as "Plains Capital Bank, 7201 N. 10th Street, McAllen, Texas 78504"), (b) District's possession of the Equipment is subject to this Agreement, and (c) any other information required by applicable law and that may be necessary or convenient, as determined by Bank, to establish Bank's rights, title and interest as the first secured lienholder of the Equipment. District shall at all times protect and defend, at its own cost and expense, its title to the Equipment from and against all claims, liens and legal processes of creditors of District, and keep all Equipment free and clear of all such claims, liens and processes. Upon the occurrence of an Event of Default under this Agreement or upon the termination of this Agreement, other than pursuant to Section 6.1 hereof, and Bank's termination thereof (i) full and unencumbered legal title to the Equipment shall pass and revert to Bank and District shall have no further interest therein; (ii) District shall execute and deliver to Bank such documents as Bank may request to evidence the passage of District's title and interest therein; and (iii) upon request by Bank, District shall deliver possession of the Equipment to Bank. Upon termination pursuant to Sections 7.1 and 7.2 hereof, full and unconditional title to the applicable Equipment shall pass to District, and Bank's security interest in the applicable Equipment shall terminate, and Bank shall execute and deliver to District such documents as District may request to evidence the termination of Bank's security or other interest in such Equipment.

10.2. Personal Property. The Equipment is, and shall at all times be and remain, personal property notwithstanding that the Equipment or any part thereof may now be, or hereafter become, in any manner affixed or attached to, or embedded in, or permanently resting upon, real property or any building thereon or any fixtures, or attached in any manner to what is permanent by any means of cement, plaster, nails, bolts, screws or otherwise. Upon request of Bank, District shall obtain, as to any place where the Equipment is located, a waiver from the landlord and mortgagee thereof with respect to any rights they may have in and to the Equipment of the rights of levy or distraint thereon.

10.3. Liens. District shall not directly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, security interest, encumbrance or claim on or with respect to the Equipment or any interest therein, except for the lien and security interest of Bank therein. District shall promptly, at its own expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, security interest, charge, encumbrance or claim if the same shall arise at any time.

10.4. Inspection, Acceptance and Written Notice of Defects. Immediately, or as soon as practicable to provide time for testing, upon receipt and installation of the Equipment, District

shall inspect the Equipment. Unless District gives Bank written notice of each defect or other proper objection to the Equipment before the execution of the Acceptance Certificate, it shall be conclusively presumed, as between Bank and District, that District has fully inspected and acknowledged that the Equipment is in good condition and repair, has been properly installed and is performing satisfactorily, and that District is satisfied with and has accepted the Equipment in such good condition and repair.

ARTICLE XI

TAX EXEMPTION; COVENANTS REGARDING FEDERAL TAX EXEMPTION OF BONDS.

11.1 Definitions. When used in this Section, the following terms have the following meanings:

“Code” means the Internal Revenue Code of 1986, as amended, by all legislation, if any, effective on or before the Closing Date.

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

“Gross Proceeds” means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of this Agreement.

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

“Non-purpose Investment” means any investment property, as defined in section 148(b) of the Code, in which Gross Proceeds are invested and which is not acquired to carry out the governmental purposes of this Agreement.

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

“Regulations” means the Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1986, which are applicable to this Agreement (and any rulings thereunder). Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

“Yield” of

(1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and

(2) of the Agreement have the meaning set forth in Section 1.148-4 of the Regulations.

11.2 General Tax Covenant. The District intends that the interest component of the Payments on each Schedule entered into under this Agreement shall be excludable from gross

income for purposes of federal income taxation pursuant to Sections 103 and 141 through 150 of the Code and applicable Regulations. The District covenants and agrees not to take any action, or omit to take any action within its control, that if taken or omitted, respectively, would cause the interest on the Payments to be includable in gross income, as defined in section 61 of the Code, of the holders thereof for purposes of federal income taxation. In particular, the District covenants and agrees to comply with each requirement of this section; provided, however, that the District shall not be required to comply with any particular requirement of this section if the District has received an opinion of nationally recognized bond counsel ("Counsel's Opinion") that such noncompliance will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Payments or if the District has received a Counsel's Opinion to the effect that compliance with some other requirement specified in such Counsel's Opinion shall constitute compliance with the corresponding requirement specified in this section. In the event the provisions of the Code are amended, or new regulations or rulings are promulgated or issued thereunder, such that requirements in addition to those stated herein become applicable to the Payment, the District covenants to comply with such additional requirements to the extent necessary to prevent any adverse effect on the exclusion of interest on the Agreement from gross income for federal income tax purposes.

11.3 Use of Proceeds. The District covenants and agrees that its use of the loan proceeds of from Bank will at all times satisfy the following requirements:

(a) Private Business Use. Except as permitted by section 141 of the Internal Revenue Code (the "Code") and the Internal Revenue Service Regulations (the "Regulations"), the District shall at all times prior to the last stated maturity of the Payments:

(i) not use or permit the use of any property acquired, constructed or improved with such Gross Proceeds of the Note 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 who is treated as using Gross Proceeds 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 the standard golf course fees charged for use of the golf course or interest earned on Investments acquired with such Gross Proceeds pending application for their intended purposes.

(iii) not use or permit the use of Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds in any way that would cause the Agreement to constitute "private activity bonds".

(b) Private Loan Use. Except to the extent permitted by section 141 of the Code and the Regulations and rulings thereunder, the District shall not use Gross Proceeds 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:

(1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) 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 (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(c) Not to Invest at Higher Yield. Except to the extent permitted by section 148 of the Code, and the Regulations, the District shall not 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, materially exceeds the Yield of this Agreement.

(d) Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code and the Regulations and rulings thereunder, the District shall not take or omit to take any action which would cause the Agreement to be federally guaranteed within the meaning of section 149(b) of the Code.

ARTICLE XII

MISCELLANEOUS

12.1. Legal Holidays. Should the date interest accrues and becomes payable on the Agreement, or principal of the Agreement matures, fall on a Saturday, Sunday, legal holiday or a day on which banking institutions are authorized by law to close, then in such event, payment of interest or principal need not be made on such a date, but payment may be made, the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which banking institutions are authorized by law to close, with the same force and effect as if made on the date of maturity and no interest shall accrue for the period from the date of maturity to the date of actual payment.

12.2. No Recourse Against District or District Officials; Indemnity. No recourse shall be had for the payment of principal of or interest on any Agreement or for any claim based on this Agreement against any official of the District or any person executing any Agreement.

12.3. Further Proceedings. The District's Presiding Officer and other appropriate officials of the District are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms of this Order.

12.4. Severability. If any section, paragraph, clause or provision of this Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Agreement.

12.5. Open Meeting. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the Board at which this Order was adopted was posted at a place convenient and readily accessible at all times to the general public at the official meeting place of the District Texas for the time required by law preceding this meeting, as required by the Texas Open Meetings Law, Chapter 551, Texas Government Code, as amended, and that this meeting was open to the public as required by law at all times during which this Order and the subject matter thereof were discussed, considered and formally acted upon. The Board further ratifies, approves and confirms such written notice and the contents and posting thereof.

12.6. Repealer. All orders and resolutions or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

ATTACHMENT "A"

**DESCRIPTION AND PURCHASE PRICE OF AND
FOR EQUIPMENT**

ATTACHMENT "B"
ACCEPTANCE CERTIFICATE

For DISTRICT: Hidalgo County Drainage District No. 1

By: _____
Presiding Officer

Or

By: _____
District Manager

ACCEPTED on this the ____ day of _____, 2014.

ATTACHMENT "C"

FORM OF AMORTIZATION SCHEDULE

AMORTIZATION SCHEDULE FOR INSTALLMENT PURCHASE

(This schedule sets out the Payments due under a Schedule authorized under the District of Hidalgo, Texas Installment Purchase Agreement, Series 2014, dated February __, 2014).

CAPITAL COST: \$

RATE:

TENOR (YEARS):

Payment #	Date	Payment Amount*	Principal	Interest**	Remaining Amount
1					
2					
3					
Totals					

* Includes interest

By: _____

Date: _____

PASSED AND APPROVED ON _____.

DRAINAGE DISTRICT NO. 1
HIDALGO COUNTY, TEXAS

Ramon Garcia
County Judge

APPROVED BY HIDALGO
COUNTY DRAINAGE DISTRICT
NO. 1 BOARD OF DIRECTORS
ON: 5/19/15

ATTEST:

[Signature]
County Clerk

(SEAL)

ACCEPTED:

DATE: _____

PLAINS CAPITAL BANK

President