

**AGENDA ITEM 25**

**Discuss and take appropriate action on appointment and reappointments of board members for ESD #3.**

**Moved: Commissioner Limmer**

**Seconded: Commissioner Hays**

**Motion: To approve the reappointments of the following four current ESD #3 Commissioners:**

Joni Clarke

John H Coats

Jonathon Fritz

Vic Stern

**and appoint Stormi Brown as the fifth ESD #3 Commissioner.**

**Vote: 4 - 0**

<Attachment>

Williamson County Emergency Services District No. 3  
P O Box 175  
Hutto, Texas 78634

March 1, 2003

Commissioner Frankie Limmer  
County Commissioner Pct. # 4  
P O Box 1104  
Taylor, Texas 76574

Dear Commissioner Limmer,

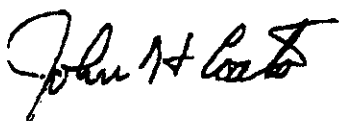
When I spoke to you the other night at the Hutto City Council meeting, I advised that four of the current ESD Commissioners wanted to be reconfirmed for additional terms. A letter has been sent to Judge Doefler, at his request, to set that reconfirmation on the Count's agenda.

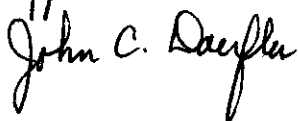
I told you that we would seek a person to recommend as the fifth ESD Commissioners replacement. We have discussed the recommended individual and feel that she would be a good fit to represent the business interests and also represent the south side of our District. I spoke with her this morning concerning the ESD and the duties of its Commissioners and she stated that she would be happy to serve in that capacity. She would also be able to serve as our Treasurer. We recommend this lady to be our fifth ESD Commissioner.

Mrs. Stormi Brown  
707 County Road 134  
Hutto, Texas 78634  
Office # 759-4461

She is an account and works with her father, Doyle Hobbs, in his firm and she has been a Municipal Court Judge here in Hutto. If you have any questions, please contact me at 512/413-1404.

Very truly yours,

  
John H Coats  
President.

approved 3-18-03  


Williamson County Emergency Services District No. 3  
P O Box 175  
Hutto, Texas 78634

February 27, 2003

Judge John Doefler  
Williamson County Commissioners Court  
Georgetown, Texas 78626

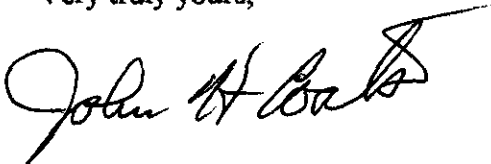
Dear Judge Doefler,

The terms of office for the five commissioners of ESD # 3 have now expired. The following four current ESD Commissioners have requested to be re-appointed to serve additional terms.

Joni Clarke  
John H Coats  
Jonathon Fritz  
Vic Stern

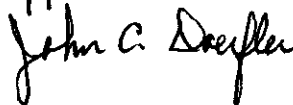
The fifth member has asked not to be re-appointed because of work. We are talking to several people to see if they would be interested in serving in that capacity. We will recommend a replacement as soon as possible, hopefully by the first week in March. If I can provide any additional information, please call me at 413-1404.

Very truly yours,



John H Coats  
President

approved 3-18-03



**AGENDA ITEM 26**

Discuss and take appropriate action on road bond program.

Paul Petrich handed out the monthly construction summary report.

<Attachment>

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# **WILLIAMSON COUNTY**

## **ROAD BONDS PROGRAM**



### **CONSTRUCTION SUMMARY No. 7**

**MARCH 18, 2003**

*Presented By:*

**HNTB**



# Williamson County Bond Information Monthly Summary

## Georgetown Inner Loop (Project 2): DB Wood

Original Contract Price = \$1,831,490.87

| Letting  | Award    | Notice To Proceed | Begin Work | Anticipated Work Complete | Work Accepted | Total Bid Days | Days Added | Total Days |
|----------|----------|-------------------|------------|---------------------------|---------------|----------------|------------|------------|
| 09/06/02 | 09/25/01 | 01/23/02          | 01/23/02   | 04/24/03                  |               | 240            | 185        | 425        |

| Invoice Number | Beginning Date | Ending Date | Days Charged | Current Invoice | Invoice Total  | Current Retainage | Total Retainage | % (\$) | % Time | Liquidated Damages | Total Liq Damages |
|----------------|----------------|-------------|--------------|-----------------|----------------|-------------------|-----------------|--------|--------|--------------------|-------------------|
| 1              | 01/23/02       | 02/28/02    | 37           | \$108,716.23    | \$108,716.23   | \$12,079.58       | \$12,079.58     | 7      | 9      | \$0.00             | \$0.00            |
| 2              | 03/01/02       | 03/31/02    | 31           | \$103,233.77    | \$211,950.00   | \$11,470.42       | \$23,550.00     | 13     | 16     | \$0.00             | \$0.00            |
| 3              | 04/01/02       | 04/30/02    | 30           | \$51,299.10     | \$263,249.10   | \$5,699.90        | \$29,249.90     | 15     | 23     | \$0.00             | \$0.00            |
| 4              | 05/01/02       | 05/31/02    | 31           | \$16,697.25     | \$279,946.35   | \$1,855.25        | \$31,105.15     | 16     | 30     | \$0.00             | \$0.00            |
| 5              | 06/01/02       | 06/30/02    | 30           | \$54,147.07     | \$334,093.42   | \$6,016.34        | \$37,121.49     | 21     | 37     | \$0.00             | \$0.00            |
| 6              | 07/01/02       | 07/31/02    | 31           | \$24,106.81     | \$358,200.23   | \$2,678.54        | \$39,800.03     | 23     | 45     | \$0.00             | \$0.00            |
| 7              | 08/01/02       | 08/31/02    | 31           | \$64,724.40     | \$422,924.63   | \$7,191.60        | \$46,991.63     | 26     | 52     | \$0.00             | \$0.00            |
| 8              | 09/01/02       | 09/30/02    | 30           | \$74,242.71     | \$497,167.34   | \$8,249.19        | \$55,240.82     | 32     | 59     | \$0.00             | \$0.00            |
| 9              | 10/01/02       | 10/31/02    | 31           | \$68,427.00     | \$565,594.34   | \$7,603.00        | \$62,843.82     | 36     | 66     | \$0.00             | \$0.00            |
| 10             | 11/01/02       | 11/30/02    | 30           | \$109,586.06    | \$675,180.40   | \$12,176.22       | \$75,020.04     | 43     | 73     | \$0.00             | \$0.00            |
| 11             | 12/01/02       | 12/31/02    | 31           | \$138,463.13    | \$813,643.53   | \$15,384.80       | \$90,404.84     | 52     | 81     | \$0.00             | \$0.00            |
| 12             | 01/01/03       | 01/31/03    | 31           | \$121,651.64    | \$935,295.17   | \$13,516.84       | \$103,921.68    | 60     | 88     | \$0.00             | \$0.00            |
| 13             | 02/01/03       | 02/28/03    | 28           | \$125,362.19    | \$1,060,657.36 | \$13,929.14       | \$117,850.82    | 68     | 95     | \$0.00             | \$0.00            |

03/14/03 Comments - Letter sent to M. Weaver regarding the 12" water line adjustment value and funding agreement. The for the change order work has been completed, with the exception of the Concrete Cap for Waterline. The City of Georgetown has approved an allocated amount of \$63,255. Mr. Joel Weaver is aware of the overruns and the reasons for them. The additional amount over the approved \$63,255 will need to go before the City Council for approval.

03/07/03 Comments - Final draft of C.O. No. 6 (DB Wood extension) completed. ABR has requested additional days be added to the time extension, from 90 to 120 days. HNTB has requested ABR to send written request for additional time, with justification.

02/28/03 Comments - No changes.

02/21/03 Comments - No progress to report. Construction activity slowed due to weather.

02/14/03 Comments - Progress has been poor, but improving.

| Change Order Number | Approved   | Cost This CO | Total CO |
|---------------------|------------|--------------|----------|
| 1                   | 03/18/2002 | 0.00         | 0.00     |

1. Modify special conditions page 5 of 27 - Include the Manager, the Manager's consultants, and the Construction Observer as additional insured.
2. Modify the technical specs section of the Project Construction Manual to indicate 1993 TxDOT Standard Specs for the Construction of Highways, Streets, and Bridges, as the "Standard Specifications".
3. Include Special Specifications 3146, 5005, 5010, 5012, 5249, & add Special Provisions to Items 001, & 004 to the contract within the "Technical Specifications" section of the Project Construction Manual.
4. Add Special Specification 5819 as the specification for Single Guardrail Terminal.
5. Plan Sheet No. 38 titled "Special Public Information Sign" is deleted from the project.

| Change Order Number | Approved   | Cost This CO | Total CO    |
|---------------------|------------|--------------|-------------|
| 2                   | 06/11/2002 | -147,798.45  | -147,798.45 |

Add force account to adjust City of Georgetown 12" water line crossing. This change corrects the original plan survey data, the original design has changed due to City of Georgetown & City of Round Rock waterlines. The SW3p sheet has been modified including provisions for endangered species, historical sites, & an inspection frequency change. A general note to implement a 25mph speed limit during project duration is added. Bid Item 644-508 is added to compensate for the installation of signs detailed in original plans. Payment for Project Description signs is added. The sequence of work and corresponding Traffic Control Plan is revised. 40 days are added in this change order.

| Change Order Number | Approved   | Cost This CO | Total CO   |
|---------------------|------------|--------------|------------|
| 3                   | 04/23/2002 | 80,030.00    | -67,768.45 |

Adjustment/Relocation of main waterline, services and appurtenances on both the City of Georgetown and City of Round Rock waterlines. In addition, this change order provides compensation for the placement of a concrete cap over waterlines in areas where the design could not be altered to provide adequate cover over the pipe. Five days were added with this change order.

| Change Order Number | Approved   | Cost This CO | Total CO   |
|---------------------|------------|--------------|------------|
| 4                   | 09/25/2002 | 18,500.00    | -49,268.45 |

Add bid items to compensate for trenching adjacent to an active 30" water line and allow the construction of a slope between the proposed roadway and the water line.

03/18/2003

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**Georgetown Inner Loop (Project 2): DB Wood**

Change Order Number

5

Approved

10/15/2002

Cost This CO

-37,875.35

Total CO

-87,143.80

Change the scope of work for placement of culvert 4A from a bored culvert to placement by open cut. Modify the vertical and horizontal alignments of culverts 4A and 4B due to the location of the 30" City of Round Rock waterline. Will result in a savings to the project of \$37,875.35.

Adjusted Price = \$1,744,347.07

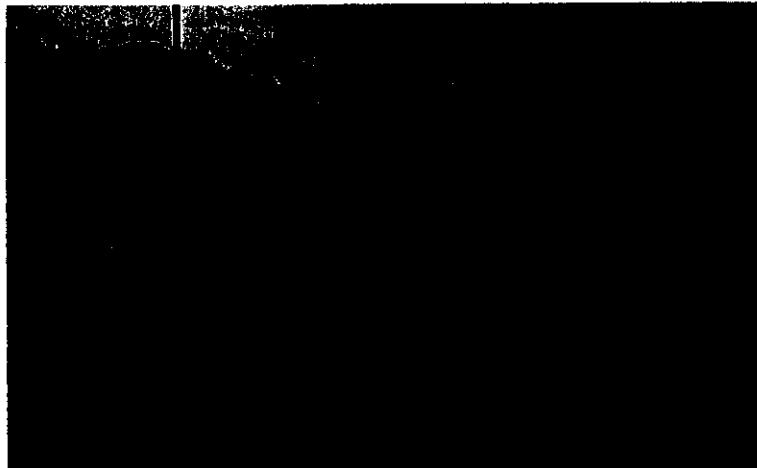


**Williamson County Bond Information  
Monthly Picture Summary**

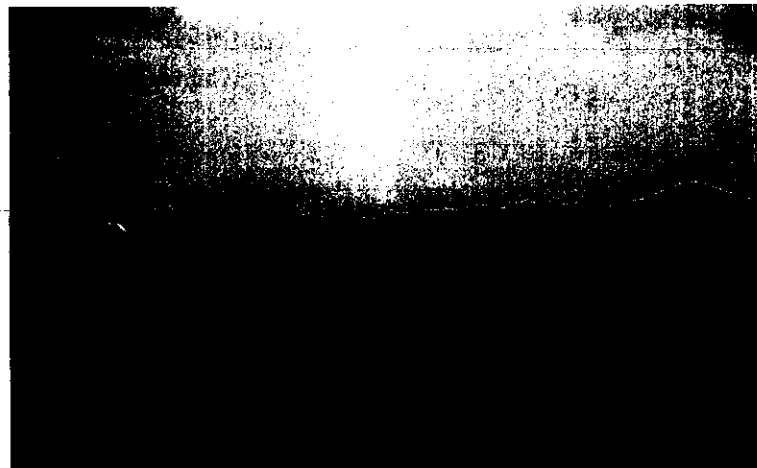
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**Georgetown Inner Loop (Project 2): DB Wood**

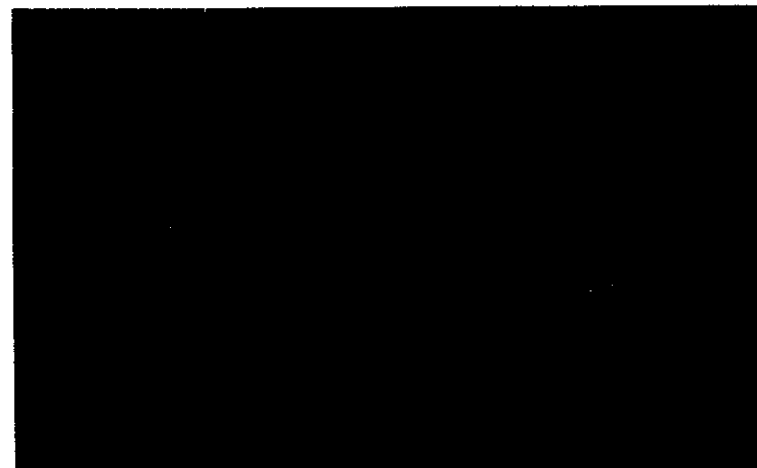
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**Finished concrete driveway - typical**



**DB Wood facing south**



**DB Wood facing north - south end of project**

## River Bend Oaks

Original Contract Price = \$440,101.50

| <u>Letting</u> | <u>Award</u> | <u>Notice To Proceed</u> | <u>Begin Work</u> | <u>Anticipated Work Complete</u> | <u>Work Accepted</u> | <u>Total Bid Days</u> | <u>Days Added</u> | <u>Total Days</u> |
|----------------|--------------|--------------------------|-------------------|----------------------------------|----------------------|-----------------------|-------------------|-------------------|
| 01/17/02       | 04/16/02     | 05/20/02                 | 05/31/02          | 02/19/03                         |                      | 120                   | 145               | 265               |

| <u>Invoice Number</u> | <u>Beginning Date</u> | <u>Ending Date</u> | <u>Days Charged</u> | <u>Current Invoice</u> | <u>Invoice Total</u> | <u>Current Retainage</u> | <u>Total Retainage</u> | <u>% (\$)</u> | <u>% Time Used</u> | <u>Liquidated Damages</u> | <u>Total Liq Damages</u> |
|-----------------------|-----------------------|--------------------|---------------------|------------------------|----------------------|--------------------------|------------------------|---------------|--------------------|---------------------------|--------------------------|
| 1                     | 05/31/02              | 08/31/02           | 93                  | \$13,404.28            | \$13,404.28          | \$1,489.36               | \$1,489.36             | 3             | 35                 | \$0.00                    | \$0.00                   |
| 2                     | 09/01/02              | 09/30/02           | 30                  | \$76,820.49            | \$90,224.77          | \$8,535.62               | \$10,024.98            | 23            | 46                 | \$0.00                    | \$0.00                   |
| 3                     | 10/01/02              | 10/31/02           | 31                  | \$151,714.44           | \$241,939.21         | \$16,857.16              | \$26,882.14            | 61            | 58                 | \$0.00                    | \$0.00                   |
| 4                     | 11/01/02              | 11/30/02           | 30                  | \$26,413.20            | \$268,352.41         | \$2,934.80               | \$29,816.94            | 68            | 69                 | \$0.00                    | \$0.00                   |
| 5                     | 12/01/02              | 12/30/02           | 30                  | \$122,625.71           | \$390,978.12         | \$13,625.07              | \$43,442.01            | 98            | 81                 | \$0.00                    | \$0.00                   |
| 6                     | 01/01/03              | 01/31/03           | 31                  | \$0.00                 | \$390,978.12         | \$0.00                   | \$43,442.01            | 96            | 92                 | \$0.00                    | \$0.00                   |
| 7                     | 02/01/03              | 02/28/03           | 28                  | \$0.00                 | \$390,978.12         | \$0.00                   | \$43,442.01            | 96            | 103                | \$0.00                    | \$0.00                   |

03/14/03 Comments - All construction as per the original contract and the three change orders has been completed. Remaining work to be completed includes minor clean-up and the removal of approximately 95% of the silt fencing.

03/07/03 Comments - No changes.

02/28/03 Comments - Pending items of work include Change Order No. 3 and items of paving included in the punch list.

02/21/03 Comments - Weather has delayed completion of the project.

02/14/03 Comments - 99% complete, 92% time used.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 1                          | 11/13/2002      | -1,556.37           | -1,556.37       |

Delete paved shoulders along River View Road, thus changing street width from 24' to 20'. Delete culvert crossing at the Deep Lake Circle cul-de-sac. Relocate water services and meter boxes. Additional driveways: 18" dia., 30' long w/ end treatments. Time extension due to SWB telephone line and ditch conflicts (85

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 2                          | 01/09/2003      | 5,500.00            | 3,943.63        |

Add Terminal Anchor Sections at two locations, add Metal Beam Guard Fence. Add Wingwalls to Headwall at Sta. 3+50 on Deep Lake Circle. Add additional time for weather delays, and phone line still being in the ROW and added items.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 3                          | 02/04/2003      | 7,077.00            | 11,020.63       |

Remove SET, asphalt driveway, pipe, and replace at higher elevation. Regrade ditch slope for 300 feet, install 225 sq. ft. of dry stack rock wall. 30 days added.

Adjusted Price = \$451,122.13





**Williamson County Bond Information  
Monthly Picture Summary**

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**Riverbend Oaks**

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**Rockwall dry stack - see Change Order No. 3**



**Regrading at Sta. 8+25 - See Change Order No. 3**



**Punch list item - silt fence to be removed**

## CR Bridges (CR 390, CR 406, CR 427)

Original Contract Price = \$373,586.20

| <u>Letting</u> | <u>Award</u> | <u>Notice To Proceed</u> | <u>Begin Work</u> | <u>Anticipated Work Complete</u> | <u>Work Accepted</u> | <u>Total Bid Days</u> | <u>Days Added</u> | <u>Total Days</u> |
|----------------|--------------|--------------------------|-------------------|----------------------------------|----------------------|-----------------------|-------------------|-------------------|
| 05/22/02       | 06/06/02     | 06/18/02                 | 06/25/02          | 11/22/02                         |                      | 90                    | 30                | 120               |

| <u>Invoice Number</u> | <u>Beginning Date</u> | <u>Ending Date</u> | <u>Days Charged</u> | <u>Current Invoice</u> | <u>Invoice Total</u> | <u>Current Retainage</u> | <u>Total Retainage</u> | <u>% (\$)</u> | <u>% Time Used</u> | <u>Liquidated Damages</u> | <u>Total Liq Damages</u> |
|-----------------------|-----------------------|--------------------|---------------------|------------------------|----------------------|--------------------------|------------------------|---------------|--------------------|---------------------------|--------------------------|
| 1                     | 06/25/02              | 06/30/02           | 6                   | \$30,212.69            | \$30,212.69          | \$3,356.97               | \$3,356.97             | 9             | 5                  | \$0.00                    | \$0.00                   |
| 2                     | 07/01/02              | 07/31/02           | 31                  | \$83,785.58            | \$113,998.27         | \$9,309.51               | \$12,666.48            | 34            | 31                 | \$0.00                    | \$0.00                   |
| 3                     | 08/01/02              | 08/31/02           | 31                  | \$122,353.55           | \$236,351.82         | \$13,594.83              | \$26,261.31            | 70            | 57                 | \$0.00                    | \$0.00                   |
| 4                     | 09/01/02              | 09/30/02           | 30                  | \$89,160.81            | \$325,512.63         | \$9,906.76               | \$36,168.07            | 97            | 82                 | \$0.00                    | \$0.00                   |
| 5                     | 10/01/02              | 10/31/02           | 31                  | \$17,282.97            | \$342,795.60         | \$1,920.33               | \$38,088.40            | 102           | 108                | \$0.00                    | \$0.00                   |
| 6                     | 11/01/02              | 11/30/02           | 30                  | \$39,088.40            | \$381,884.00         | \$0.00                   | \$38,088.40            | 112           | 133                | \$0.00                    | \$0.00                   |
| 7                     | 11/01/03              | 11/30/02           | 0                   | \$7,297.80             | \$389,181.80         | \$0.00                   | \$38,088.40            | 112           | 133                | \$0.00                    | \$0.00                   |

02/07/03 Comments - Final payment made to Contractor addressing overrun quantities.

01/31/03 Comments - Change Order 2 drafted to address payment of overrun quantities.

01/24/03 Comments - Project complete.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 1                          | 09/24/2002      | 1,000.00            | 1,000.00        |

Utilities were not relocated prior to the beginning of construction causing a delay in construction begin time. A remobilization cost is a result of the delay. Also, 30 calendar days will be added for the delay.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 2                          | 02/05/2003      | 7,297.80            | 8,297.80        |

To address overruns of contract Bid Items necessary to meet field conditions and to satisfactorily complete the project.

Adjusted Price = \$381,884.00

CR 175

Original Contract Price = \$2,098,666.95

| <u>Letting</u> | <u>Award</u> | <u>Notice To Proceed</u> | <u>Begin Work</u> | <u>Anticipated Work Complete</u> | <u>Work Accepted</u> | <u>Total Bid Days</u> | <u>Days Added</u> | <u>Total Days</u> |
|----------------|--------------|--------------------------|-------------------|----------------------------------|----------------------|-----------------------|-------------------|-------------------|
| 05/01/02       | 05/14/02     | 05/30/02                 | 06/03/02          | 04/02/03                         |                      | 300                   | 4                 | 304               |

| <u>Invoice Number</u> | <u>Beginning Date</u> | <u>Ending Date</u> | <u>Days Charged</u> | <u>Current Invoice</u> | <u>Invoice Total</u> | <u>Current Retainage</u> | <u>Total Retainage</u> | <u>% (\$)</u> | <u>% Time</u> | <u>Liquidated Damages</u> | <u>Total Liq Damages</u> |
|-----------------------|-----------------------|--------------------|---------------------|------------------------|----------------------|--------------------------|------------------------|---------------|---------------|---------------------------|--------------------------|
| 1                     | 06/03/02              | 06/30/02           | 28                  | \$238,118.13           | \$238,118.13         | \$26,457.57              | \$26,457.57            | 13            | 9             | \$0.00                    | \$0.00                   |
| 2                     | 07/01/02              | 08/31/02           | 62                  | \$62,850.69            | \$300,968.82         | \$6,983.41               | \$33,440.98            | 16            | 30            | \$0.00                    | \$0.00                   |
| 3                     | 08/01/02              | 08/31/02           | 31                  | \$381,072.63           | \$682,041.45         | \$42,341.40              | \$75,782.38            | 36            | 40            | \$0.00                    | \$0.00                   |
| 4                     | 09/01/02              | 09/30/02           | 30                  | \$196,223.22           | \$878,264.67         | \$21,802.58              | \$97,584.96            | 47            | 50            | \$0.00                    | \$0.00                   |
| 5                     | 10/01/02              | 10/30/02           | 30                  | \$18,408.42            | \$896,673.09         | \$2,045.38               | \$99,630.34            | 48            | 60            | \$0.00                    | \$0.00                   |
| 6                     | 11/01/02              | 11/30/02           | 30                  | \$168,435.79           | \$1,065,108.88       | \$18,715.09              | \$118,345.43           | 56            | 69            | \$0.00                    | \$0.00                   |
| 7                     | 12/01/02              | 12/30/02           | 30                  | \$74,747.06            | \$1,139,855.94       | \$27,020.32              | \$145,365.75           | 61            | 79            | \$0.00                    | \$0.00                   |
| 8                     | 01/01/03              | 01/31/03           | 31                  | \$42,155.22            | \$1,182,011.16       | \$4,683.91               | \$150,049.66           | 63            | 89            | \$0.00                    | \$0.00                   |
| 9                     | 02/01/03              | 02/28/03           | 28                  | \$109,721.47           | \$1,291,732.63       | \$12,191.28              | \$162,240.94           | 69            | 99            | \$0.00                    | \$0.00                   |

03/14/03 Comments - Second course of flex base placed from Sta. 60+00 to 73+00. First course placed in left lane.

03/07/03 Comments - Continued to lay base, complete silt fence repairs, readjustment of traffic signs.

02/28/03 Comments - Construction activity slowed due to weather.

02/21/03 Comments - Field visit on 2/19/03 - J. Wolff & R. Cisneros. J. Wolff is going to meet with City of RR attorneys to discuss what the original agreement was regarding the driveway on the property donated by the City. Property owner Davis is not going to get an extension of the proposed driveway at Wiseman property. Wiseman has agreed to allow Davis ingress and egress to Davis property using their drive to access CR 175. Construction activity slowed due to weather. Road closed on 2/20/03.

02/14/03 Comments - Meeting with City of RR needed to address gate/driveway requirements on City property @ SW corner of CR 175/FM 1431. To date, no time has been added to address waterline conflicts at the beginning of project.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 1                          | 06/10/2002      | -28,401.05          | -28,401.05      |

1. Revised Traffic Control Plan and Sequence of Construction
2. Revised centerline alignment at North side of FM 1431
3. Revised multiple 7' x 3' box culvert from four barrels to three barrels

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 2                          | 09/24/2002      | 15,352.00           | -13,049.05      |

Raise regional park water line valve casings and raise fire hydrants per each. Add 4' x 4' inlet and relocate 5' x 5' inlet.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 3                          | 11/25/2002      | 15,147.40           | 2,098.35        |

Merge two commercial driveways into one common drive to improve access to both properties.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 4                          | 01/15/2003      | 2,609.95            | 4,708.30        |

Revise median locations and extend SS line "C."

Adjusted Price = \$2,103,375.25



**Williamson County Bond Information  
Monthly Picture Summary**

**CR 175**

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**CR 175 @ FM 1431 - facing south**



**Curb and gutter - facing north @ Vista Isle Drive**



**North end of project - tie-in at existing CR 175**

March 2003

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CR 368 / CR 369

Original Contract Price = \$1,038,721.60

| <u>Letting</u> | <u>Award</u> | <u>Notice To Proceed</u> | <u>Begin Work</u> | <u>Anticipated Work Complete</u> | <u>Work Accepted</u> | <u>Total Bid Days</u> | <u>Days Added</u> | <u>Total Days</u> |
|----------------|--------------|--------------------------|-------------------|----------------------------------|----------------------|-----------------------|-------------------|-------------------|
| 02/14/02       | 05/07/02     | 05/07/02                 | 06/03/02          | 04/04/03                         |                      | 150                   | 23                | 173               |

| <u>Invoice Number</u> | <u>Beginning Date</u> | <u>Ending Date</u> | <u>Days Charged</u> | <u>Current Invoice</u> | <u>Invoice Total</u> | <u>Current Retainage</u> | <u>Total Retainage</u> | <u>% (\$)</u> | <u>% Time</u> | <u>Liquidated Damages</u> | <u>Total Liq Damages</u> |
|-----------------------|-----------------------|--------------------|---------------------|------------------------|----------------------|--------------------------|------------------------|---------------|---------------|---------------------------|--------------------------|
| 1                     | 05/20/02              | 06/25/02           | 37                  | \$315,445.68           | \$315,445.68         | \$35,049.52              | \$35,049.52            | 34            | 21            | \$0.00                    | \$0.00                   |
| 2                     | 06/26/02              | 07/29/02           | 34                  | \$212,088.69           | \$527,534.37         | \$23,565.51              | \$58,615.03            | 56            | 41            | \$0.00                    | \$0.00                   |
| 3                     | 07/30/02              | 08/26/02           | 28                  | \$40,901.71            | \$568,436.08         | \$4,544.64               | \$63,159.67            | 60            | 57            | \$0.00                    | \$0.00                   |
| 4                     | 08/27/02              | 09/27/02           | 32                  | \$138,683.55           | \$707,119.63         | \$15,409.28              | \$78,568.95            | 74            | 76            | \$0.00                    | \$0.00                   |
| 5                     | 09/28/02              | 11/27/02           | 61                  | \$167,901.26           | \$875,020.89         | \$18,655.69              | \$97,224.64            | 92            | 111           | \$0.00                    | \$0.00                   |
| 6                     | 11/28/02              | 12/30/02           | 33                  | \$39,150.69            | \$914,171.58         | \$23,005.77              | \$120,230.41           | 97            | 130           | \$0.00                    | \$0.00                   |
| 7                     | 12/31/02              | 01/31/03           | 0                   | \$11,316.13            | \$925,487.71         | \$1,257.35               | \$121,487.76           | 98            | 130           | \$0.00                    | \$0.00                   |
| 8                     | 02/01/03              | 02/28/03           | 0                   | \$0.00                 | \$925,487.71         | \$0.00                   | \$121,487.76           | 98            | 130           | \$0.00                    | \$0.00                   |

03/14/03 Comments - One angle of guardrail at drainage structure no. 1 has been modified. Terminal end at Sta. 12+00 has been realigned.

03/07/03 Comments - County Inspector and engineer will inspect completed punch list items on Monday - 03/10/03. Several punch list items still outstanding.

02/28/03 Comments - No change.

02/21/03 Comments - Punch list has been submitted. Contractor needs to replace the angles on the guardrail at drainage structure no. 1 with appropriate radius. Terminal end at Sta. 12+00 needs to be realigned. Second course of paving will need to be redone, including the existing bridges. Engineer (Haynie) needs to issue a letter of acceptance/non-acceptance of work performed.

02/14/03 Comments - Project complete, pending punch-list items. Time suspended.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 1                          | 06/11/2002      | 0.00                | 0.00            |

Road design option 2 being substituted for option 1 at no additional cost per square yard plus 4 days are added to time due to delay in filing N.O.I.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 2                          | 09/04/2002      | 19,474.00           | 19,474.00       |

Driveways and culverts added as needed for site access to each parcel. Concrete slopes on DS #1. Replace culvert damaged by SWB line.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 3                          | 11/13/2003      | 12,260.00           | 31,734.00       |

Driveways and culverts added as needed for site access to each parcel. Concrete slopes on DS#1. Replace culvert damaged by SWB line. 5 days added.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 4                          | 01/28/2003      | -1,558.00           | 30,176.00       |

Widen driveway at Sta. 11+60, CR 369W and add guardrail east of driveway. Reduce guard rail price to adjust for omission of concrete mow strip.

Adjusted Price = \$1,068,897.60



**Williamson County Bond Information  
Monthly Picture Summary**

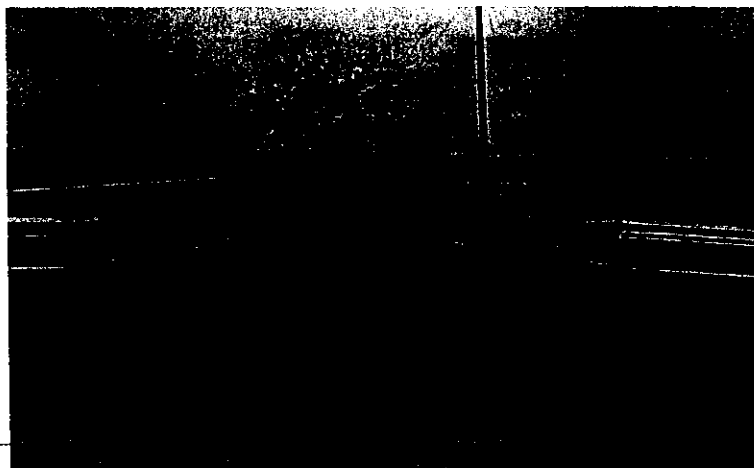
**CR 368/369**



**CR 369 at CR 366**



**MBGF @ drive location - Sta. 11+60 -See Change Order No. 4**



**Drive widening @ Sta. 11+60 - See Change Order No. 4**

March 2003

Page 10 of 19

## Parmer Lane South Phase I

Original Contract Price = \$10,364,321.87

| <u>Letting</u> | <u>Award</u> | <u>Notice To Proceed</u> | <u>Begin Work</u> | <u>Anticipated Work Complete</u> | <u>Work Accepted</u> | <u>Total Bid Days</u> | <u>Days Added</u> | <u>Total Days</u> |
|----------------|--------------|--------------------------|-------------------|----------------------------------|----------------------|-----------------------|-------------------|-------------------|
| 07/15/02       | 08/07/02     | 10/09/02                 | 10/14/02          | 10/01/04                         |                      | 713                   | 6                 | 719               |

| <u>Invoice Number</u> | <u>Beginning Date</u> | <u>Ending Date</u> | <u>Days Charged</u> | <u>Current Invoice</u> | <u>Invoice Total</u> | <u>Current Retainage</u> | <u>Total Retainage</u> | <u>% (\$)</u> | <u>% Time</u> | <u>Liquidated Damages</u> | <u>Total Liq Damages</u> |
|-----------------------|-----------------------|--------------------|---------------------|------------------------|----------------------|--------------------------|------------------------|---------------|---------------|---------------------------|--------------------------|
| 1                     | 10/14/02              | 10/31/02           | 18                  | \$85,466.15            | \$85,466.15          | \$9,496.24               | \$9,496.24             | 1             | 3             | \$0.00                    | \$0.00                   |
| 2                     | 11/01/02              | 11/30/02           | 30                  | \$550,127.74           | \$635,593.89         | \$61,125.35              | \$70,621.59            | 7             | 7             | \$0.00                    | \$0.00                   |
| 3                     | 12/01/02              | 12/30/02           | 30                  | \$379,601.47           | \$1,015,195.36       | \$42,177.94              | \$112,799.53           | 11            | 11            | \$0.00                    | \$0.00                   |
| 4                     | 01/01/03              | 01/31/03           | 31                  | \$658,583.91           | \$1,673,779.27       | \$185,993.47             | \$298,793.00           | 19            | 15            | \$0.00                    | \$0.00                   |
| 5                     | 02/01/03              | 02/28/03           | 28                  | \$548,206.06           | \$2,221,985.33       | \$60,911.79              | \$359,704.79           | 25            | 19            | \$0.00                    | \$0.00                   |

- 03/14/03 Comments - Set box culverts at Block House Creek. Began setting retaining wall at Brushy Creek. Bridge abutment cap will need modified due to plan discrepancy between the grading at the abutment cap and the actual design of the cap. Engineer to provide revised rebar design. Earthwork continues.
- 03/07/03 Comments - Construction activity slowed due to weather. Poured 2 bridge caps and 2 sets of column bents. Completed box culvert at Sta. 169+00, tributary to Brushy Creek. Earthwork continues. PEC installing power poles. PEC can set poles for SBC relocation. Will clear 2 critical areas. Will begin as soon as dry.
- 02/28/03 Comments - No change.
- 02/21/03 Comments - Construction activity slowed due to weather. Drill shafts for bridge are 90% complete. Poured column and formed up one cap bottom. Culverts nearly complete. Mtg held at SBC offices on 2/19 to discuss relocation efforts. PEC is proceeding with slack-span design - no concrete poles will be necessary, but will require many more additional wood poles.
- 02/14/03 Comments - SBC meeting on site 2/17/03. Progress good.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 1                          | 11/15/2002      | 6,600.00            | 6,600.00        |

Perform exploratory work to determine existing horizontal and vertical position of SWB telephone cables. The work includes potholing to verify horizontal and vertical position and backfill two locations each at three proposed detour areas.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 2                          | 12/11/2002      | 18,240.00           | 24,840.00       |

Adjust/relocate City of Leander water line services and appurtenances to accommodate phase construction.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 3                          | 12/20/2003      | 14,293.20           | 39,133.20       |

Addition of parallel wingwall at the box culvert at Sta. 168+08.35. For the regarding and installation of new fence at the Fortney property. Also, for the clearing requested by Williamson County on Krienke property along the drainage easement.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 4                          | 03/04/2003      | 58,882.00           | 98,015.20       |

Upsizing of water line for Joseph property.

Adjusted Price = \$10,462,337.07

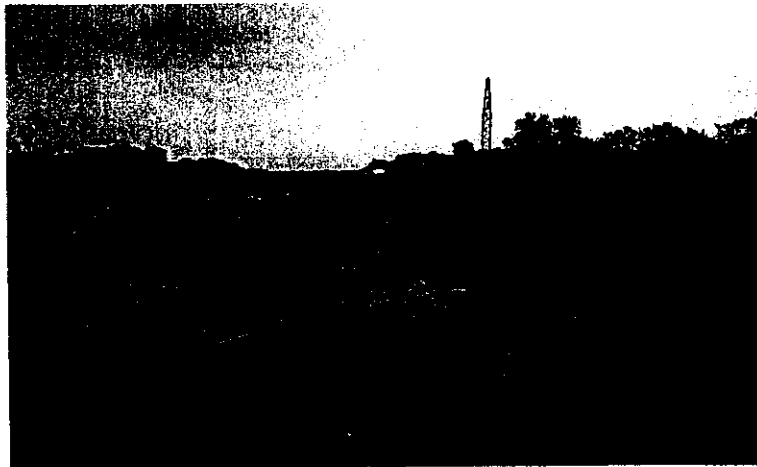


**Williamson County Bond Information  
Monthly Picture Summary**

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**Parmer Lane South - Phase I**

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**Bridge construction @ Brushy Creek**



**Retaining wall construction @ Brushy Creek**



**Detour @ Blockhouse Creek**



CR 412

Original Contract Price = \$1,584,145.10

| <u>Letting</u> | <u>Award</u> | <u>Notice To Proceed</u> | <u>Begin Work</u> | <u>Anticipated Work Complete</u> | <u>Work Accepted</u> | <u>Total Bid Days</u> | <u>Days Added</u> | <u>Total Days</u> |
|----------------|--------------|--------------------------|-------------------|----------------------------------|----------------------|-----------------------|-------------------|-------------------|
| 08/28/02       | 09/19/02     |                          | 10/08/02          | 06/14/03                         |                      | 250                   | 0                 | 250               |

| <u>Invoice Number</u> | <u>Beginning Date</u> | <u>Ending Date</u> | <u>Days Charged</u> | <u>Current Invoice</u> | <u>Invoice Total</u> | <u>Current Retainage</u> | <u>Total Retainage</u> | <u>% (\$)</u> | <u>% Time Used</u> | <u>Liquidated Damages</u> | <u>Total Liq Damages</u> |
|-----------------------|-----------------------|--------------------|---------------------|------------------------|----------------------|--------------------------|------------------------|---------------|--------------------|---------------------------|--------------------------|
| 1                     | 10/17/02              | 12/02/02           | 47                  | \$203,581.12           | \$203,581.12         | \$22,620.13              | \$22,620.13            | 14            | 19                 | \$0.00                    | \$0.00                   |
| 2                     | 12/03/02              | 01/02/03           | 31                  | \$158,676.88           | \$362,258.00         | \$17,630.76              | \$40,250.89            | 25            | 31                 | \$0.00                    | \$0.00                   |
| 3                     | 01/03/03              | 02/03/03           | 32                  | \$122,350.20           | \$484,608.20         | \$53,845.36              | \$94,096.25            | 35            | 44                 | \$0.00                    | \$0.00                   |
| 4                     | 02/04/03              | 03/03/03           | 28                  | \$58,200.74            | \$542,808.94         | \$6,466.74               | \$100,562.99           | 38            | 55                 | \$0.00                    | \$0.00                   |

03/14/03 Comments - Engineer has proposed to cut back the grade of property owner's swale approximately 50 feet, to match flow line of ditch to mitigate erosion problem. County inspector will discuss the alternative with property owner. Excessive moisture has caused problems with subgrade. Contractor is unable to achieve proof rolling on wet subgrade. A revised strategy using lime treatment will be developed. Contractor to submit price basis to establish force account. Excessive ground water also causing a problem for ditch grading. Contractor to submit RFI to address drainage of excess water.

03/07/03 Comments - Construction activity slowed due to weather. Continued to pour wingwalls for box culverts, grade ditches and work subgrade. Erosion issue with property owner to be addressed. Awaiting response from engineer.

02/28/03 Comments - No change.

02/21/03 Comments - Worked subgrade in Phase I. Proof-roll of subgrade failed. Poured footing for Culvert No. 5 on N. side. Backfilled wingwall on S. side of Culvert No. 8. Activity slowed due to weather.

02/14/03 Comments - Work on 1/2 roadway reconstruction started 2.12/03. Progress good.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 1                          | 02/14/2003      | 87,077.72           | 87,077.72       |

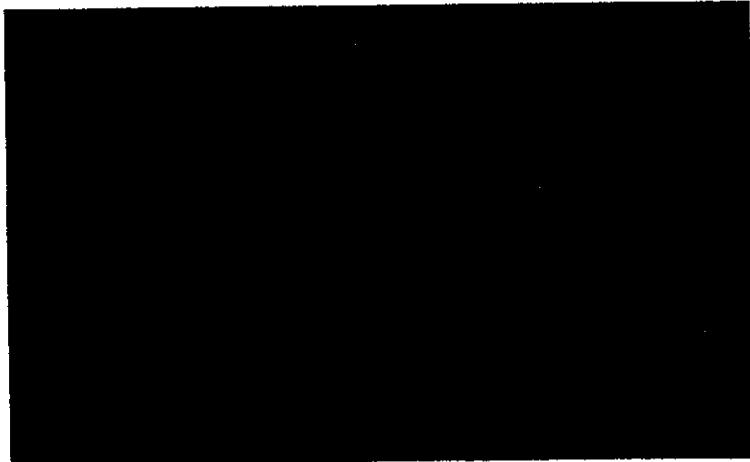
Revised pavement section design to accommodate differing site conditions. The quantities of salvaged base material, identified in the project geotechnical report, were not found to be present throughout the project limits. A new section of 12" flex base will be used, resulting in modified quantities for excavation, embankment, and flex base. Also, addition of SW3P items omitted from the original bid documents.

Adjusted Price = \$1,671,222.82

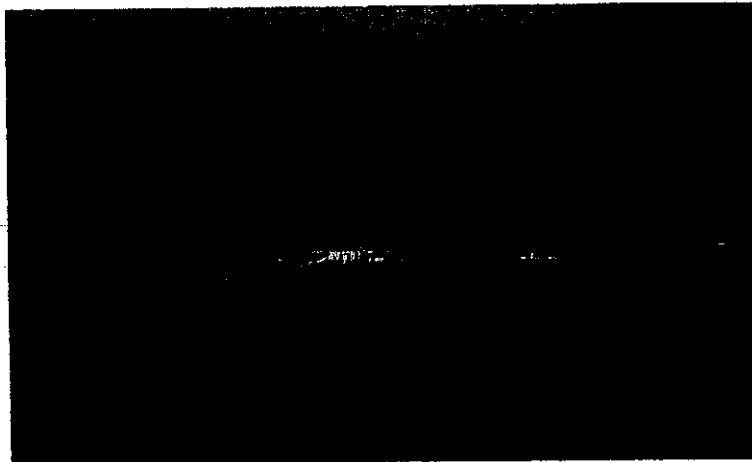


CR 412

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Subgrade preparation @ CR 421



Subgrade prep and ditch grading



Excessive moisture from ground water causing  
problems for ditch grading

## Georgetown Inner Loop (Project 1): Cedar Breaks

Original Contract Price = \$6,574,127.79

| <u>Letting</u> | <u>Award</u> | <u>Notice To Proceed</u> | <u>Begin Work</u> | <u>Anticipated Work Complete</u> | <u>Work Accepted</u> | <u>Total Bid Days</u> | <u>Days Added</u> | <u>Total Days</u> |
|----------------|--------------|--------------------------|-------------------|----------------------------------|----------------------|-----------------------|-------------------|-------------------|
| 03/04/02       | 04/12/02     | 05/22/02                 | 05/28/02          | 05/26/04                         |                      | 730                   | 0                 | 730               |

| <u>Invoice Number</u> | <u>Beginning Date</u> | <u>Ending Date</u> | <u>Days Charged</u> | <u>Current Invoice</u> | <u>Invoice Total</u> | <u>Current Retainage</u> | <u>Total Retainage</u> | <u>% (\$)</u> | <u>% Time Used</u> | <u>Liquidated Damages</u> | <u>Total Liq Damages</u> |
|-----------------------|-----------------------|--------------------|---------------------|------------------------|----------------------|--------------------------|------------------------|---------------|--------------------|---------------------------|--------------------------|
| 1                     | 05/28/02              | 06/30/02           | 34                  | \$25,175.88            | \$25,175.88          | \$2,797.32               | \$2,797.32             | 0             | 5                  | \$0.00                    | \$0.00                   |
| 2                     | 07/01/02              | 07/31/02           | 31                  | \$364,803.03           | \$389,978.91         | \$40,533.67              | \$43,330.99            | 7             | 9                  | \$0.00                    | \$0.00                   |
| 3                     | 08/01/02              | 08/31/02           | 31                  | \$27,910.71            | \$417,889.62         | \$3,101.19               | \$46,432.18            | 7             | 13                 | \$0.00                    | \$0.00                   |
| 4                     | 09/01/02              | 09/30/02           | 30                  | \$364,291.04           | \$782,180.66         | \$40,476.78              | \$86,908.96            | 13            | 17                 | \$0.00                    | \$0.00                   |
| 5                     | 10/01/02              | 10/31/02           | 31                  | \$360,798.03           | \$1,142,978.69       | \$40,088.67              | \$126,997.63           | 19            | 22                 | \$0.00                    | \$0.00                   |
| 6                     | 11/01/02              | 11/30/02           | 30                  | \$600,635.37           | \$1,743,614.06       | \$66,737.27              | \$193,734.90           | 29            | 26                 | \$0.00                    | \$0.00                   |
| 7                     | 12/01/02              | 12/31/02           | 31                  | \$83,629.92            | \$1,827,243.98       | \$9,292.21               | \$203,027.11           | 31            | 30                 | \$0.00                    | \$0.00                   |
| 8                     | 01/01/03              | 01/31/03           | 31                  | \$194,711.51           | \$2,021,955.49       | \$21,634.61              | \$224,661.72           | 34            | 34                 | \$0.00                    | \$0.00                   |
| 9                     | 02/01/03              | 02/28/03           | 28                  | \$312,330.43           | \$2,334,285.92       | \$34,703.38              | \$259,365.10           | 39            | 38                 | \$0.00                    | \$0.00                   |

03/14/03 Comments - Meeting held at HNTB to discuss slavage base issue, excavation and embankment and bridge layout at archeological site. Change Order No. 2 to address revised bridge beam design drafted and submitted by ABR.

03/07/03 Comments - No progress to report. Construction activity slowed due to weather.

02/28/03 Comments - No progress to report. Construction activity slowed due to weather.

02/21/03 Comments - No progress to report. Construction activity slowed due to weather.

02/14/03 Comments - Construction continues as scheduled. Good progress.

| <u>Change Order Number</u> | <u>Approved</u> | <u>Cost This CO</u> | <u>Total CO</u> |
|----------------------------|-----------------|---------------------|-----------------|
| 1                          | 08/19/2002      | 53,995.53           | 53,995.53       |

Provide compensation for the construction of a temporary roadway required by the City of Round Rock to protect their 30" CBC water line crossing the center line of Cedar Breaks Road Station 28+36 +/- . Relocate the Army COE overlook access road and provide payment for lowering and encasing their 4" water supply to the park. The design of the City of Georgetown 30" water line installation is revised due to the location of the existing utilities at the intersection of FM 2338 & Cedar Breaks Road. Add General Notes required to obtain TxDOT permit. Add bid item for surface preparation prior to placement of pavement markings on the bridge as required by Item 666. Add bid item for the elimination of markings during the phase changes of the Sequence of Work. Add provisions for the Manager, the Manager's agents, and the Construction Observer to be named as additional incurred on the contractor's insurance policies.

Adjusted Price = \$6,628,123.32

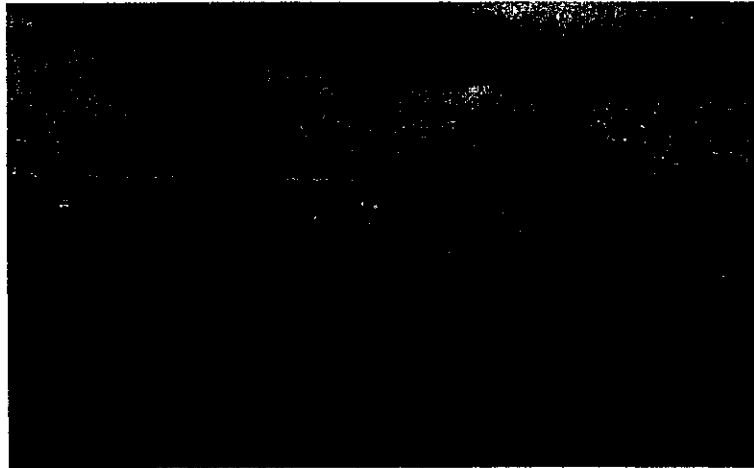


**Williamson County Bond Information  
Monthly Picture Summary**

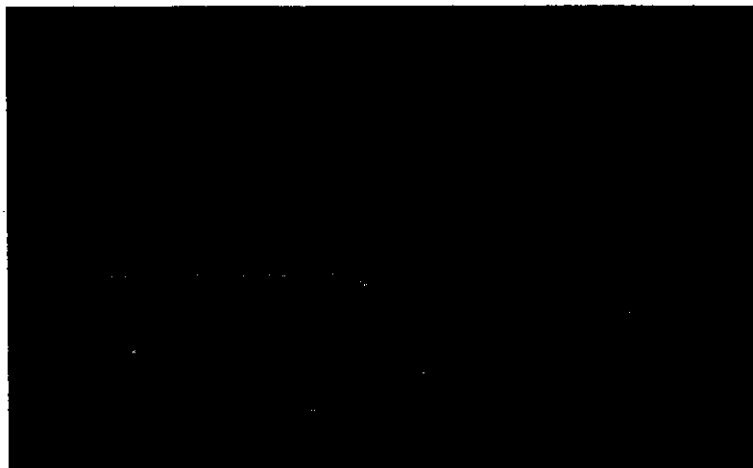
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**Cedar Breaks**

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**South end of Cedar Breaks @ DB Wood**



**Bridge construction @ San Gabriel - facing north**



**Bridge construction @ San Gabriel - facing north**

CR-200

| <u>Letting</u>        | <u>Award</u>          | <u>Notice To Proceed</u> | <u>Begin Work</u>   | <u>Anticipated Work Complete</u> | <u>Work Accepted</u> | <u>Total Bid Days</u>    | <u>Days Added</u>      | <u>Total Days</u>            |                              |                           |                          |
|-----------------------|-----------------------|--------------------------|---------------------|----------------------------------|----------------------|--------------------------|------------------------|------------------------------|------------------------------|---------------------------|--------------------------|
| 10/30/02              | 11/11/02              | 01/17/03                 | 03/17/03            | 09/12/03                         |                      | 180                      | 0                      | 180                          |                              |                           |                          |
| <u>Invoice Number</u> | <u>Beginning Date</u> | <u>Ending Date</u>       | <u>Days Charged</u> | <u>Current Invoice</u>           | <u>Invoice Total</u> | <u>Current Retainage</u> | <u>Total Retainage</u> | <u>% (\$)</u><br><u>Used</u> | <u>% Time</u><br><u>Used</u> | <u>Liquidated Damages</u> | <u>Total Liq Damages</u> |
| 1                     |                       |                          |                     |                                  |                      |                          |                        |                              |                              |                           | \$0.00                   |

03/14/03 Comments - Time resume letter issued. Time charges to begin March 17, 2003.

03/07/03 Comments - SBC has completed utility work at Indian Oaks intersection. Some splicing work remains north of the intersection. BSA project superintendent Bob Foust will determine if construction can begin. Time resume letter pending. SBC spliced cables and cleared poles for PEC (PEC notified). Excavated approx. 400' of trench -- 35% complete with work.

02/28/03 Comments - No change.

02/21/03 Comments - New Project Manager for K.C. Engineering is Gabe Bruehl. Material submittals from BSA have been approved by engineer and returned to contractor. SBC has received the cable they ordered and are arranging for a contractor. The splicing operations were stopped last week due to the rain. Weather will be a factor with respect to the March 3 clear date.

02/14/03 Comments - No change.

02/07/03 Comments - SBC to be completely clear first week in March. Time suspension has been issued.

01/31/03 Comments - Pre-construction Conference scheduled for 01/17/03.

01/24/03 Comments - An addendum to the Notice to Proceed was issued and signed by Joe England to revise the start date to Feb. 3, 2003. PEC will have their utility poles clear by Friday, Jan. 31. SBC will clear the telephone pedestals at Indian Oaks on Monday.

01/17/03 Comments - Preconstruction Conference held 1/17/03.

01/10/03 Comments - Preconstruction Conference scheduled for 1/17/03.

01/03/03 Comments - Preconstruction conference to be held week of Jan. 13.

12/27/02 Comments - No change.

12/20/02 Comments - No change.

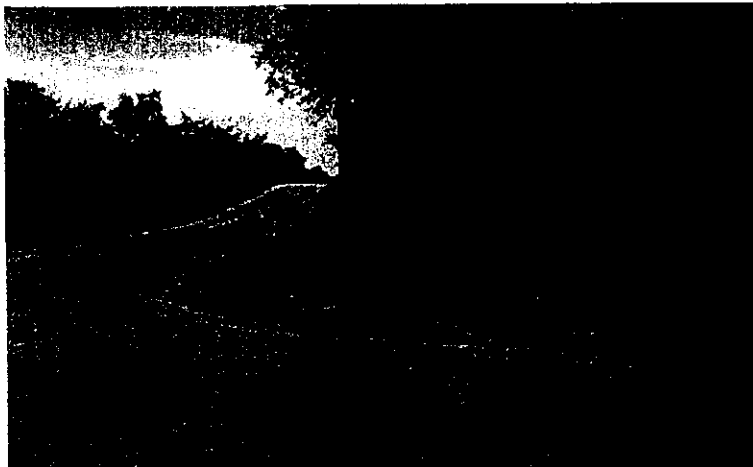
12/06/02 Comments - Received executed contract from Contractor. Certificate of Insurance was not in compliance with contract - will reissue and submit. Pre-construction meeting date and time TBD.

11/22/02 Comments - Award letter will be forwarded to Bland/Schroeder/Archer the week of 11/25/02. TCEQ granted exemption from WPAP because of minimal impact, little addition ROW acquisition, etc... PEC asked to stake ROW at one property - may need to discuss ROW staking for utility relocation/adjustment since it is not currently in the scope of KCE contract.



**Williamson County Bond Information  
Monthly Picture Summary**

**CR 200**



**SBC relocations @ Indian Oaks**



**SBC relocations @ Indian Oaks**



**SBC potholing to verify depths of telephone lines**

March 2003

Page 18 of 19

## Pond Springs Road

| <u>Letting</u> | <u>Award</u> | <u>Notice To Proceed</u> | <u>Begin Work</u> | <u>Anticipated Work Complete</u> | <u>Work Accepted</u> | <u>Total Bid Days</u> | <u>Days Added</u> | <u>Total Days</u> |
|----------------|--------------|--------------------------|-------------------|----------------------------------|----------------------|-----------------------|-------------------|-------------------|
|                |              | 12/21/01                 | 01/07/02          | 07/10/02                         |                      | 90                    |                   |                   |

| <u>Invoice Number</u> | <u>Beginning Date</u> | <u>Ending Date</u> | <u>Days Charged</u> | <u>Current Invoice</u> | <u>Invoice Total</u> | <u>Current Retainage</u> | <u>Total Retainage</u> | <u>% (\$)</u><br><u>Used</u> | <u>% Time</u><br><u>Used</u> | <u>Liquidated Damages</u> | <u>Total Liq Damages</u> |
|-----------------------|-----------------------|--------------------|---------------------|------------------------|----------------------|--------------------------|------------------------|------------------------------|------------------------------|---------------------------|--------------------------|
| 1                     |                       |                    |                     |                        |                      |                          |                        |                              |                              |                           | \$0.00                   |

11/15/02 Comments - Project complete.

**AGENDA ITEM 27**

Discuss and take appropriate action on jail/courthouse annex expansion.

Ed Lee received verification from Faulkner USA that they can complete the 3<sup>rd</sup> floor finish out for the guaranteed price of \$3,865,396. Faulkner is requesting a 90-day contract extension for the completion of the project.

**COMMISSIONERS' COURT ADJOURNED TO EXECUTIVE SESSION AT 11:38 A.M. ON TUESDAY, MARCH 18, 2003.**

**AGENDA ITEM 28**

Discuss real estate (EXECUTIVE SESSION as per VTCA Govt. Code sec. 551.071 consultation with attorney.)

No action was taken in Executive Session.

**COMMISSIONERS' COURT RECONVENED FROM EXECUTIVE SESSION AT 11:44 A.M. ON TUESDAY, MARCH 18, 2003.**

**AGENDA ITEM 29**

Discuss and take appropriate action on real estate.

Moved: Commissioner Boatright

Seconded: Judge Doerfler

Motion: To authorize Charlie Crossfield to settle the ROW issue on the abandonment tract along Parmer Lane for \$49,000.

Vote: 3 – 0. Commissioner Hays was absent from the dais.

**AGENDA ITEM 30**

Comments from Commissioners.

Judge Doerfler stated the Jane Tableriou was doing well after her knee surgery.

Commissioner Limmer introduced Pete Correa as a new employee for Commissioner Pct. #4.

Judge Doerfler mentioned that CAMPO is requesting that a department director be appointed by March 31, 2003, as a member for the expansion of the territory. Greg Bergeron mentioned that he spoke to Joe England and Joe is willing to serve as the member.

**COMMISSIONERS' COURT ADJOURNED AT 11:47 A.M. ON TUESDAY, MARCH 18, 2003.**



**MINUTES****of the****WILLIAMSON COUNTY ROAD DISTRICT MEETING****March 18, 2003****STATE OF TEXAS** \_\_\_\_\_)(**COUNTY OF WILLIAMSON** )(

BE IT REMEMBERED that at 11:40 a.m. on March 18, 2003, a REGULAR SESSION of the Commissioners Court of Williamson County, Texas, was held pursuant to V.A.C.S. art. 6702, acting as ex-officio road commissioners of their respective precincts, the following being present, to-wit:

ABSENT                      JOHN C. DOERFLER, County Judge  
                                 MICHAEL L. HEILIGENSTEIN, Commissioner, Precinct 1  
                                 GREGORY W. BOATRIGHT, Commissioner, Precinct 2  
                                 DAVID HAYS, Commissioner, Precinct 3  
                                 FRANKIE LIMMER, Commissioner, Precinct 4  
                                 NANCY E. RISTER, County Clerk

**I.**

**Read and approve the minutes of the last meeting.**

**Moved: Commissioner Limmer**

**Seconded: Commissioner Boatright**

**Motion: To approve the minutes of the March 11, 2003 meeting.**

**Vote: 3 – 0. Commissioner Hays was absent from the dais.**

**II.**

**Discuss and take appropriate action on the Southeast Williamson County Road District #1, including, but not limited to payment of bills.**

**Moved: Commissioner Limmer**

**Seconded: Judge Doerfler**

**Motion: To approve payment of the following:**

**\$150.00 to Sheets & Crossfield**

**Vote: 3 – 0. Commissioner Hays was absent from the dais.**

< Attachment >

03/18/2003

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**SHEETS & CROSSFIELD, P.C.**

Attorneys at Law  
309 EAST MAIN STREET  
ROUND ROCK TX 78664-5246  
(512) 255-8877

February 28, 2003

SERRD  
c/o JUDGE JOHN DOERFLER  
WILLIAMSON COUNTY COURTHOUSE  
710 MAIN STREET, SUITE 201  
GEORGETOWN TX 78626

Re: Special Counsel  
Attorney: CDC

|                            | <u>Amount</u>   |
|----------------------------|-----------------|
| PREVIOUS BALANCE           | \$150.00        |
| BALANCE (due upon receipt) | <u>\$150.00</u> |

| <u>Current</u> | <u>30 Days</u> | <u>60 Days</u> | <u>90 Days</u> | <u>120 Days</u> |
|----------------|----------------|----------------|----------------|-----------------|
| 0.00           | 125.00         | 0.00           | 25.00          | 0.00            |

approved 3-18-03  
John C. Doerfler

**III.**

Discuss and take appropriate action on the Southwest Williamson County Road District #1, including, but not limited to payment of bills.

Moved: **Commissioner Boatright**

Seconded: **Judge Doerfler**

Motion: To approve payment of the following:

\$314.48 to Sheets & Crossfield

Vote: 3 – 0. **Commissioner Hays was absent from the dais.**

< Attachment >

**SHEETS & CROSSFIELD, P.C.**  
Attorneys at Law  
309 EAST MAIN STREET  
ROUND ROCK TX 78664-5246  
(512) 255-8877

February 28, 2003

SW WILLIAMSON COUNTY ROAD DISTRICT  
NO. 1  
C/O JUDGE JOHN DOERFLER  
WILLIAMSON COUNTY COURTHOUSE  
GEORGETOWN TX 78626

Re: Special Counsel  
Attorney: CDC

**PROFESSIONAL SERVICES RENDERED**

|          |  | <u>Hours</u> | <u>Amount</u> |
|----------|--|--------------|---------------|
| 02/21/03 | CDC Phone conference with Frank McCreary and Gary Kimball regarding refinancing.   | 0.80         | 100.00        |
| 02/24/03 | CDC Phone conference with David Friday, from Crossland Acquisitions regarding road district assessments on Parcel R056480. | 0.50         | 62.50         |
|          | CDC E-mails to Taysha Howe regarding road district assessments on Parcel R056480.  | 0.20         | 25.00         |
|          | CDC Conference with Crossland Acquisitions regarding Lien Releases for eleven parcels on Hwy 620.                          | 1.00         | 125.00        |

**TOTAL FOR THE ABOVE SERVICES**

2.50 \$312.50

**EXPENSES**

02/25/03- Postage

**TOTAL EXPENSES**

\$1.98

**TOTAL AMOUNT OF THIS BILL**

\$314.48

**PREVIOUS BALANCE**

\$1,662.28

*approved 3-18-03  
John C. Doerfler*

03/18/2003

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SW WILLIAMSON COUNTY ROAD DISTRICT

Page 2

Amount

BALANCE (due upon receipt)

\$1,976.76

| Current | 30 Days | 60 Days | 90 Days | 120 Days |
|---------|---------|---------|---------|----------|
| 801.98  | 737.50  | 0.00    | 0.00    | 437.28   |

**IV.**

Discuss and take appropriate action on the Northeast Round Rock Road District #1, including, but not limited to payment of bills.

Moved: **Commissioner Limmer**

Seconded: **Judge Doerfler**

Motion: To approve payment of the following:

\$1,650.00 to Sheets & Crossfield

Vote: 3 – 0. **Commissioner Hays was absent from the dais.**

< Attachment >

**SHEETS & CROSSFIELD, P.C.**

Attorneys at Law

309 EAST MAIN STREET

ROUND ROCK TX 78664-5246

(512) 255-8877

February 28, 2003

NERRD  
C/O JUDGE JOHN DOERFLER  
WILLIAMSON COUNTY COURTHOUSE  
GEORGETOWN TX 78626

Re: Special Counsel  
Attorney: CDC

|                            | <u>Amount</u>     |
|----------------------------|-------------------|
| PREVIOUS BALANCE           | \$1,650.00        |
| BALANCE (due upon receipt) | <u>\$1,650.00</u> |

| Current | 30 Days | 60 Days | 90 Days | 120 Days |
|---------|---------|---------|---------|----------|
| 62.50   | 450.00  | 0.00    | 987.50  | 150.00   |

*approved 3-18-03  
John C. Doerfler*

**V.**  
**Consideration and action with respect to "Order Authorizing the Issuance of Avery Ranch Road District No. 1 Unlimited Tax Road Bonds, Series 2003; Levying an Ad Valorem Tax in Support of the Bonds; Approving an Official Statement; Authorizing the Execution of a Paying Agent/Registrar Agreement and a Bond Purchase Agreement; and Authorizing Other Matters Related to the Issuance of Bonds."**

**Moved: Judge Doerfler**

**Seconded: Commissioner Boatright**

**Motion: To approve the "Order Authorizing the Issuance of Avery Ranch Road District No. 1 Unlimited Tax Road Bonds, Series 2003; Levying an Ad Valorem Tax in Support of the Bonds; Approving an Official Statement; Authorizing the Execution of a Paying Agent/Registrar Agreement and a Bond Purchase Agreement; and Authorizing Other Matters Related to the Issuance of Bonds."**

**Vote: 3 – 0. Commissioner Hays was absent from the dais.**

< Attachment >

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ORDER AUTHORIZING THE ISSUANCE OF AVERY RANCH ROAD  
DISTRICT NO. 1 UNLIMITED TAX ROAD BONDS, SERIES 2003; LEVYING  
AN AD VALOREM TAX IN SUPPORT OF THE BONDS; APPROVING AN  
OFFICIAL STATEMENT; AUTHORIZING THE EXECUTION OF A PAYING  
AGENT/REGISTRAR AGREEMENT AND A BOND PURCHASE  
AGREEMENT; AND AUTHORIZING OTHER MATTERS RELATED TO THE  
ISSUANCE OF THE BONDS

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**CERTIFICATE FOR ORDER**

**THE STATE OF TEXAS**  
**COUNTY OF WILLIAMSON**  
**AVERY RANCH ROAD DISTRICT NO. 1**

§  
 §  
 §

We, the undersigned Commissioners Court, as the governing body of Avery Ranch Road District No. 1 (the "District"), hereby certify as follows:

1. The District convened in REGULAR MEETING ON THE 18TH DAY OF MARCH, 2003, at the designated meeting place (the "Meeting"), and the roll was called of the duly constituted officers and members of the governing body, to wit:

John Doerfler - County Judge  
 Mike Heiligenstein - County Commissioner, Precinct 1  
 Greg Boatright - County Commissioner, Precinct 2  
 David Hays - County Commissioner, Precinct 3  
 Frankie Limmer - County Commissioner, Precinct 4

and all of said persons were present, except the following absentees: \_\_\_\_\_, thus constituting a quorum. Whereupon, among other business, the following was transacted at the Meeting: a written

**ORDER AUTHORIZING THE ISSUANCE OF AVERY RANCH ROAD DISTRICT NO. 1 UNLIMITED TAX ROAD BONDS, SERIES 2003; LEVYING AN AD VALOREM TAX IN SUPPORT OF THE BONDS; APPROVING AN OFFICIAL STATEMENT; AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT AND A BOND PURCHASE AGREEMENT; AND AUTHORIZING OTHER MATTERS RELATED TO THE ISSUANCE OF THE BONDS**

was duly introduced for consideration. It was then duly moved and seconded that the Order be passed; and, after due discussion, the motion, carrying with it the passage of the Order, prevailed and carried by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

2. A true, full and correct copy of the aforesaid Order passed at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that the Order has been duly recorded in the District's minutes of the Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from the District's minutes of the Meeting pertaining to the passage of the Order; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the governing body as indicated therein; that each of the officers and members of the governing body were duly and sufficiently notified officially and personally, in



advance, of the time, place and purpose of the aforesaid Meeting, and that the Order would be introduced and considered for passage at the Meeting, and each of the officers and members consented, in advance, to the holding of the Meeting for such purpose; that the Meeting was open to the public and public notice of the time, place and purpose of the Meeting was given, all as required by Chapter 551, Government Code, as amended.

SIGNED AND SEALED this \_\_\_\_\_.

Nancy E. Rister  
County Clerk

John C. Draffen  
County Judge

(SEAL)



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ORDER AUTHORIZING THE ISSUANCE OF AVERY RANCH ROAD  
DISTRICT NO. 1 UNLIMITED TAX ROAD BONDS, SERIES 2003;  
LEVYING AN AD VALOREM TAX IN SUPPORT OF THE BONDS;  
APPROVING AN OFFICIAL STATEMENT; AUTHORIZING THE  
EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT AND A  
BOND PURCHASE AGREEMENT; AND AUTHORIZING OTHER MATTERS  
RELATED TO THE ISSUANCE OF THE BONDS

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**ORDER AUTHORIZING THE ISSUANCE OF AVERY RANCH ROAD DISTRICT NO. 1 UNLIMITED TAX ROAD BONDS, SERIES 2003; LEVYING AN AD VALOREM TAX IN SUPPORT OF THE BONDS; APPROVING AN OFFICIAL STATEMENT; AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT AND A BOND PURCHASE AGREEMENT; AND AUTHORIZING OTHER MATTERS RELATED TO THE ISSUANCE OF THE BONDS**

|  |          |
|--|----------|
| <b>THE STATE OF TEXAS</b>              | <b>§</b> |
| <b>COUNTY OF WILLIAMSON</b>            | <b>§</b> |
| <b>AVERY RANCH ROAD DISTRICT NO. 1</b> | <b>§</b> |

---

**WHEREAS**, Avery Ranch Road District No. 1 (the "District") has been created and established pursuant to the Texas Constitution and laws of the State of Texas; and

**WHEREAS**, at an election held on May 5, 2001 (the "Bond Election"), the voter of the District authorized the issuance of bonds in the maximum amount of \$17,000,000 in conformity with the Constitution and laws of the State of Texas, particularly Section 52 of Article III of the Constitution and laws enacted pursuant thereto, for the purpose of constructing, reimbursing for the costs of constructing, acquiring by purchase, maintaining and operating macadamized, graveled or paved roads and turnpikes and related bridges, drainage works and other similar facilities and carrying out other improvements that are necessary, convenient or related thereto or that are otherwise permitted to be done under applicable laws at the time of issuance of such bonds, both within and outside the boundaries of said District, or in aid of those purposes, and to refund any bonds or other evidences of indebtedness issued for any of the foregoing purposes in an amount not to exceed one and one-half times the amount of bonds or other evidences of indebtedness issued, such bonds to be issued in one or more series or issues, to mature serially or otherwise not more than thirty (30) years from their date and to bear interest at such rate or rates (not to exceed the maximum rate permitted by law at the time of issuance of the bonds); and

**WHEREAS**, the District has previously issued \$6,425,000 of its Avery Ranch Road District No. 1 Unlimited Tax Road Bonds, Series 2002 leaving \$10,575,000 authorized but unissued bonds remaining from the Bond Election; and

**WHEREAS**, the Commissioners Court, acting in its role as the governing body of the District, as further determined that it is necessary and proper that a \$4,620,000 second series of such bonds be issued, pursuant to Chapter 257, Texas Transportation Code and Chapter 1471, Texas Government Code, reserving the right to issue in the future the remaining \$5,955,000 authorized but unissued bonds.

**THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF WILLIAMSON COUNTY, TEXAS:**



**ARTICLE ONE****PREAMBLE**

**SECTION 1.01 INCORPORATION OF PREAMBLE.** The Commissioners Court as the governing body of the Avery Ranch Road District No. 1 (the "District") hereby incorporates the recitals set forth in the preamble hereto as if set forth in full at this place and further finds and determines that the recitals are true and correct.

**ARTICLE TWO****DEFINITIONS AND INTERPRETATIONS**

**SECTION 2.01. DEFINITIONS.** When used in this Bond Order, except in Article Six, and in any resolution or order amendatory or supplemental hereto, the terms listed below shall have the meanings specified below, unless it is otherwise expressly provided or unless the context otherwise requires:

"Additional Bonds" means the additional bonds which the Commissioners Court expressly reserves the right to issue in Article Eleven of this Bond Order.

"Authorized Investments" means authorized obligations as permitted by the County Investment Policy and the Public Funds Investment Act, Chapter 2256, Texas Government Code as may be amended from time to time.

"Bonds" means the Bonds initially issued and delivered pursuant to this Bond Order and all substitute Bonds exchanged therefor, as well as all other substitute bonds and replacement bonds issued pursuant hereto, and the term "Bond" shall mean any of the Bonds.

"Bond Election" means the May 5, 2001 election held within the District authorizing the issuance of \$17,000,000 of bonds to construct, reimburse for the costs of construction, acquire by purchase, maintain and operate macadamized, graded or paved roads in the District.

"Bond Order" or "Order" means this Bond Order of the Board of Directors authorizing the issuance of the Bonds.

"County" means Williamson County, Texas.

"District" means Avery Ranch Road District No. 1 and any other public agency succeeding to the powers, rights, privileges, and functions of the District and, when appropriate, the Commissioners Court as the governing body of the District.

"Exchange Bonds" means Bonds registered, authenticated, and delivered by the Registrar, as provided in Section 4.01 of this Bond Order.

"Fiscal Year" means the twelve-month accounting period for the District, which presently is the twelve-month period beginning on October 1 of each year and ending on September 30 of the following year, but which may be changed from time to time by the Commissioners Court.

"Initial Bonds" means the Bonds authorized, issued, and initially delivered as provided in Sections 3.02 of this Bond Order.

"Interest Payment Date" means a date on which interest on the Bonds is due and payable. Interest on the Bonds is due and payable on August 15, 2003, and semi-annually on each February 15 and August 15 thereafter until the earlier of maturity or redemption.

"MSRB" means the Municipal Securities Rulemaking Board.

"NRMSIR" means each person whom the SEC or its staff has determined to be a nationally recognized municipal securities information repository within the meaning of the Rule from time to time.

"Record Date" means, with respect to an Interest Payment Date, the last day of the month next preceding each such date whether or not such date is a business day.

"Redemption Date" means a date fixed for redemption of any Bond pursuant to the terms of this Bond Order.

"Register" or "Registration Books" means the registry system maintained on behalf of the District by the Registrar in which are listed the names and addresses of the Registered Owners and the principal amount of Bonds registered in the name of each Registered Owner.

"Registered Owner" means any person or entity in whose name a Bond is registered.

"Registrar" or "Paying Agent/Registrar" means JPMorgan Chase Bank, or such other bank, trust company, financial institution, or other entity as may hereafter be designated by the District to act as paying agent and registrar for the Bonds in accordance with the terms of this Bond Order.

"Replacement Bonds" means the Bonds authorized by the District to be issued in substitution for lost, apparently destroyed, or wrongfully taken Bonds as provided in Section 4.02 of this Bond Order.

"Rule" means SEC Rule 15c2-12, as amended from time to time.

"SEC" means the United States Securities and Exchange Commission.

"SID" means any person designated by the State of Texas or an authorized department, officer, or agency thereof as, and determined by the SEC or its staff to be, a state information depository within the meaning of the Rule from time to time.

**SECTION 2.02. INTERPRETATIONS.** The titles and headings of the articles and sections and the page numbers of this Bond Order have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Bond Order and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Bonds and the validity of the taxes levied in payment thereof.

**ARTICLE THREE**

**AUTHORIZATION, REGISTRATION, EXECUTION,  
AND AUTHENTICATION OF BONDS**

**SECTION 3.01. AMOUNT, NAME, PURPOSE, AND AUTHORIZATION.** Each Bond issued pursuant to this Bond Order shall be known and designated as "Avery Ranch Road District No. 1 Unlimited Tax Road Bonds, Series 2003" and the Bonds shall be issued in the aggregate principal amount of \$4,620,000 for the purpose of constructing, reimbursing for the costs of constructing, acquiring by purchase, maintaining and operating macadamized, graveled or paved roads and turnpikes and related bridges, drainage work and other similar facilities including particularly reimbursing the developers for the construction of a portion of a four lane divided road located within the District generally known as Avery Ranch Boulevard (the "Road"), funding approximately 24 months of capitalized interest and paying the costs of issuance.

**SECTION 3.02. FORM, DATE, NUMBERS, AND DENOMINATION.** The Bonds shall be issued and delivered in fully registered form without coupons, and may be transferred and exchanged after initial delivery as provided in Article Four of this Bond Order. The Bonds shall be dated March 1, 2003. There shall be one Initial Bond delivered to the Attorney General of the State of Texas numbered T-1 and payable in installments in the aggregate principal amount of \$4,620,000. Bonds registered and delivered by the Registrar subsequent to the Initial Bond shall be numbered by the Registrar R-1 upward and no two Bonds shall be given the same number. The Bonds registered and delivered subsequent to the Initial Bonds shall be in principal denominations of \$5,000 or any integral multiple thereof.

**SECTION 3.03. INTEREST RATES AND MATURITIES.** Bonds shall bear interest from March 1, 2003, at the rate or rates set forth in the following schedule on the basis of a 360 day year composed of twelve 30-day months, and shall mature and become payable, subject to prior redemption in accordance with the provisions of Article Five hereof. The Bonds shall mature on August 15 in each of the years and in the principal amounts set forth in the schedule below:

| <u>Year of Maturity</u> | <u>Amount Maturing</u> | <u>Interest Rate</u> |
|-------------------------|------------------------|----------------------|
| August 15, 2006         |                        |                      |
| August 15, 2007         |                        |                      |
| August 15, 2008         |                        |                      |
| August 15, 2009         |                        |                      |
| August 15, 2010         |                        |                      |
| August 15, 2011         |                        |                      |
| August 15, 2012         |                        |                      |
| August 15, 2013         |                        |                      |
| August 15, 2014         |                        |                      |
| August 15, 2015         |                        |                      |
| August 15, 2016         |                        |                      |
| August 15, 2017         |                        |                      |
| August 15, 2018         |                        |                      |
| August 15, 2019         |                        |                      |
| August 15, 2020         |                        |                      |
| August 15, 2021         |                        |                      |
| August 15, 2022         |                        |                      |
| August 15, 2023         |                        |                      |

**SECTION 3.04. PAYMENT OF PRINCIPAL AND INTEREST.** The Registrar is hereby appointed as the paying agent for the Bonds. The principal of the Bonds, shall be payable, without exchange or collection charges, in any coin or currency of the United States of America which, on the date of payment, is legal tender for the payment of debts due the United States of America, upon their presentation and surrender as they become due and payable, whether at maturity or by prior redemption in the case of the Bonds, at the designated office for payment of the Registrar. The interest on each Bond shall be payable on August 15, 2003, and semiannually thereafter on February 15 and August 15 of each year by check payable on the Interest Payment Date, mailed by the Registrar on or before each Interest Payment Date to the Registered Owner as shown on the Register on the Record Date or, at the request of a Registered Owner, and at the Registered Owner's risk and expense, in such other manner as may be acceptable to the Registered Owner and the Registrar. Any accrued interest payable at maturity or earlier redemption, in the case of the Bonds, shall be paid upon presentation and surrender of the Bond to which such interest appertains.

If the date for payment on any Bond is a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Registrar is located are authorized by law or executive order to close, or the United States Postal Service is not open for business, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or a day on which banking institutions are authorized by law or executive order to close, and payment on such date shall have the same force and effect as if made on the original date payment was due.

**SECTION 3.05. SUCCESSOR REGISTRARS.** The District covenants that at all times while any Bonds are outstanding it will provide a bank, trust company, financial institution or other entity duly qualified and duly authorized to act as Registrar for the Bonds. The District reserves the right to change the Registrar on not less than 30 days written notice to the Registrar, so long as any such notice is effective at such time as to not disrupt payment on the next succeeding principal or interest payment date on the Bonds. Promptly upon the appointment of any successor Registrar, the previous Registrar shall deliver the Register or copies thereof to the new Registrar, and the new Registrar shall notify each Registered Owner, by United States mail, first-class postage prepaid, of such change and of the address of the new Registrar. Each Registrar hereunder, by acting in that capacity, shall be deemed to have agreed to the provisions of this Section.

**SECTION 3.06. SPECIAL RECORD DATE.** If interest on any Bond is not paid on any Interest Payment Date and continues unpaid for 30 days thereafter, the Registrar shall establish a new record date for the payment of such interest, to be known as a Special Record Date. The Registrar shall establish a Special Record Date when funds to make such interest payment are received from or on behalf of the District. Such Special Record Date shall be 15 days prior to the date fixed for payment of such past due interest, and notice of the date of payment and the Special Record Date shall be sent by United States mail, first-class, postage prepaid, not later than 5 days prior to the Special Record Date, to each affected Registered Owner of record as of the close of business on the day prior to the mailing of such notice.

**SECTION 3.07. REGISTERED OWNERS.** The District, the Registrar and any other person may treat the person in whose name any Bond is registered as the absolute Registered Owner of such Bond for the purpose of making payment of principal or interest on such Bond, and for all other purposes, whether or not such Bond is overdue, and neither the District, nor the Registrar shall be bound by any notice or knowledge to the contrary. All payments made to the person deemed to be the Registered Owner of any Bond in accordance with this Section 3.07 shall be valid and effectual and shall discharge the liability of the District and the Registrar upon such Bond to the extent of the sums paid.

**SECTION 3.08. EXECUTION OF BONDS.** The Bonds shall be signed on behalf of the District by the County Judge, County Clerk and County Treasurer, by their manual, lithographed, or facsimile signatures, and the official seal of the District shall be impressed or placed in facsimile thereon. The facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and the facsimile seal on the Bonds shall have the same effect as if the official seal of the District had been manually impressed upon each of the Bonds. If any officer of the District whose manual or facsimile signature appears on the Bonds shall cease to be such officer before the authentication of such Bonds or before the delivery of such Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office.

**SECTION 3.09. AUTHENTICATION.** The Initial Bonds shall bear thereon a certificate of registration of the Comptroller of Public Accounts of the State of Texas, substantially

in the form provided in Section 6.02 of this Bond Order, manually executed by the Comptroller or a duly authorized deputy. All other Bonds shall bear a certificate of authentication, substantially in the form provided in Section 6.03 of this Bond Order, manually executed by an authorized officer of the Registrar. No Bond shall be valid or obligatory for any purpose unless either the registration certificate of the Comptroller or the authentication certificate of the Registrar has been signed by a duly authorized officer thereof.

#### **ARTICLE FOUR**

##### **REGISTRATION, TRANSFER, AND EXCHANGE**

**SECTION 4.01. REGISTRATION, TRANSFER, AND EXCHANGE.** So long as any Bonds remain outstanding, the Registrar shall keep at its designated office for payment the Register, in which, subject to such reasonable regulations as it may prescribe, the Registrar shall provide for the registration and transfer of Bonds in accordance with the terms of this Bond Order.

Each Bond shall be transferable only upon the presentation and surrender thereof at the designated office for payment of the Registrar, duly endorsed for transfer, or accompanied by an assignment duly executed by the Registered Owner or an authorized representative in form satisfactory to the Registrar. Upon due presentation of any Bond for transfer, the Registrar shall authenticate and deliver in exchange therefor, within 72 hours after such presentation, a new Bond or Bonds of the same type, registered in the name of the transferee or transferees, in authorized denominations and of the same maturity and aggregate principal amount, and bearing interest at the same rate as the Bond or Bonds so presented.

All Bonds shall be exchangeable upon presentation and surrender thereof at the designated office for payment of the Registrar for a Bond or Bonds of the same maturity and interest rate and in any authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of the Bond or Bonds presented for exchange. The Registrar shall be and is hereby authorized to authenticate and deliver exchange Bonds in accordance with the provisions of this Section 4.01. Each Bond delivered in accordance with this Section 4.01 shall be entitled to the benefits and security of this Bond Order to the same extent as the Bond or Bonds in lieu of which such Bond is delivered.

The District or the Registrar may require the Registered Owner of any Bond to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the transfer or exchange of such Bond. Any fee or charge of the Registrar for such transfer or exchange shall be paid by the District.

No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the District or any other body or person so as to accomplish the foregoing conversion and exchange of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bonds in the manner prescribed herein, and the Bonds shall be of type composition printed on paper with lithographed or steel engraved borders of

customary weight and strength. Pursuant to Chapter 1201, Texas Government Code, as amended, and particularly Section 1201.062 thereof, the duty of conversion and exchange of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of the Bond, the converted and exchanged Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which initially were issued and delivered pursuant to this Bond Order, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

**SECTION 4.02. MUTILATED, LOST, OR STOLEN BONDS.** Upon the presentation and surrender to the Registrar of a mutilated Bond, the Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like maturity, interest rate and principal amount, bearing a number not contemporaneously outstanding. If any Bond is lost, apparently destroyed, or wrongfully taken, the District, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall execute and the Registrar shall authenticate and deliver a replacement Bond of like amount, bearing a number not contemporaneously outstanding.

The District or the Registrar may require the Registered Owner of a mutilated Bond to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith and any other expenses connected therewith, including apparently destroyed, or wrongfully taken, the District, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall execute and the Registrar shall authenticate and deliver a replacement Bond of like amount, bearing a number not contemporaneously outstanding.

The District or the Registrar may require the Registered Owner of a mutilated Bond to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith and any other expenses connected therewith, including the fees and expenses of the Registrar. The District or the Registrar may require the Registered Owner of a lost, apparently destroyed or wrongfully taken Bond, before any replacement Bond is issued, to:

- (a) furnish to the District and the Registrar satisfactory evidence of the ownership of and the circumstances of the loss, destruction or theft of such Bond;
- (b) furnish such security or indemnity as may be required by the Registrar and the District to save them harmless;
- (c) pay all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Registrar and any tax or other governmental charge that may be imposed; and
- (d) meet any other reasonable requirements of the District and the Registrar.

If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond which such replacement Bond was issued presents for payment such original Bond, the District and the Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the District or the Registrar in connection therewith.

If any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the District in its discretion may, instead of issuing a replacement Bond, authorize the Registrar to pay such Bond.

Each replacement Bond delivered in accordance with this Section 4.02 shall be entitled to the benefits and security of this Bond Order to the same extent as the Bond or Bonds in lieu of which such replacement is delivered.

**SECTION 4.03. CHARACTERISTICS OF THE BONDS.** (a) In General. The Bonds (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Bonds to be payable only to the Registered Owners thereof, (ii) may be transferred and assigned, (iii) may be converted and exchanged for other Bonds, (iv) shall have the characteristics, (v) shall be signed, sealed, executed and authenticated, (vi) the principal of and interest on the Bonds shall be payable, and (vii) shall be administered and the Paying Agent/Registrar and the District shall have certain duties and responsibilities with respect to the Bonds, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF BOND set forth in this Bond Order. The Bonds initially issued and delivered pursuant to this Bond Order are not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Bond issued in conversion of and exchange for any Bond or Bonds issued under this Bond Order the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF BOND.

(b) Book-Entry-Only System. The Bonds issued in exchange for the Bonds initially issued as provided in Section 3.02 shall be issued in the form of a separate single fully registered Bond for each of the maturities thereof registered in the name of Cede & Co., as nominee of The Depository Trust Company of New York ("DTC") and except as provided in subsection (c) hereof, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the District and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC participants (the "DTC Participant") or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the District and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person,



other than a Registered Owner, as shown on the Registration Books, of any notice with respect to the Bonds, or (iii) the payment to any DTC Participant or any person, other than a Registered Owner, as shown on the Registration Books of any amount with respect to principal of or interest on the Bonds. Notwithstanding any other provision of this Order to the contrary, but to the extent permitted by law, the District and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal of and interest, with respect to such Bond, for the purposes of registering transfers with respect to such Bond, and for all other purposes of registering transfers with respect to such Bonds, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the respective Registered Owners, as shown in the Registration Books as provided in this Order, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the District's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than a Registered Owner, as shown in the Registration Books, shall receive a Bond evidencing the obligation of the District to make payments of principal, and interest pursuant to this Order. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Order with respect to interest checks being mailed to the registered owner at the close of business on the Record Date the word "Cede & Co." in this Order shall refer to such new nominee of DTC.

(c) Successor Securities Depository: Transfer Outside Book-Entry-Only System. In the event that the District determines to discontinue the book-entry system through DTC or a successor or DTC determines to discontinue providing its services with respect to the Bond, the District shall either (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names the Registered Owner transferring or exchanging Bond shall designate, in accordance with the provisions of this Order.

(d) Payments to Cede & Co. Notwithstanding any other provision of this Order to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the Blanket Issuer Letter of Representations of the District to DTC.

**SECTION 4.04. CANCELLATION OF BONDS.** All Bonds paid in accordance with this Bond Order, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated, registered, and delivered in accordance herewith, shall be canceled and destroyed upon

the making of proper records regarding such payment, redemption, exchange, or replacement. This Registrar shall furnish the District with appropriate certificates of destruction of such Bonds.

**ARTICLE FIVE**

**REDEMPTION OF BONDS BEFORE MATURITY**

**SECTION 5.01. REDEMPTION OF BONDS.** The District reserves the right to redeem the Bonds as set forth in the FORM OF BOND in Section 6.01 of this Bond Order.

**ARTICLE SIX**

**FORM OF BOND**

**SECTION 6.01. FORM OF BOND.** The Bonds authorized by this Bond Order shall be in substantially the following Form, with such omissions, insertions, and variations, including variations in form, spacing, and style, as may be necessary and desirable and consistent with the terms of this Bond Order. The District shall provide sufficient printed bond forms, duly executed by the District, to the Registrar for registration, authentication, and delivery of the Bonds in accordance with the provisions of this Bond Order.

**FORM OF BOND**

**UNITED STATES OF AMERICA  
STATE OF TEXAS**

**AVERY RANCH ROAD DISTRICT NO. 1  
UNLIMITED TAX ROAD BONDS  
SERIES 2003**

|               |                             |
|---------------|-----------------------------|
| <b>NO. R-</b> | <b>PRINCIPAL<br/>AMOUNT</b> |
|               | <b>\$ _____</b>             |

|                             |                             |                             |                         |
|-----------------------------|-----------------------------|-----------------------------|-------------------------|
| <b><u>INTEREST RATE</u></b> | <b><u>DATE OF BONDS</u></b> | <b><u>MATURITY DATE</u></b> | <b><u>CUSIP NO.</u></b> |
|                             | March 1, 2003               |                             |                         |

**REGISTERED OWNER:**

**PRINCIPAL AMOUNT:**

**ON THE MATURITY DATE** specified above, **AVERY RANCH ROAD DISTRICT NO. 1** (the "District"), being a political subdivision of the State of Texas, hereby promises to pay to the Registered Owner set forth above, or registered assign (hereinafter called the "Registered Owner") the principal amount set forth above, and to pay interest thereon calculated on the basis of a 360 day year of twelve 30 day months, from March 1, 2003 on August 15, 2003 and semiannually on each February 15 and August 15 thereafter (an "Interest Payment Date") to the maturity date specified above, or the date of redemption prior to maturity, at the interest rate per annum specified above; except that if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the Interest Payment Date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following Interest Payment Date, in which case such principal amount shall bear interest from such next following Interest Payment Date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged or converted from is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the District and the securities depository.

**THE PRINCIPAL OF AND INTEREST ON** this Bond are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Bond shall be paid to the Registered Owner hereof upon presentation and surrender of this Bond at maturity or upon the date fixed for its redemption prior to maturity at JPMorgan Chase Bank which is the "Registrar" or "Paying Agent/Registrar" for this Bond at its designated office for payment in Dallas, Texas. The payment of interest on this Bond shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each Interest Payment Date by check or draft, dated as of such Interest Payment Date, drawn by the Registrar on, and payable solely from, funds of the District required by the order authorizing the issuance of the Bonds (the "Bond Order") to be on deposit with the Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Registrar by United States mail, first-class postage prepaid, on or before each such Interest Payment Date, to the Registered Owner hereof, at its address as it appeared on the last day of the month next preceding each such date, whether or not such date is a business day (the "Record Date") on the Register kept by the Registrar listing the names and addresses of the Registered Owners (the "Register"). In addition, interest may be paid by such other method, acceptable to the Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 calendar days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the District. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 calendar days after the Special Record Date) shall be sent at least 5 business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Registered Owner as it appears on the Register at the close of business on the last business day next preceding the date of mailing of such notice.

**DURING ANY PERIOD** in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the District and the securities depository.

**ANY ACCRUED INTEREST** due at maturity or upon the redemption of this Bond prior to maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Bond for payment at the designated office for payment of the Paying Agent/Registrar. The District covenants with the Registered Owner of this Bond that on or before each principal payment date, interest payment date, and any redemption date for this Bond it will make available to the Registrar, from the "Interest and Sinking Fund" the creation of which is affirmed by the Bond Order, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bonds, when due.

**IF THE DATE** for any payment due on this Bond shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the designated office for payment of the Paying Agent/Registrar is located are authorized by law or executive order to close, or the United States Postal Service is not open for business, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close, or the United States Postal Service is not open for business; and payment on such date shall have the same force and effect as if made on the original date payment was due.

**THIS BOND** is one of a series of Bonds dated as of March 1, 2003 and authorized to be issued pursuant to the Bond Order adopted by the Board of Directors of the District in the principal amount of \$4,620,000 **FOR THE PURPOSE OF CONSTRUCTING, REIMBURSING FOR THE COSTS OF CONSTRUCTING, ACQUIRING BY PURCHASE, MAINTAINING AND OPERATING MACADAMIZED, GRAVELED OR PAVED ROADS AND TURNPIKES AND RELATED BRIDGES, DRAINAGE WORK AND OTHER SIMILAR FACILITIES INCLUDING PARTICULARLY REIMBURSING THE DEVELOPERS FOR THE CONSTRUCTION OF A PORTION OF A FOUR LANE DIVIDED ROAD LOCATED WITHIN THE DISTRICT GENERALLY KNOWN AS AVERY RANCH BOULEVARD (THE "ROAD"), FUNDING APPROXIMATELY 24 MONTHS OF CAPITALIZED INTEREST AND PAYING THE COSTS OF ISSUANCE.**

**THE BONDS** maturing on August 15, 20\_\_\_\_ and August 15, 20\_\_\_\_ are subject to mandatory sinking fund redemption by lot prior to maturity in the following amounts, on the following dates and at a price of par plus accrued interest to the redemption date.

**Bonds Maturing August 15, 20\_\_**

| Redemption Date   | Principal Amount |
|-------------------|------------------|
| August 15, 20__   | \$ _____         |
| August 15, 20__   | _____            |
| August 15, 20__ * | _____ *          |

\*Final Maturity

**Bonds Maturing August 15, 20\_\_**

| Redemption Date   | Principal Amount |
|-------------------|------------------|
| August 15, 20__   | \$ _____         |
| August 15, 20__   | _____            |
| August 15, 20__ * | _____ *          |

\*Final Maturity

**THE PRINCIPAL AMOUNT** of the Term Bonds required to be redeemed pursuant to the operation of the mandatory sinking fund redemption provisions shall be reduced, at the option of the District by the principal amount of any Term Bonds of the stated maturity which, at least 50 days prior to a mandatory redemption date, (1) shall have been acquired by the District, at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchase and canceled by the Paying Agent/Registrar at the request of the District with monies in the Debt Service Fund at a price not exceeding the principal amount of the Term Bonds plus accrued interest to the date of purchase thereof, or (3) shall have been redeemed pursuant to the optional redemption provisions and not theretofore credited against a mandatory sinking fund redemption requirement.

**ON AUGUST 15, 2013 OR ON ANY DATE THEREAFTER**, the Bonds maturing August 15, 2014 and thereafter, may be redeemed prior to their scheduled maturities, at the option of the District, with funds derived from any available and lawful source, at a redemption price equal to the principal amount to be redeemed plus accrued interest to the date fixed for redemption as a whole, or from time to time in part, and, if in part, the particular Bonds, or portions thereof, to be redeemed shall be selected and designated by the District, and if less than all of a maturity is to be redeemed the Registrar shall determine by lot the Bonds, or portions thereof within such maturity to be redeemed (provided that a portion of a Bond may be redeemed only in integral multiples of \$5,000 of principal amount).

**ALL BONDS OF THIS SERIES** are issuable solely as fully registered Bonds, without interest coupons, in the principal denomination in the case of the Bonds, of any integral multiple of \$5,000. As provided in the Bond Order, this Bond may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate amount of fully registered Bonds, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having any authorized denomination or denominations as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Bond to the Registrar for cancellation, all in accordance with the form and procedures set forth in the Bond Order. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Registrar, evidencing assignment of this Bond or any portion or portions hereof in any authorized denomination to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be registered. The Form of Assignment printed or endorsed on this Bond may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Registrar may be used to evidence the assignment of this Bond or any portion or portions hereof from time to time by the Registered Owner. The Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Bond or portion thereof will be paid by the District. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Registrar shall not be required to make any such transfer, conversion or exchange of any Bond or any portion thereof (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or Interest Payment Date or (ii) within 45 calendar days prior to its redemption date; provided, however, such limitation on transferability shall not be applicable to an exchange by the Registered Owner of the unredeemed balance hereof in the event of its redemption in part.

**WHENEVER** the beneficial ownership of this Bond is determined by a book entry at a securities depository for the Bonds, the foregoing requirements of holding, delivering or transferring this Bond shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

**IN THE EVENT** any Registrar for the Bonds is changed by the District, resigns, or otherwise ceases to act as such, the District has covenanted in the Bond Order that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owners of the Bonds.

**THE BONDS** are payable from the proceeds of an ad valorem tax, without legal limit as to rate or amount, levied upon all taxable property within the District. The Bond Order further provides that the pledge of taxes, to the payment of the Bonds shall terminate at such time, if ever, money

and/or Defeasance Securities in an amount sufficient to defease the Bonds is deposited with or made available to the Registrar in accordance with the Bond Order.

**THE BONDS** are issued pursuant to the Bond Order, whereunder the County covenants to levy a continuing direct annual ad valorem tax, without legal limit as to rate or amount, on taxable property within the District, for each year while any part of the Bonds are considered outstanding under the provisions of the Bond Order, in sufficient amount, together with revenues and receipts available from other sources which are equally available for such purposes, to pay interest on the Bonds as it becomes due, to provide a sinking fund for the payment of the principal of the Bonds when due or the redemption price at any earlier required redemption date with respect to the Bonds, and to pay the expenses of assessing and collecting such tax, all as more specifically provided in the Bond Order. Reference is hereby made to the Bond Order for provisions with the custody and application of funds, remedies in the event of a default hereunder or thereunder, and the other rights of the Registered Owners of the Bonds. By acceptance of this Bond the Registered Owner hereof consents to all of the provisions of the Bond Order, a certified copy of which is on file in the office of the District.

**THE OBLIGATION** to pay the principal of and the interest on this Bond is solely and exclusively the obligation of the District until such time, if ever, as the District is abolished and this Bond is assumed as described above. No other entity, including the State of Texas, any political subdivision thereof other than the District, or any other public or private body, is obligated, directly, indirectly, contingently, or in any other manner, to pay the principal of or the interest on this Bond from any source whatsoever. No part of the physical properties of the District, including the properties provided by the proceeds of the Bonds, is encumbered by any lien for the benefit of the Registered Owner of this Bond.

**THE DISTRICT RESERVES THE RIGHT** to issue additional bonds heretofore or hereafter duly authorized at elections held in the District payable from a lien on and pledge of taxes. The District further reserves the right to issue refunding bonds in any manner permitted by law to refund any bonds (including the Bonds) at or prior to their respective dates of maturity or redemption.

**TO THE EXTENT** permitted by and in the manner provided in the Bond Order, the terms and provisions of the Bond Order and the rights of the Registered Owners of the Bonds may be modified with, in certain circumstances, the consent of the Registered Owners of a majority in aggregate principal amount of the Bonds affected thereby; provided, however, that, without the consent of the Registered Owners of all of the Bonds affected, no such modification shall (i) extend the time or times of payment of the principal of and interest on the Bonds, reduce the principal amount thereof or the rate of interest thereon, or in any other way modify the terms of payment of the principal of or interest on the Bonds, (ii) give any preference to any Bond over any other Bond, or (iii) reduce the aggregate principal amount of the Bonds required for consent to any such modification.

**THIS BOND** shall not be valid or obligatory for any purpose or be entitled to any benefit under the Bond Order unless this Bond either (a) is registered by the Comptroller of Public Accounts of the State of Texas as evidenced by execution of the registration certificate endorsed hereon or (b) is authenticated as evidenced by execution of the authentication certificate endorsed hereon by the Registrar.

**IT IS HEREBY CERTIFIED, COVENANTED, AND REPRESENTED** that all acts, conditions, and things necessary to be done precedent to the issuance of the Bonds in order to render the same legal, valid, and binding obligations of the District have happened and have been accomplished and performed in regular and due time, form, and manner, as required by law; that provision has been made for the payment of the principal of and interest on the Bonds by the levy of a continuing, direct annual ad valorem tax upon all taxable property within the District and that issuance of the Bonds does not exceed any constitutional or statutory limitation. In the event that any provisions herein contained do or would, presently or prospectively, operate to make any part hereof void or voidable, such provisions shall be without effect or prejudice to the remaining provisions hereof, which shall nevertheless remain operative, and such violative provisions, if any, shall be reformed by a court of competent jurisdiction within the limits of the laws of the State of Texas.

**IT IS FURTHER CERTIFIED** that the Bonds have been designated as "qualified tax-exempt obligations" within the meaning of Section 265(b) of the Internal Revenue Code of 1986.

**IN WITNESS WHEREOF**, the District has caused this Bond to be signed with the manual or facsimile signature of the County Judge and countersigned with the manual or facsimile signature of the County Clerk and County Treasurer, and has caused the official seal to be duly impressed, or placed in facsimile, on this Bond.

**AVERY RANCH ROAD DISTRICT NO. 1**

\_\_\_\_\_  
County Clerk

John C. Daegler 3-18-03  
County Judge

\_\_\_\_\_  
County Treasurer

(SEAL)

**SECTION 6.02. REGISTRATION OF INITIAL BONDS BY STATE**  
**COMPTROLLER AND CERTIFICATE.** The Initial Bonds shall be registered by the



Comptroller of Public Accounts of the State of Texas as provided by law. The registration certificate of the Comptroller of Public Accounts of the State of Texas shall be printed on the face of each of the Initial Bonds and shall be in substantially the following form:

**COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.**

I hereby certify that this Bond has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

(COMPTROLLER'S SEAL)

**SECTION 6.03. FORM OF AUTHENTICATION CERTIFICATE.** The following form of authentication certificate shall be printed on the face of each of the Bonds other than the Initial Bonds:

**PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE**  
(To be executed if this Bond is not accompanied by an  
executed Registration Certificate of the Comptroller  
of Public Accounts of the State of Texas)

It is hereby certified that this Bond has been issued under the provisions of the Bond Order described in the text of this Bond; and that this Bond has been issued in conversion or replacement of, or in exchange for, a Bond, Bonds, or a portion of a Bond or Bonds of a series which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated:

**JPMORGAN CHASE BANK**  
Registrar

By \_\_\_\_\_  
Authorized Representative

**SECTION 6.04. FORM OF ASSIGNMENT.** A form of assignment shall be printed on the back of each of the Bonds and shall be in substantially the following form:

**ASSIGNMENT**

For value received, the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_  
 Please insert Social Security or Taxpayer  
 Identification Number of Transferee

\_\_\_\_\_  
 (Please print or typewrite name and address,  
 including zip code of Transferee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney, to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

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

Signature Guaranteed:

\_\_\_\_\_  
 NOTICE: Signature(s) must be  
 guaranteed by a member firm of  
 the New York Stock Exchange or  
 a commercial bank or trust company.

\_\_\_\_\_  
 NOTICE: The signature above  
 must correspond with the name  
 of the Registered Owner as it  
 appears upon the front of this  
 Bond in every particular, with-  
 out alteration or enlargement  
 or any change whatsoever.

**SECTION 6.05. CUSIP REGISTRATION.** The President of the Board of Directors may secure the printing of identification numbers on the Bonds through the CUSIP Service Bureau.

**SECTION 6.06. LEGAL OPINION AND BOND INSURANCE.** The approving opinion of McCall, Parkhurst & Horton L.L.P., Austin, Texas, may be printed on the back of the Bonds. In addition, if any bond insurance is obtained, any statement of insurance may be placed on the Bonds.

**SECTION 6.07. INSERTIONS FOR THE INITIAL BOND.** The initial Bond shall be in the form set forth in this Section, except that:

A. immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below" and "CUSIP NO." shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

"ON THE MATURITY DATE SPECIFIED ABOVE, the Avery Ranch Road District No. 1 (the "District"), being a political subdivision, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on August 15 in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

| <u>Years</u> | <u>Principal Installments</u> | <u>Interest Rates</u> |
|--------------|-------------------------------|-----------------------|
|--------------|-------------------------------|-----------------------|

(Information from Section 3.03 to be inserted)

The District promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from March 1, 2003 at the respective Interest Rate per annum specified above. Interest is payable on August 15, 2003 and semiannually on each February 15 and August 15 thereafter to the date of payment of the principal installment specified above; except, that if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full."

C. The initial Bond shall be numbered "T-1."

## **ARTICLE SEVEN**

### **SECURITY OF THE BONDS**

**SECTION 7.01. SECURITY OF BONDS.** The Bonds are secured by and payable from the levy of a continuing, direct annual ad valorem tax, without legal limitation as to rate or amount, upon all taxable property within the District. THE BONDS ARE PAYABLE SOLELY FROM AD VALOREM TAX PROCEEDS PAYABLE BY PROPERTY OWNERS WITHIN THE

DISTRICT AND ARE NOT OBLIGATIONS OF, NOR ARE THEY BACKED BY THE FAITH AND CREDIT OF WILLIAMSON COUNTY, TEXAS OR OF THE STATE OF TEXAS. The Bonds shall not constitute the personal obligation, either jointly or severally, of the members or officers of the District or the Commissioners Court.

**SECTION 7.02. LEVY OF TAX.** To pay the interest on the Bonds, and to create a sinking fund for the payment of the principal thereof when due, and to pay the expenses of assessing and collecting such taxes, there is hereby levied, and there shall be assessed and collected in due time, a continuing, direct annual ad valorem tax without limit as to rate or amount on all taxable property in the District for each year while any of the Bonds are outstanding. All of the proceeds of such collections, except expenses incurred in that connection, shall be paid into the Avery Ranch Road District No. 1 Interest and Sinking Fund (the "Interest and Sinking Fund") maintained in the County Treasury at its official depository bank, and the aforementioned tax and such payments into such fund shall continue until the Bonds and the interest thereon have been fully paid and discharged, and such proceeds shall be used for such purposes and no other. During each year while any of the Bonds are outstanding and unpaid, the Commissioners Court of the County shall compute and ascertain the rate and amount of ad valorem tax, based on the latest approved tax rolls of the District, with full allowances being made for tax delinquencies and costs of tax collections, which will be sufficient to raise and produce the money required to pay the interest on the Bonds as such interest comes due, and to provide a sinking fund to pay the principal of the Bonds as such principal matures or is mandatorily redeemed in the years and in the principal amounts set forth in Section 3.03 hereof, but never less than 2% of the original principal amount of the Bonds as a sinking fund each year. Said rate and amount of ad valorem tax is hereby ordered to be levied and is hereby levied without limits as to rate or amount against all taxable property in the District for each year while any of said Bonds are outstanding and unpaid, and said ad valorem tax shall be assessed and collected each such year and deposited to the credit of the aforesaid Interest and Sinking Fund. Said ad valorem taxes necessary to pay the interest on and principal of the Bonds, as such interest comes due, and such principal matures or is mandatorily redeemed in the years and in the principal amounts set forth in Section 3.03 hereof, are hereby pledged irrevocably for such purpose.

In determining the amount of taxes which should be levied each year, the Commissioners Court may also consider whether proceeds from the sale of bonds of the District have been capitalized or placed in escrow to pay interest and whether the Commissioners Court reasonably expects to have revenues or receipts available from other sources which are legally available to pay the principal of or the interest, payment expenses or redemption price on the District's bonds.

So long as any of the Bonds remain outstanding, the District covenants that it will take such actions and use such measures as may be deemed appropriate under the circumstances to preserve and protect the existence and priority or its rights to and liens for the collection of delinquent taxes, including, but not limited to, where deemed appropriate, suits for collection of taxes and/or foreclosure of tax liens.

**SECTION 7.03. PAYMENT OF BONDS AND PERFORMANCE OF OBLIGATIONS.** The District covenants to pay promptly the principal of and interest on the Bonds

as the same become due and payable, whether at maturity or by prior redemption, in accordance with the terms of the Bonds and this Bond Order, and to keep and perform faithfully all of its covenants, undertakings, and agreements contained in this Bond Order, or in any Bond executed, authenticated, and delivered hereunder.

## **ARTICLE EIGHT**

### **FLOW OF FUNDS AND INVESTMENTS**

**SECTION 8.01. CREATION OF FUNDS.** In addition to the Interest and Sinking Fund there shall be created an Avery Ranch Road District No. 1 Capital Projects Fund (the "Capital Projects Fund"). The Interest and Sinking Fund shall constitute a trust fund which shall be held in trust for the benefit of the owners of the Bonds. All other funds shall be used solely as provided in this Order until all of the Bonds have been retired, both as to principal and interest.

**SECTION 8.02. CAPITAL PROJECTS FUND.** The District shall deposit to the credit of the Capital Projects Fund the balance of the proceeds of the Bonds remaining after the deposits to the Interest and Sinking Fund provided in Section 9.02 of this Order. The Capital Projects Fund shall be applied solely to pay (i) the costs necessary or appropriate to accomplish such of the purposes for which the Bonds are issued as approved by the Commissioners Court and (ii) the costs of issuing the Bonds. Interest earnings derived from the investment of proceeds from the sale of the Bonds deposited in the Capital Projects Fund shall be used for the purpose for which the Bonds are issued; provided that after completion of the purposes authorized at the Bond Election interest earnings may be used as permitted by law including paying the principal and/or interest on the Bonds.

**SECTION 8.03 SECURITY OF FUNDS.** Any cash balance in any fund, to the extent not insured by the Federal Deposit Insurance Corporation or its successor, shall be continuously secured in the manner provided by law for the security of funds of counties of the State of Texas.

**SECTION 8.04. INTEREST AND SINKING FUND; TAX LEVY.** The District shall deposit or cause to be deposited into the Interest and Sinking Fund the aggregate of the following at the time specified:

- (a) As soon as practicable after the Bonds are sold, accrued interest on the Bonds from their date to the date of their delivery and capitalized interest on the Bonds for 24 months; and
- (b) The proceeds from collection of the ad valorem taxes levied, assessed and collected for and on account of the Bonds pursuant to Section 7.02 hereof, less costs of collection, as collected.

While the Bonds or any part of the principal thereof or interest thereon remain outstanding and unpaid, the taxes levied pursuant to Section 7.02 of this Order are hereby irrevocably pledged to the

payment of the interest on and principal of the Bonds and to no other purpose. On or before the date for payment of the principal and/or Interest Payment Date on the Bonds, the Commissioners Court shall cause the transfer of moneys out of the Interest and Sinking Fund to the Registrar in an amount not less than that which is sufficient to pay the principal which matures on such date and the interest which accrues on such date. The District shall pay fees and charges of the Registrar for its services as paying agent and registrar for the Bonds from the Interest and Sinking Fund.

**SECTION 8.05. INVESTMENTS; EARNINGS.** Moneys deposited into the Interest and Sinking Fund and the Capital Projects Fund and any other fund or funds which the District may lawfully create may be invested or reinvested in Authorized Investments. All investments and any profits realized from and interest accruing on investments made from any fund may be transferred to the Interest and Sinking Fund. If any moneys are so invested, the District shall have the right to have sold in the open market a sufficient amount of such investments to meet its obligations in the event any fund does not have sufficient uninvested funds on hand to meet the obligations payable out of such fund. After such sale the moneys resulting therefrom shall belong to the fund from which the moneys for such investments were initially taken. The District shall not be responsible to the Registered Owners for any loss arising out of the sale of any investments.

**SECTION 8.06. MAINTENANCE OF FUNDS.** Any funds created pursuant to this Order may be created as separate funds or accounts or as subaccounts of the County's General Fund held by the County's depository, and, as such, not held in separate bank accounts, such treatment shall not constitute a commingling of the monies in such funds or of such funds and the County shall keep full and complete records indicating the monies and investments credited to each such fund.

## **ARTICLE NINE**

### **APPLICATION OF BOND PROCEEDS**

**SECTION 9.01. BOND PROCEEDS.** Proceeds from the sale of the Bonds will be disbursed in accordance with this Article.

**SECTION 9.02. ACCRUED AND CAPITALIZED INTEREST.** Moneys received from the purchaser of the Bonds representing accrued interest on the Bonds from their date to the date of their actual delivery shall be deposited into the Interest and Sinking Fund. In addition, proceeds of the Bonds representing capitalized interest shall be deposited into the Interest and Sinking Fund.

**SECTION 9.03. CAPITAL PROJECTS FUND.** Proceeds of the Bonds necessary to complete the purposes set forth in Section 3.01 herein and to pay the costs of issuance of the Bonds shall be deposited in the Capital Projects Fund.

**ARTICLE TEN****PROVISIONS CONCERNING FEDERAL INCOME TAX EXCLUSION**

**SECTION 10.01. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE BONDS.** The District covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Bonds as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the District covenants as follows:

(a) to take any action to assure that no more than 10 percent of the proceeds of the Bonds or the project financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds are so used, that amounts, whether or not received by the District, with respect to such private business use, do not, under the terms of this Order or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Bonds, in contravention of section 141(b)(2) of the Code;

(b) to take any action to assure that in the event that the "private business use" described in subsection (a) hereof exceeds 5 percent of the proceeds of the Bonds (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(c) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Bonds (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(d) to refrain from taking any action which would otherwise result in the Bonds being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(e) to refrain from taking any action that would result in the Bonds being "federally guaranteed" within the meaning of section 149(b) of the Code;

(f) to refrain from using any portion of the proceeds of the Bonds, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Bonds, other than investment property acquired with –

(1) proceeds of the Bonds invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 30 days or less until such proceeds are needed for the purpose for which the bonds are issued,

(2) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(3) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Bonds;

(g) to otherwise restrict the use of the proceeds of the Bonds or amounts treated as proceeds of the Bonds, as may be necessary, so that the Bonds do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings); and

(h) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Bonds) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Bonds have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code.

In order to facilitate compliance with the above covenant (h), a "Rebate Fund" is hereby established by the District for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

For purposes of the foregoing (a) and (b), the District understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Bonds. It is the understanding of the District that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Bonds, the District will not be required to comply with any covenant contained herein to the extent that such modification or expansion, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Bonds, the District agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Bonds under section 103 of the Code.

**SECTION 10.02. DESIGNATION AS QUALIFIED TAX-EXEMPT BONDS.** The District hereby designates the Bonds as "qualified tax-exempt obligations" as defined in section 265(b)(3) of the Code, conditioned upon the Purchaser identified in Section 15.01 hereof certifying that the aggregate initial offering price of the Bonds to the public (excluding any accrued interest)



is no greater than \$10 million. Assuming such condition is met, in furtherance of such designation, the District represents, covenants and warrants the following: (a) that during the calendar year in which the Bonds are issued, the District (including any subordinate entities) has not designated nor will designate obligations, which when aggregated with the Bonds will result in more than \$10,000,000 of "qualified tax-exempt obligations" being issued; (b) that the District reasonably anticipates that the amount of tax-exempt obligations issued, during the calendar year in which the Bonds are issued, by the District (or any subordinate entities) will not exceed \$10,000,000; and (c) that the District will take such action or refrain from such action as necessary, and as more particularly set forth in Section 10.01, hereof, in order that the Bonds will not be considered "private activity bonds" within the meaning of section 141 of the Code.

**SECTION 10.03. ALLOCATION OF, AND LIMITATION ON, EXPENDITURES FOR THE PROJECT.** The District covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 3.01 of this Order (the "Project") on its books and records by allocating proceeds to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed. The foregoing notwithstanding, the District shall not expend sale proceeds or investment earnings thereon more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Bonds, or (2) the date the Bonds are retired, unless the District obtains an opinion of nationally-recognized bond counsel that such expenditure will not adversely affect the tax-exempt status of the Bonds. For purposes hereof, the District shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

**SECTION 10.04. DISPOSITION OF PROJECT.** The District covenants that the property constituting the Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the District of cash or other compensation, unless the District obtains an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the District shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

## **ARTICLE ELEVEN**

### **ADDITIONAL BONDS AND REFUNDING BONDS**

**SECTION 11.01. ADDITIONAL BONDS.** The District expressly reserves the right to issue, in one or more installments, for the purpose of constructing, reimbursing for the costs of constructing, acquiring by purchase, maintaining and operating macadamized, graveled or paved roads and turnpikes and related bridges, drainage work and other similar facilities, or for any other lawful purpose:

- (a) the unissued unlimited tax bonds which were authorized pursuant to the Bond Election; and
- (b) such other unlimited tax bonds as may hereafter be authorized at subsequent elections.

**SECTION 11.02. REFUNDING BONDS.** The District further reserves the right to issue refunding bonds in any manner permitted by law to refund the Bonds, and any Outstanding Bonds, any Additional Bonds, or any other obligations issued by the District, at or prior to their respective dates of maturity or redemption.

## **ARTICLE TWELVE**

### **DEFAULT PROVISIONS**

**SECTION 12.01. REMEDIES IN EVENT OF DEFAULT.** In addition to any other rights and remedies provided by the laws of the State of Texas, the District covenants and agrees that in the event of default in payment of principal of or interest on any of the Bonds when due, or, in the event it fails to make the payments required to be made into the Interest and Sinking Fund, or defaults in the observance or performance of any other of the covenants, conditions, or obligations set forth in this Bond Order, the Registered Owners shall be entitled to a writ of mandamus issued by a court of competent jurisdiction compelling and requiring the District and the officials thereof to observe and perform the covenants, obligations, or conditions prescribed in this Bond Order. Any delay or omission to exercise any right or power or be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

**SECTION 12.02. BOND ORDER IS CONTRACT.** In consideration of the purchase and acceptance of the Bonds authorized to be issued hereunder by the Registered Owners, the provisions of this Bond Order shall be deemed to be and shall constitute a contract between the District and the Registered Owners; and the covenants and agreements herein set forth to be performed on behalf of the District shall be for the equal benefit, protection, and security of each of the Registered Owners. The Bonds, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority, or distinction of any Bond over any other, except as expressly provided herein.

## **ARTICLE THIRTEEN**

### **DISCHARGE BY DEPOSIT**

**SECTION 13.01. DEFEASANCE OF BONDS.** (a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Bond") within the meaning of this Order, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date or dates (whether such

due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the District with the Paying Agent/Registrar for the payment of its services until all Defeased Bonds shall have become due and payable or (3) any combination of (1) and (2). At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied as provided in this Order, and such principal and interest shall be payable solely from such money or Defeasance Securities.

(b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of a Bond as aforesaid when proper notice of redemption of such Bonds shall have been given, in accordance with this Order. Any money so deposited with the Paying Agent/Registrar as provided in this Section may at the discretion of the Commissioners Court also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar pursuant to this Section which is not required for the payment of such Bond and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be turned over to the Commissioners Court.

(c) Notwithstanding any provision of any other Section of this Order which may be contrary to the provisions of this Section, all money or Defeasance Securities set aside and held in trust pursuant to the provisions of this Section for the payment of principal of the Bonds and premium, if any, and interest thereon, shall be applied to and used solely for the payment of the particular Bonds and premium, if any, and interest thereon, with respect to which such money or Defeasance Securities have been so set aside in trust. Until all Defeased Bonds shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Bonds the same as if they had not been defeased, and the District shall make proper arrangements to provide and pay for such services as required by this Order.

(d) Notwithstanding anything elsewhere in this Order, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar pursuant to this Section for the payment of Bonds and such Bonds shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the registered owner of each Bond affected thereby.

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Bond to be paid at its maturity, the District retains the right under Texas law to later call that Defeased Bond for redemption in accordance with the provisions of the Order authorizing its issuance, the District may call such Defeased Bond for redemption upon

complying with the provisions of Texas law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Bond as though it was being defeased at the time of the exercise of the option to redeem the Defeased Bond and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Bond.

As used in this section, "Defeasance Securities" means (i) Federal Securities, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the Commissioners Court adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, and (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the Commissioners Court adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent. "Federal Securities" as used herein means direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America (including Interest Strips of the Resolution Funding Corporation).

## **ARTICLE FOURTEEN**

### **MISCELLANEOUS PROVISIONS**

**SECTION 14.01. DISTRICT'S SUCCESSORS AND ASSIGNS.** Whenever in this Bond Order the District is named and referred to, it shall be deemed to include its successors and assigns, and all covenants and agreements in this Bond Order by or on behalf of the District, except as otherwise provided herein, shall bind and inure to the benefit of its successors and assigns whether or not so expressed.

**SECTION 14.02. NO RECOURSE AGAINST COUNTY OR DISTRICT OFFICES.** No recourse shall be had for the payment of the principal of or interest on the Bonds or for any claim based thereon or on this Bond Order against any officer or director of the County or the District or any person executing the Bonds.

**SECTION 14.03. REGISTRAR.** The Registrar shall act as agent for the payment of principal of and interest on the Bonds and shall maintain the Register for the Bonds, all in accordance with the terms of this Bond Order. If the Registrar or its successor becomes unable for any reason to act as Registrar hereunder, or if the Board of Directors of the District determines that a successor Registrar should be appointed, a successor Registrar shall be selected by the District. Any successor Registrar shall be either a bank, trust company, financial institution, or other entity duly qualified and legally authorized to serve and perform the duties as paying agent and registrar for the Bonds.

**SECTION 14.04. REGISTRAR MAY OWN BONDS.** The Registrar, in its individual or any other capacity, may become the owner or pledgee of the Bonds with the same rights it would have if it were not Registrar.

**SECTION 14.05. BENEFITS OF PROVISIONS.** Nothing in this Bond Order or in the Bonds, expressed or implied, shall give or be construed to give any person, firm, or corporation, other than the District, the Registrar, and the Registered Owners, any legal or equitable right or claim under or in respect of this Bond Order, or under any covenant, condition, or provision herein contained, all the covenants, conditions, and provisions contained in this Bond Order or in the Bonds being for the sole benefit of the District, the Registrar, and the Registered Owners.

**SECTION 14.06. UNAVAILABILITY OF AUTHORIZED PUBLICATION.** If, because of the temporary or permanent suspension of any newspaper, journal, or other publication, or for any reason, publication of notice cannot be made meeting any requirements herein established, any notice required to be published by the provisions of this Bond Order shall be given in such other manner and at such time or times as in the judgment of the District shall most effectively approximate such required publication, and the giving of such notice in such manner shall for all purposes of this Bond Order be deemed to be in compliance with the requirements for publication thereof.

**SECTION 14.07. SEVERABILITY CLAUSE.** If any word, phrase, clause, sentence, paragraph, section, or other part of this Bond Order, or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Bond Order and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Bond Order to any other persons or circumstances shall not be affected thereby.

**SECTION 14.08. ACCOUNTING.** The District will keep proper records and accounts regarding the levy and collection of taxes, which records and accounts will be made available to any Registered Owner on reasonable request. Each year while any of the Bonds are outstanding, the District shall have an audit of its books and accounts by a certified public accountant or firm of certified public accountants, based on its Fiscal Year, and copies of such audits will be made available to any Registered Owner upon request.

**SECTION 14.09. FURTHER PROCEEDINGS.** The County Judge 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 Bond Order.

**SECTION 14.10. REMEDIES IN EVENT OF DEFAULT.** In addition to all of the rights and remedies provided by the laws of the State of Texas, the District covenants and agrees that in the event of default in payment of principal or interest on any of the Bonds when due, or, in the event it fails to make the payments required to be made into the Interest and Sinking Fund or defaults

in the observance or performance of any other of the contracts, covenants, conditions or obligations set forth in this Bond Order or in the Bonds, the following remedies shall be available:

- (a) the Registered Owners shall be entitled to a writ of mandamus issued by a court of competent jurisdiction compelling and requiring the District and the official thereof to observe and perform the contracts, covenants, obligations or conditions prescribed in this Bond Order; and
- (b) any delay or omission to exercise any right or power accruing upon any default shall not impair any such right or power nor be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

## **ARTICLE FIFTEEN**

### **SALE AND DELIVERY OF BONDS AND APPROVAL OF DOCUMENTS**

**SECTION 15.01. SALE OF BONDS AND APPROVAL OF BOND PURCHASE AGREEMENT.** The Bonds are hereby sold and shall be delivered to Morgan Keegan & Co., Inc. as set forth in the Bond Purchase Agreement (the "Initial Purchaser" or "Purchaser"), at the price of \$ \_\_\_\_\_ (which amount is equal to the principal amount of the Bonds less a net discount of \$ \_\_\_\_\_ and less an underwriting discount of \$ \_\_\_\_\_) plus accrued interest on the Bonds from March 1, 2003 to the date of initial delivery thereof, all pursuant to the terms and provisions of a Bond Purchase Agreement in substantially the form attached hereto as Exhibit "A" which the County Judge is hereby authorized to execute and deliver and which the County Clerk is hereby authorized to attest.

**SECTION 15.02. APPROVAL, REGISTRATION, AND DELIVERY.** The County Judge and representatives of McCall, Parkhurst & Horton L.L.P. are hereby authorized and directed to submit the Initial Bonds and a transcript of the proceedings relating to the issuance of the Bonds to the Attorney General of the State of Texas for approval and, following said approval, to submit the Initial Bonds to the Comptroller of Public Accounts of the State of Texas for registration. Upon registration of the Initial Bonds, the Comptroller of Public Accounts (or a deputy designated in writing to act for the Comptroller) shall manually sign the Comptroller's registration certificate prescribed herein to be printed and endorsed on each Initial Bond, and the seal of the Comptroller shall be impressed or placed in facsimile on each Initial Bond. After the Initial Bonds have been registered, signed, and sealed by the Comptroller, they shall be delivered to the Initial Purchaser, but only upon receipt of the full purchase price.

**SECTION 15.03. APPROVAL OF OFFERING DOCUMENTS AND PAYING AGENT/REGISTRAR AGREEMENT.** A "Preliminary Official Statement", dated February 25, 2003, and Official Statement dated March 4, 2003 were prepared and distributed in connection with the sale of the Bonds (said documents are hereinafter referred to as the "Offering Documents"). Said

Offering Documents, and any addenda, supplement, or amendment thereto, are hereby approved by the District, and their use in the offer and sale of the Bonds is hereby approved.

The Paying Agent/Registrar Agreement by and between the District and JPMorgan Chase Bank ("Paying Agent Agreement") in substantially the form and substance attached hereto as Exhibit "B" is hereby approved and the County Judge is hereby authorized and directed to complete, amend, modify and execute the Paying Agent Agreement, as necessary and the County Clerk is authorized and directed to attest such agreement.

## **ARTICLE SIXTEEN**

### **OPEN MEETING AND EFFECTIVE DATE**

**SECTION 16.01. OPEN MEETING.** The Commissioners Court officially finds, determines, and declares that this Bond Order was reviewed, carefully considered, and adopted at a meeting of the District, and that a sufficient written notice of the date, hour, place, and subject of this meeting was posted as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and that this meeting has been open to the public as required by law at all times during which this Bond Order and the subject matter hereof has been discussed, considered, and acted upon. The Commissioners Court further ratifies, approves and confirms such written notice and the contents and posting thereof.

**SECTION 16.02. EFFECTIVE DATE OF BOND ORDER.** This Bond Order shall take effect and be in full force and effect upon and after its passage.

## **ARTICLE SEVENTEEN**

### **AMENDMENTS**

**SECTION 17.01. AMENDMENTS.** (a) Amendment with Consent of Owners of 51% of Bonds. The owners of 51% in aggregate principal amount of then outstanding Bonds shall have the right from time to time to approve any amendment to this Bond Order which may be deemed necessary or desirable by the District; provided however, that, other than as permitted by subsection (f) of this Section 17.01, nothing herein contained shall permit or be construed to permit the amendment, without the consent of the owner of each of the outstanding Bonds affected thereby, of the terms and conditions of this Bond Order or the Bonds so as to:

- (1) change debt service requirements, interest payment dates or the maturity or maturities of the outstanding Bonds;
- (2) reduce the rate of interest borne by any of the outstanding Bonds;
- (3) reduce the amount of the principal of, redemption premium, if any, or interest on the outstanding Bonds or impose any conditions with respect to such payments;

(4) modify the terms of payment of principal of, redemption premium, if any, or interest on the outstanding Bonds, or impose any conditions with respect to such payments;

(5) affect the right of the Registered Owners of less than all of the Bonds then outstanding;  
or

(6) decrease the minimum percentage of the principal amount of Bonds necessary for consent to any such amendment.

(b) Notice of Amendment. If at any time the District shall desire to amend this Bond Order it may cause a written notice of the proposed amendment to be published at least once on a business day in a financial newspaper, journal, or publication of general circulation in the City of New York, New York, or in the State of Texas. If, because of temporary or permanent suspension of the publication or general circulation of all such newspapers, journals, or publications, it is impossible or impractical to publish such notice in the manner provided herein, then such publication in lieu thereof as shall be made by the Registrar shall constitute a sufficient publication of notice. In addition to such publication, the Registrar shall cause a written notice of the proposed amendment to be given by registered or certified mail to Registered Owners of the Bonds as shown on the Registration Books maintained by the Registrar; provided, however, that failure to receive such written notice of the proposed amendment, or any defect therein or in the mailing thereof, shall not affect the validity of any proceeding in connection with, or the adoption of, such amendment. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the Registrar for inspection by all Registered Owners of Bonds.

(c) Consent to Amendment. Whenever at any time not less than 30 days, and within one year, from the date of the first publication of said notice or other services of written notice the District shall receive an instrument or instruments executed by the Registered Owners of at least 51% in aggregate principal amount of all Bonds then outstanding, which instrument or instruments shall refer to the proposed amendment described in said notice and shall specifically consent to and approve such amendment, the District may adopt the amendatory resolution or order in substantially the same form.

(d) Effect of Amendment. Upon the adoption of any amendatory resolution or order pursuant to the provisions of this Section, this Bond Order shall be deemed to be amended in accordance with such amendatory resolution or order, and the respective rights, duties, and obligations under such amendatory resolution or order of all the Registered Owners shall thereafter be determined and exercised subject in all respects to such amendments.

(e) Consent of Registered Owners. Any consent given by a Registered Owners pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the first publication of the notice provided for in this Section, and shall be conclusive and binding upon all future owners of the Bonds during such period. Such consent may be revoked by the Registered Owner who gave such consent at any time after six months from the date of the first giving of such notice, or by a successor in title, by filing notice thereof with the Registrar and the District, but such



revocation shall not be effective if the Registered Owners of 51% in aggregate principal amount of the then outstanding Bonds have, prior to the attempted revocation, consented to and approved the amendment.

(f) Amendments Without Consent. Notwithstanding the provisions of (a) through (f) of this Section, and without notice of the proposed amendment and without the consent of the Registered Owners. The District may, at any time, amend this Bond Order to cure any ambiguity or to cure, correct, or supplement any defective or inconsistent provision contained therein, or to make any other change that does not in any respect materially and adversely affect the interest of the Registered Owners, provided that no such amendment shall be made contrary to the provision to Section 17.01 (a), and a duly certified or executed copy of each such amendment shall be filed with the Registrar.

## ARTICLE EIGHTEEN

### CONTINUING DISCLOSURE UNDERTAKING

**Section 18.01. CONTINUING DISCLOSURE UNDERTAKING.** (a) Annual Reports. The District shall provide annually to each NRMSIR and any SID, within six months after the end of each fiscal year, financial information and operating data with respect to the District of the general type described in Exhibit "C" hereto. Any financial statements so to be provided shall be (1) prepared in accordance with the accounting principles described in Exhibit "C" hereto, or such other accounting principles as the District may be required to employ from time to time pursuant to state law or regulation and (2) audited, if the District commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the District shall provide unaudited financial statements by the required time, and will provide audited financial statements for the applicable fiscal year to each NRMSIR and any SID, when and if the audit report on such statements become available.

If the District changes its fiscal year, it will notify each NRMSIR and any SID of the change (and of the date of the new fiscal year end) prior to the next date by which the District otherwise would be required to provide financial information and operating data pursuant to this paragraph (a).

The financial information and operating data to be provided pursuant to this paragraph (a) may be set forth in full one or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to each NRMSIR and any SID or filed with the SEC.

(b) Material Event Notices. The District shall notify any SID and either each NRMSIR or the MSRB, in a timely manner, of any of the following events with respect to the Bonds, if such event is material within the meaning of the federal securities laws:

- A. Principal and interest payment delinquencies;

- B. Non-payment related defaults;
- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- G. Modifications to rights of holders of the Bonds;
- H. Bond calls;
- I. Defeasances;
- J. Release, substitution or sale of property securing repayment of the Bonds;  
and
- K. Rating changes.

The District shall notify any SID and either each NRMSIR or the MSRB, in a timely manner, of any failure by the District to provide financial information or operating data in accordance with paragraph (a) of this Section 18.01 by the time required by such paragraph.

(c) Limitations, Disclaimers and Amendments. The District shall be obligated to observe and perform the covenants specified in this section for so long as, but only for so long as, the County remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the County in any event will give notice of any deposit made in accordance with Section 13.01 of this Order that causes Bonds no longer to be outstanding.

The provisions of this section are for the sole benefit of the Holders and beneficial owners of the Bonds, and nothing in this section, express or implied, shall give any benefit or any legal or equitable right, remedy or claim hereunder to any other person. The District undertakes to provide only the financial information, operating data, financial statements and notices which it has expressly agreed to provide pursuant to this section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the District's financial results, condition or prospects or hereby undertake to update any information provided in accordance with this section or otherwise, except as expressly provided herein. The District does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

**UNDER NO CIRCUMSTANCES SHALL THE DISTRICT BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN**

CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE DISTRICT, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the District in observing or performing its obligations under this section shall comprise a breach of or default under the Order for purposes of any other provision of this Order.

Nothing in this section is intended or shall act to disclaim, waive or otherwise limit the duties of the District under federal and state securities laws.

The provisions of this section may be amended by the District from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law or a change in the identity, nature, status or type of operations of the District, but only if (1) the provisions of this section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Order that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the District (such as nationally recognized bond counsel) determined that such amendment will not materially impair the interest of the Holders and beneficial owners of the Bonds. If the District so amends the provisions of this section, it shall include with any amended financial information or operating data next provided in accordance with paragraph (a) of this section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The County may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds.

## **ARTICLE NINETEEN**

### **OTHER ACTIONS**

**SECTION 19.01. OTHER ACTIONS.** The County Judge and all other officers, employees and agents of the District, and each of them, shall be and they are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the District all instruments as may be necessary or desirable in order to carry out the terms and provisions of this Bond Order, the Bonds, the sale of the Bonds and the Official Statement.

**\$4,620,000**  
**AVERY RANCH ROAD DISTRICT NO. 1**  
**(A political subdivision of Williamson County, Texas)**  
**UNLIMITED TAX ROAD BONDS, SERIES 2003**

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**BOND PURCHASE AGREEMENT**

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March 18, 2003

Honorable County Judge and County Commissioners  
Williamson County Courthouse  
710 South Main Street  
Georgetown, Texas 78626

Gentlemen:

The undersigned Morgan Keegan & Company, Inc. (the "*Underwriter*"), offers to enter into the following agreement with Avery Ranch Road District No. 1 (the "*Issuer*"), which, upon your acceptance of this offer, shall be binding upon the Issuer and upon the Underwriter. This offer is made subject to your acceptance of this Bond Purchase Agreement on or before 10:00 p.m., Austin Time, on the date set out above and, if not so accepted, will be subject to withdrawal by the Underwriter upon notice delivered to your office at any time prior to your acceptance hereof. You have heretofore delivered to us the Preliminary Official Statement of the Issuer with respect to the Bonds (as hereinafter defined), dated March 4, 2003 (the "*Preliminary Official Statement*"); such Preliminary Official Statement, including the Appendices thereto, as amended to conform to the terms of this Bond Purchase Agreement and with such other changes and amendments as are agreeable to the Issuer and the Underwriter, is hereinafter called the "*Official Statement*".

1. *Purchase and Sale of the Bonds.* Upon the terms and conditions and upon the basis of the representations, warranties and covenants set forth herein, the Underwriter hereby agrees to purchase from the Issuer, and the Issuer hereby agrees to sell to the Underwriter, all (but not less than all) of \$4,620,000 aggregate principal amount of the Issuer's Unlimited Tax Road Bonds, Series 2003 (the "*Bonds*"). The Bonds will be dated March 1, 2003, maturing on the dates, bearing interest from the date or dates, and at the rate or rates and having the other features set forth on Exhibit A hereto. The purchase price for the Bonds shall be \$4,543,774.25 (representing the par amount of the Bonds, plus a net reoffering premium of \$4,208.45, and less an underwriting discount of \$80,434.20), plus accrued interest calculated on the basis of a 360-day year of twelve 30-day months.

The Bonds shall be as described in, and shall be issued pursuant to, an order (the "*Bond Order*") adopted on the date hereof by the Williamson County Commissioners Court (the

"Commissioners Court"), acting as the governing body of the Issuer, authorizing the issuance of the Bonds and containing other matters. The Bonds shall be issued in accordance with the provisions of the Bond Order and secured as provided therein and as described in the Official Statement.

Delivered to the Issuer herewith is the Underwriter's good-faith corporate check payable to the order of the Issuer in the amount of \$46,200.00 (the "Check"). In the event the Issuer does not accept this offer, the Check shall be promptly returned to the Underwriter. Upon the Issuer's acceptance and countersignature of this offer, the Check (i) shall not be cashed or negotiated but shall be held and retained in safekeeping by the Issuer as security for the performance by the Underwriter of its obligations, subject to the terms and conditions herein set forth, to purchase and accept delivery of the Bonds at the Closing (as hereinafter defined), and (ii) shall be applied and disposed of by the Issuer solely as provided in this Bond Purchase Agreement. In the event of the Underwriter's compliance with such obligation to purchase and accept delivery of the Bonds at the Closing, the Check shall be returned to the Underwriter at the Closing. In the event of the failure by the Issuer to deliver the Bonds at the Closing, or if the Issuer shall be unable to satisfy the conditions to the obligations of the Underwriter contained in this Bond Purchase Agreement, or if the obligations of the Underwriter shall be terminated for any reason permitted by this Bond Purchase Agreement, the Check shall be returned promptly to the Underwriter. In the event that the Underwriter fails (other than for a reason permitted hereunder) to purchase and accept delivery of the Bonds at the Closing, the Issuer shall become entitled to cash or negotiate the Check, and the proceeds thereof shall be retained by the Issuer as and for full liquidated damages for such failure and for any and all defaults on the part of the Underwriter and such proceeds shall constitute a full release and discharge of all claims and damages for such failure and for any and all such defaults. The Underwriter and the Issuer understand that in such event the Issuer's actual damages may be greater or may be less than such amount. Accordingly, the Underwriter hereby waives any right to claim that the Issuer's actual damages are less than such amount, and the Issuer's acceptance of this offer shall constitute a waiver of any right the Issuer may have to additional damages from the Underwriter.

2. *Public Offering.* The Underwriter hereby agrees to make a bona fide public offering of all the Bonds at prices not in excess of the initial offering prices or yields set forth on the inside front cover page of the Official Statement, reserving the right to change such prices or yields (after the initial public offering) as the Underwriter shall deem necessary in connection with the offering of the Bonds. The Underwriter agrees to execute and deliver to the Issuer, at or before Closing, a certificate relating to the "issue price" of the Bonds in such form as may be reasonably acceptable to the Issuer.

3. *The Official Statement.* (a) The Preliminary Official Statement has been prepared for use in connection with the public offering, sale and distribution of the Bonds by the Underwriter. The Issuer hereby represents and warrants that the Preliminary Official Statement delivered to the Underwriter immediately prior to or concurrently herewith is deemed final by the Issuer as of the date hereof, except for the omission of such information which is dependent upon the final pricing of the Bonds for completion, all as permitted to be excluded by Rule 15c2-12 under the Securities Exchange Act of 1934, as amended ("Rule 15c2-12"). Until the Official Statement has been prepared and is available for distribution, the Issuer shall provide to the Underwriter sufficient quantities of the Preliminary Official Statement as the Underwriter deems

necessary to satisfy the obligations of the Underwriter under Rule 15c2-12 with respect to distribution to each potential customer, upon request, of a copy of the Preliminary Official Statement.

(b) As soon as practicable after the date hereof, and in any event within seven (7) business days after the acceptance of this Bond Purchase Agreement by the Issuer, the Issuer shall deliver or cause to be delivered to the Underwriter, without charge, in sufficient time to accompany any confirmation requesting payment from any customers of the Underwriter, a sufficient number of copies of the final Official Statement relating to the Bonds, which will be determined by an officer duly authorized by the Issuer to be a final Official Statement for purposes of Rule 15c2-12, to permit the Underwriter to comply with the requirements of Rule 15c2-12.

(c) The Issuer ratifies the Underwriter's use of the Preliminary Official Statement and authorizes the Official Statement to be used by the Underwriter in connection with the offering of the Bonds.

(d) If, after the date of this Bond Purchase Agreement to and including the date the Underwriter is no longer required to provide an Official Statement to potential customers who request the same pursuant to Rule 15c2-12 (the earlier of (i) 90 days from the "end of the underwriting period" (as defined in Rule 15c2-12) and (ii) the time when the Official Statement is available to any person from a nationally recognized municipal securities information repository but in no case less than 25 days after the "end of the underwriting period" for the Bonds), the Issuer becomes aware of any fact or event which might or would cause the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they are made, not misleading, or if it is necessary to amend or supplement the Official Statement to comply with law, the Issuer will notify the Underwriter (and for the purposes of this clause provide the Underwriter with such information as it may from time to time request), and if, in the opinion of the Underwriter, such fact or event requires preparation and publication of a supplement or amendment to the Official Statement, the Issuer will forthwith prepare and furnish, at the Issuer's own expense (in a form and manner approved by the Underwriter), a reasonable number of copies of either amendments or supplements to the Official Statement so that the statements in the Official Statement as so amended and supplemented will not, in light of the circumstances under which they are made, be misleading, or so that the Official Statement will comply with law. If such notification shall be subsequent to the Closing, the Issuer shall furnish such legal opinions, certificates, instruments and other documents as the Underwriter may deem necessary to evidence the truth and accuracy of such supplement or amendment to the Official Statement.

(e) The Underwriter hereby agrees to timely file the Official Statement with a nationally recognized municipal securities information repository. Unless otherwise notified in writing by the Underwriter, the Issuer can assume that the "end of the underwriting period" for purposes of Rule 15c2-12 shall be the date of the Closing. In the event the Underwriter provides written notice to the Issuer that less than all of the Bonds have been sold to the ultimate customers, the Underwriter agrees to notify the Issuer in writing following the occurrence of the "end of the underwriting period" as defined in Rule 15c2-12.

4. *Representations, Warranties and Covenants of the Issuer.* The Issuer represents and warrants to and agrees with the Underwriter (and it shall be a condition of the obligation of the Underwriter to purchase and accept delivery of the Bonds that the Issuer shall so represent and warrant as of the date of the Closing) that:

(a) The Issuer is a political subdivision of Williamson County, Texas (the "County"), operating as a road district pursuant to Article III, Section 52, of the Texas Constitution and the laws of the State of Texas (the "State"), including particularly Chapter 257, Texas Transportation Code, as amended, and Chapter 1471, Texas Government Code, as amended, and as such has the requisite legal right, power and authority (i) to issue the Bonds and to agree to the Undertaking (as defined in Section 6(i)(2) hereof), each as described in the Bond Order, (ii) to authorize and approve the Preliminary Official Statement and the Official Statement and to authorize their distribution by the Underwriter, (iii) to enter into this Bond Purchase Agreement and to sell and deliver the Bonds to the Underwriter as provided herein, (iv) to adopt the Bond Order and to carry out and consummate the actions contemplated thereby and (v) to carry out and consummate all other transactions contemplated by each of the aforesaid documents;

(b) The Issuer has complied, and will be at the date of Closing in compliance in all material respects, with the Constitution and laws of the State in connection with the authorization, issuance and sale of the Bonds;

(c) The Commissioners Court, acting as the governing body of the Issuer, has duly adopted the Bond Order and has duly approved the execution and delivery of this Bond Purchase Agreement, the Official Statement and the Bonds, and authorized the taking of any and all such actions as may be required on the part of the Issuer to carry out, give effect to and consummate the transactions contemplated by this Bond Purchase Agreement and the Official Statement;

(d) At the time of the Issuer's acceptance hereof, there is, and at the date of Closing there will be, no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any state or federal court, pending or, to the best of the Issuer's knowledge, known to be threatened against or affecting the existence of the Issuer or the title of its officers or the County commissioners to their respective positions, wherein an unfavorable decision, ruling or finding would adversely affect the validity or enforceability of the Bond Order, the Bonds, this Bond Purchase Agreement or any agreement or instrument relating thereto, used or contemplated for use in the consummation of the transactions contemplated by the Bond Order, the Bonds, this Bond Purchase Agreement or the Official Statement;

(e) To the best knowledge of the Issuer, it is not in any material respect in breach of or default under any applicable law or administrative regulation of the State or any department, division, agency or instrumentality thereof, or of the United States or any agency or instrumentality thereof or any applicable judgment or decree or any loan agreement, note, resolution, certificate, agreement or other instrument to which the Issuer is a party or is otherwise subject; and the execution and delivery of the Bond Order, the Bonds, this Bond Purchase Agreement and compliance with the provisions of each thereof, will not constitute a material breach of or default under any applicable law or administrative regulation of the State or any

department, division, agency or instrumentality thereof, or of the United States or any agency or instrumentality thereof or any applicable judgment or decree or any loan agreement, note, resolution, certificate, agreement or other instrument to which the Issuer is a party or is otherwise subject;

(f) Except for the approval of the Bonds by the Attorney General of the State and the registration thereof by the Comptroller of Public Accounts of the State, all authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matters which are required for the due authorization of, which would constitute a condition precedent to, or the absence of which would materially adversely affect the due performance by the Issuer of its obligations under the Bond Order, this Bond Purchase Agreement and the Bonds have been duly obtained or will be obtained prior to Closing, except for such approvals, consents and orders as may be required under the Blue Sky or securities laws of any jurisdiction in connection with the offering and sale of the Bonds;

(g) That at the time of the Closing, the Bond Order and all related actions of the Issuer with respect to the issuance of the Bonds shall be in full force and effect and shall not have been amended, modified or supplemented, except as may have been agreed to by the Underwriter;

(h) The Bonds, when issued, authenticated and delivered in accordance with the Bond Order and sold to the Underwriters, as provided in this Bond Purchase Agreement, will be duly authorized, validly issued and outstanding direct and unlimited obligations of the Issuer entitled to the benefits of, and subject to the limitations contained in, the Bond Order;

(i) The Issuer will furnish such information and execute such instruments and take such action in cooperation with the Underwriter as the Underwriter may reasonably request (A) to (y) qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions in the United States as the Underwriter may designate and (z) determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions and (B) to continue such qualifications in effect so long as required for the distribution of the Bonds (provided, however that the Issuer will not be required to qualify as a foreign corporation or to file any general or special consent to service of process under the laws of any jurisdiction), and the Issuer will advise the Underwriter immediately of receipt by the Issuer of any notification with respect to the suspension of the qualification of the Bonds for sale in any jurisdiction or the initiation or threat of any proceeding for that purpose;

(j) The financial and statistical information concerning the Issuer contained in the Preliminary Official Statement and in the Official Statement, as of the dates provided therein, present fairly the financial position of the Issuer and the results of its operations as of the dates and for the periods therein set forth, and there has been no material adverse change in such financial position and results of operations since the dates thereof. The Issuer is not a party to any litigation or other proceeding pending or, to its knowledge, threatened which, if decided adversely to the Issuer, would have a materially adverse effect on the financial condition of the Issuer;



(k) At the time of the Issuer's acceptance hereof and (unless the Official Statement is amended or supplemented pursuant to subparagraph (d) of Section 3 of this Bond Purchase Agreement) at all times subsequent thereto up to and including the date of the Closing, insofar as the information in the Official Statement about the Issuer and its obligations, condition, results of operation, prospects and other affairs are concerned, to the best knowledge of the Issuer, and in reliance on letters of representation provided to the Issuer by certain of its consultants and advisors, the Official Statement is true and correct in all material respects and does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they are made, not misleading, and, as to all other information therein, the Issuer has no reason to believe that the Official Statement contains any such untrue statement;

(l) If the Official Statement is amended or supplemented pursuant to paragraph (d) of Section 3 of this Bond Purchase Agreement, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such paragraph) at all times subsequent thereto up to and including twenty-five (25) days subsequent to the "end of the underwriting period," the Official Statement, as so supplemented or amended (including the financial and other information and statistical data included therein), to the best knowledge of the Issuer, will be true and correct in all material respects and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(m) The Issuer will apply the proceeds of the Bonds for the purposes, and in accordance with the description of the application of such proceeds, set forth in the Official Statement;

(n) The Issuer will not take or omit to take any action which will adversely affect the exclusion from income for federal income tax purposes of the interest on the Bonds and the Issuer has not been listed or notified of any listing or proposed listing by the Internal Revenue Service to the effect that the Issuer is an issuer whose arbitrage certifications may not be relied upon;

(o) Between the date of this Bond Purchase Agreement and the delivery of the Bonds, the Issuer will not, without the prior written consent of the Underwriter, issue bonds, notes or other obligations for borrowed money that are or would be payable from or constitute a charge on the taxes pledged in the Bond Order, and subsequent to the respective dates as of which information is given in the Official Statement up to and including the date of the delivery of the Bonds, except as described in the Official Statement, and in the ordinary course of business, the Issuer has not incurred and will not incur any material liabilities;

(p) Any certificate signed by any officer of the Issuer and delivered to the Underwriter shall be deemed a representation by the Issuer to the Underwriter as to the truth and accuracy of the statements therein; and

(q) The Issuer covenants that between the date hereof and the Closing it will take no actions which will cause the representations and warranties made in this Section to be untrue as of the Closing.

By delivering an executed copy of the Official Statement to the Underwriter, the Issuer shall be deemed to have reaffirmed, with respect to such Official Statement, the representations, warranties and covenants set forth above with respect to the Preliminary Official Statement.

5. *Closing.* (a) At or before 10:00 a.m. Austin, Texas Time, on March 31, 2003, or at such other time and date as shall have been mutually agreed upon by the Issuer and the Underwriter (the "*Closing*"), the Issuer will, subject to the terms and conditions hereof, deliver the Bonds to the Underwriter, duly executed and authenticated, together with the other documents hereinafter mentioned, and the Underwriter will, subject to the terms and conditions hereof, accept such delivery and pay the purchase price of the Bonds as set forth in Section 1 of this Bond Purchase Agreement in immediately available funds by wire transfer to the account of the Issuer as indicated by JPMorgan Chase Bank, Houston, Texas (the "*Registrar*"). Payment for the Bonds as aforesaid shall be made at the offices of the Registrar or such other place as shall have been mutually agreed upon by the Issuer and the Underwriter.

(b) Delivery of the Bonds in definitive form shall be made to The Depository Trust Company, New York, New York ("*DTC*"), unless delivered to the Registrar pursuant to DTC's fast delivery closing procedure. The Bonds shall be delivered in definitive fully registered form, bearing CUSIP numbers without coupons, with one Bond for each maturity of the Bonds, registered in the name of Cede & Co., all as provided in the Bond Order, and shall be made available to the Underwriter at least one business day before Closing for purposes of inspection, unless delivered to the Registrar pursuant to DTC's fast delivery closing procedure.

6. *Closing Conditions.* The Underwriter has entered into this Bond Purchase Agreement in reliance upon the representations, warranties and agreements of the Issuer contained herein, and in reliance upon the representations, warranties and agreements to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Issuer of its obligations hereunder, both as of the date hereof and as of the date of the Closing. Accordingly, the Underwriter's obligations under this Bond Purchase Agreement to purchase, to accept delivery of and to pay for the Bonds shall be conditioned upon the performance by the Issuer of its obligations to be performed hereunder and under such documents and instruments at or prior to the Closing, and shall also be subject to the following additional conditions, including the delivery by the Issuer of such documents as are enumerated herein, in form and substance reasonably satisfactory to the Underwriter:

(a) The representations and warranties of the Issuer contained herein shall be true, complete and correct on the date hereof and on and as of the date of the Closing, as if made on the date of the Closing;

(b) The Issuer shall have performed and complied with all agreements and conditions required by this Bond Purchase Agreement to be performed or complied with by it prior to or at the Closing;

(c) At the time of the Closing, (i) the Bond Order, this Bond Purchase Agreement and the Bonds shall be in full force and effect and shall not have been amended, modified or supplemented, and the Official Statement shall not have been supplemented or amended, except in any such case as may have been agreed to by the Underwriter, (ii) the net proceeds of the sale of the Bonds and any funds to be provided by the Issuer shall be deposited and applied as described in the Official Statement and in the Bond Order and (iii) all actions of the Issuer required to be taken by the Issuer shall be performed in order for McCall, Parkhurst & Horton L.L.P., Austin, Texas ("*Bond Counsel*"), and counsel to the Underwriter to deliver their opinions referred to hereafter;

(d) At the time of the Closing, all official action of the Issuer relating to the Bonds, the Bond Order and this Bond Purchase Agreement shall be in full force and effect and shall not have been amended, modified or supplemented;

(e) At or prior to the Closing, the Bond Order shall have been duly executed and delivered by the Issuer and the Issuer shall have duly executed and delivered and the Registrar shall have duly authenticated the definitive Bonds;

(f) At the time of the Closing, there shall not have occurred any change or any development involving a prospective change in the condition, financial or otherwise, or in the revenues or operations of the Issuer, from that set forth in the Official Statement that in the reasonable judgment of the Underwriter, is material and adverse and that makes it, in the judgment of the Underwriter, impracticable to market the Bonds on the terms and in the manner contemplated in the Official Statement;

(g) The Issuer shall not have failed to pay principal or interest when due on any of its outstanding obligations for borrowed money;

(h) All steps to be taken and all instruments and other documents to be executed, and all other legal matters in connection with the transactions contemplated by this Bond Purchase Agreement shall be reasonably satisfactory in legal form and effect to the Underwriter;

(i) At or prior to the Closing, the Underwriter shall have received copies of each of the following documents:

(1) The Official Statement of the Issuer with such amendments, modifications or supplements thereto as may have been agreed to by the Underwriter;

(2) A certified copy of the Bond Order with such amendments, modifications or supplements thereto as may have been agreed to by the Underwriter;

(3) The undertaking of the Issuer (the "*Undertaking*"), which may be included in the Bond Order and which satisfies the requirements of Rule 15c2-12, as described in the Preliminary Official Statement under "CONTINUING DISCLOSURE OF INFORMATION";

(4) An opinion of Bond Counsel in substantially the form and substance as set forth in the Official Statement;

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

(i) the Bond Order has been duly adopted and is in full force and effect;

(ii) the Bonds are exempt securities within the meaning of Section 3(a)(2) of the Securities Act of 1933, as amended (the "1933 Act"), and it is not necessary in connection with the sale of the Bonds to the public to register the Bonds under the 1933 Act or to qualify the Bond Order under the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"); and

(iii) the statements of law and summaries of the provisions of the Bond Order and the Bonds contained in the Official Statement under the sections captioned "THE BONDS" (except for the subcaption "Book-Entry-Only System"), "LEGAL MATTERS" (except for the subcaption "Forward Looking Statements"), "TAX MATTERS" and "CONTINUING DISCLOSURE OF INFORMATION" (except for the subsection captioned "Compliance with Prior Undertakings") fairly and accurately summarize the matters purported to be summarized therein and are correct as to matters of law;

(6) A certificate signed by the County Judge and the County Clerk, acting on behalf of the Commissioners Court as the governing body of the Issuer, setting forth facts, estimates and circumstances in existence on the date of Closing, which facts, estimates and circumstances shall be sufficiently set forth therein to support the conclusion that it is not expected that the proceeds of the Bonds will be used in a manner that would cause the Bonds to be "arbitrage bonds" within the meaning of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations, temporary regulations and proposed regulations promulgated under the Code, and stating that to the best of the knowledge and belief of such officers there are no other facts, estimates or circumstances that would materially affect such expectations;

(7) An opinion, dated as of the date of the delivery of the Bonds and addressed to the Underwriter, of Andrews & Kurth L.L.P., Austin, Texas, to the effect that:

(i) the sale and offering of the Bonds is not required to be registered under the 1933 Act and that the Bond Order is not required to be qualified under the Trust Indenture Act; and

(ii) based upon their participation in the preparation of the Official Statement as counsel for the Underwriter and their participation at conferences at which the Official Statement was discussed, but without having undertaken to determine independently the accuracy, completeness or fairness of the statements contained in the Official Statement, such counsel has no reason to believe that the Official Statement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading (except for any financial, forecast, technical and statistical statements and data included in the Official Statement and the information regarding DTC and its book-entry system and the information regarding the municipal bond insurance policy, if any, as to which no view need be expressed);

(8) A certificate, dated as of the date of the delivery of the Bonds and signed by the County Judge and the County Clerk, acting on behalf of the Commissioners Court as the governing body of the Issuer, solely in their official capacities, stating that to the best of their knowledge and belief (i) the representations, warranties and covenants of the Issuer contained herein are true and correct in all material respects on and as of the date of the delivery of the Bonds, with the same effect as if made on the date of the delivery of the Bonds by the Issuer; (ii) no litigation is pending or, to their knowledge, threatened in any court in any way affecting the existence of the Issuer or the titles of its officers or the County commissioners to their respective positions, or seeking to restrain or to enjoin the issuance, sale or delivery of the Bonds, or the levy or collection of taxes by the Commissioners Court on behalf of the Issuer, the application of revenues of the Issuer or in any way contesting or affecting the validity or enforceability of the Bond Order, the Bonds or this Bond Purchase Agreement, or contesting in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or contesting the powers of the Issuer or its authority with respect to the Bond Order, the Bonds or this Bond Purchase Agreement; (iii) as of the date of the Official Statement and at all times subsequent thereto, up to and including the date of Closing, the Official Statement of the Issuer did not and does not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; (iv) no event affecting the Issuer has occurred since the date of the Official Statement that should be disclosed in the Official Statement for the purposes for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading in any respect; and (v) the Issuer has complied in all material respects with all the requirements and satisfied all material conditions on its part to be performed or satisfied at or prior to the delivery of the Bonds;

(9) Any letters of representation or certificates from professional consultants, advisors or any other parties relied upon by the Issuer for the purpose of making any representation, warranty or covenant required of the Issuer by this

Bond Purchase Agreement, which certificates shall authorize reliance thereon by the Underwriter;

(10) The approving opinion of the Attorney General of the State in respect of the Bonds;

(11) The registration certificate of the Comptroller of Public Accounts of the State in respect of the Bonds;

(12) Such additional legal opinions, certificates, instruments and other documents as Bond Counsel, the Underwriter or counsel to the Underwriter may reasonably request to evidence the truth and accuracy, as of the date hereof and as of the date of the Closing, of the Issuer's representations and warranties contained herein and of the statements and information contained in the Official Statement and the due performance or satisfaction by the Issuer on or prior to the date of the Closing of all the respective agreements then to be performed and conditions then to be satisfied by the Issuer.

All of the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Bond Purchase Agreement shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance satisfactory to the Underwriter.

If the Issuer shall be unable to satisfy the conditions to the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Bonds contained in this Bond Purchase Agreement, or if the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Bonds shall be terminated for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement shall terminate and neither the Underwriter nor the Issuer shall be under any further obligation hereunder, except that the respective obligations of the Issuer and the Underwriter set forth in Sections 1 (with respect to the Check), 4 and 8 hereof shall continue in full force and effect.

7. *Termination.* The Underwriter shall have the right to cancel its obligation to purchase the Bonds if, between the date of this Bond Purchase Agreement and the Closing, the market price or marketability of the Bonds shall be materially adversely affected, in the sole judgment of the Underwriter, by the occurrence of any of the following:

(a) legislation shall be enacted by or introduced in the Congress or recommended to the Congress for passage by the President of the United States, or the Treasury Department of the United States or the Internal Revenue Service or favorably reported for passage to either House of the Congress by any committee of such House to which such legislation has been referred for consideration, a decision by a court of the United States or of the State or the United States Tax Court shall be rendered, or an order, ruling, regulation (final, temporary or proposed), press release, statement or other form of notice by or on behalf of the Treasury Department of the United States, the Internal Revenue Service or other governmental agency shall be made or proposed, the effect of any or all of which would be to impose, directly or indirectly, federal income taxation upon interest received on obligations of the general

character of the Bonds, or the interest on the Bonds as described in the Official Statement, or other action or events shall have transpired which may have the purpose or effect, directly or indirectly, of changing the federal income tax consequences of any of the transactions contemplated herein, or any other action or events shall have occurred which, in the reasonable judgment of the Underwriter, materially adversely affect the market for the Bonds or the market price generally of obligations of the general character of the Bonds;

(b) legislation introduced in or enacted (or resolution passed) by the Congress or an order, decree, or injunction issued by any court of competent jurisdiction, or an order, ruling, regulation (final, temporary, or proposed), press release or other form of notice issued or made by or on behalf of the Securities and Exchange Commission, or any other governmental agency having jurisdiction of the subject matter, to the effect that obligations of the general character of the Bonds including any or all underlying arrangements, are not exempt from registration under or other requirements of the 1933 Act, or that the Bond Order is not exempt from qualification under or other requirements of the Trust Indenture Act, or that the issuance, offering, or sale of obligations of the general character of the Bonds, including any or all underlying arrangements, as contemplated hereby or by the Official Statement or otherwise, is or would be in violation of the federal securities law as amended and then in effect;

(c) any state blue sky or securities commission or other governmental agency or body shall have withheld registration, exemption or clearance of the offering of the Bonds as described herein, or issued a stop order or similar ruling relating thereto;

(d) a general suspension of trading in securities on the New York Stock Exchange or the American Stock Exchange, the establishment of minimum prices on either such exchange, the establishment of material restrictions (not in force as of the date hereof) upon trading securities generally by any governmental authority or any national securities exchange, a general banking moratorium declared by federal, State of New York, or State officials authorized to do so;

(e) the New York Stock Exchange or other national securities exchange or any governmental authority shall impose, as to the Bonds or as to obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital of, the Underwriter;

(f) any amendment to the federal or Texas Constitution or action by any federal or Texas court, legislative body, regulatory body, or other federal or Texas authority materially adversely affecting the tax status of the Issuer, its property, income, securities (or interest thereon), or the validity or enforceability of the assessments or the levy of taxes to pay principal of and interest on the Bonds;

(g) any event occurring, or information becoming known which, in the judgment of the Underwriter, makes untrue in any material respect any material statement or information contained in the Official Statement, or has the effect that the Official Statement contains any untrue statement of material fact or omits to state a material fact required to be

stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(h) there shall have occurred since the date of this Bond Purchase Agreement any materially adverse change in the affairs or financial condition of the Issuer;

(i) the United States shall have either become engaged in hostilities that did not exist prior to the date hereof or issued a declaration of war or a national emergency, or there shall have occurred a new material outbreak or escalation of hostilities or a national or international calamity or crisis, financial or otherwise;

(j) any fact or event shall exist or have existed that, in the Underwriter's reasonable judgment, requires or has required an amendment of or supplement to the Official Statement;

(k) there shall have occurred any downgrading, or any notice shall have been given of (A) any intended or potential downgrading or (B) any review or possible change that does not indicate a possible upgrade, in the rating to be accorded to the Bonds; and

(l) the purchase of and payment for the Bonds by the Underwriter, or the resale of the Bonds by the Underwriter, on the terms and conditions herein provided shall be prohibited by any applicable law, governmental authority, board, agency or commission.

8. *Expenses.* (a) The Underwriter shall be under no obligation to pay, and the Issuer shall pay, any expenses incident to the performance of the Issuer's obligations hereunder, including, but not limited to (i) the cost of preparation and printing of the Bonds; (ii) the fees and disbursements of Bond Counsel and the Issuer's Financial Advisor; (iii) the fees and disbursements of any other engineers, accountants, and other experts, consultants or advisers retained by the Issuer; (iv) the fees, if any, for bond ratings and municipal bond insurance; (v) the costs of preparing, printing and mailing the Preliminary Official Statement and the Official Statement; (vi) the fees and expenses of the Registrar; (vii) the out-of-pocket, miscellaneous and closing expenses, including the cost of travel, of the officers and representatives of the Issuer; and (viii) any other expenses mutually agreed to by the Issuer and the Underwriter to be reasonably considered expenses of the Issuer which are incident to the transactions contemplated hereby.

(b) The Underwriter shall pay (i) the cost of preparation and printing of this Bond Purchase Agreement; (ii) all advertising expenses in connection with the public offering of the Bonds; and (iii) all other expenses incurred by it in connection with the public offering of the Bonds including the fees and disbursements of counsel retained by the Underwriter.

(c) If this Bond Purchase Agreement shall be terminated by the Underwriter because of any failure or refusal on the part of the Issuer to comply with the terms or to fulfill any of the conditions of this Bond Purchase Agreement, or if for any reason the Issuer shall be unable to perform its obligations under this Bond Purchase Agreement, the Issuer will reimburse the Underwriter for all out-of-pocket expenses (including the fees and disbursements of counsel to the Underwriter) reasonably incurred by the Underwriter in connection with this Bond Purchase Agreement or the offering contemplated hereunder.



9. *Notices.* Any notice or other communication to be given to the Issuer under this Purchase Agreement may be given by delivering the same in writing to Avery Ranch Road District No. 1, c/o Williamson County Commissioners Court, Williamson County Courthouse, 710 South Main Street, Georgetown, Texas 78626, Attention: County Judge; and any notice or other communication to be given to the Underwriter under this Bond Purchase Agreement may be given by delivering the same in writing to Morgan Keegan & Company, Inc., 5956 Sherry Lane, Suite 1900, Dallas, Texas 75225, Attention: Thomas K. Oppenheim.

10. *Parties in Interest.* This Bond Purchase Agreement as heretofore specified shall constitute the entire agreement between us and is made solely for the benefit of the Issuer and the Underwriter (including successors or assigns of the Underwriter) and no other person shall acquire or have any right hereunder or by virtue hereof. This Bond Purchase Agreement may not be assigned by the Issuer. All of the Issuer's representations, warranties and agreements contained in this Bond Purchase Agreement shall remain operative and in full force and effect, regardless of (i) any investigations made by or on behalf of the Underwriter; (ii) delivery of and payment for the Bonds pursuant to this Bond Purchase Agreement; and (iii) any termination of this Bond Purchase Agreement.

11. *Effectiveness.* This Bond Purchase Agreement shall become effective upon the acceptance hereof by the Issuer and shall be valid and enforceable at the time of such acceptance.

12. *Choice of Law.* This Bond Purchase Agreement shall be governed by and construed in accordance with the law of the State.

13. *Severability.* If any provision of this Bond Purchase Agreement shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions because it conflicts with any provision of any Constitution, statute, rule of public policy, or any other reason, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions of this Bond Purchase Agreement invalid, inoperative or unenforceable to any extent whatever.

14. *Business Day.* For purposes of this Bond Purchase Agreement, "business day" means any day on which the New York Stock Exchange is open for trading.

15. *Section Headings.* Section headings have been inserted in this Bond Purchase Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Bond Purchase Agreement and will not be used in the interpretation of any provisions of this Bond Purchase Agreement.

16. *Counterparts.* This Bond Purchase Agreement may be executed in several counterparts each of which shall be regarded as an original (with the same effect as if the signatures thereto and hereto were upon the same document) and all of which shall constitute one and the same document.

[Execution Page Follows]

If you agree with the foregoing, please sign the enclosed counterpart of this Bond Purchase Agreement and return it to the Underwriter. This Bond Purchase Agreement shall become a binding agreement between you and the Underwriter when at least the counterpart of this letter shall have been signed by or on behalf of each of the parties hereto.

Respectfully submitted,

**MORGAN KEEGAN & COMPANY, INC.**

By: 

Name: Thomas K. Oppenheim

Title: Managing Director

Approved and Accepted as of the date hereof:

**AVERY RANCH ROAD DISTRICT NO. 1**

By: 

County Judge, Williamson County, Texas

ATTEST:

By: 

County Clerk, Williamson County, Texas

S-1

EXHIBIT A

\$4,620,000

AVERY RANCH ROAD DISTRICT NO. 1  
UNLIMITED TAX ROAD BONDS, SERIES 2003

Interest Accrues From: March 1, 2003

\$3,565,000 Serial Bonds

| Principal<br>Amount | Maturity <sup>(a)</sup><br>(Aug. 15) | Interest<br>Rate | Reoffering<br>Yield |
|---------------------|--------------------------------------|------------------|---------------------|
| \$175,000           | 2006                                 | 3.500%           | 2.500%              |
| 185,000             | 2007                                 | 3.750%           | 2.875%              |
| 190,000             | 2008                                 | 3.750%           | 3.125%              |
| 195,000             | 2009                                 | 4.000%           | 3.375%              |
| 205,000             | 2010                                 | 4.000%           | 3.625%              |
| 215,000             | 2011                                 | 4.250%           | 3.875%              |
| 220,000             | 2012                                 | 4.500%           | 4.125%              |
| 230,000             | 2013                                 | 4.125%           | 4.300%              |
| 240,000             | 2014 <sup>(a)</sup>                  | 4.375%           | 4.500%              |
| 255,000             | 2015 <sup>(a)</sup>                  | 4.500%           | 4.625%              |
| 265,000             | 2016 <sup>(a)</sup>                  | 4.625%           | 4.750%              |
| 275,000             | 2017 <sup>(a)</sup>                  | 4.750%           | 4.875%              |
| 290,000             | 2018 <sup>(a)</sup>                  | 5.000%           | 5.000%              |
| 305,000             | 2019 <sup>(a)</sup>                  | 5.000%           | 5.050%              |
| 320,000             | 2020 <sup>(a)</sup>                  | 5.000%           | 5.100%              |

\$1,055,000 5.000% Term Bonds Due August 15, 2023; Yield 5.125% <sup>(a)(b)</sup>

<sup>(a)</sup> The Bonds scheduled to mature on or after August 15, 2014, are subject to redemption, in whole or in part, prior to their scheduled maturity, on August 15, 2013, or on any date thereafter at the option of the Issuer. Upon redemption, the Bonds will be payable at a price equal to the principal amount of the Bonds or the portions thereof so called for redemption, plus accrued interest to the date of redemption.

<sup>(b)</sup> The Term Bonds maturing August 15, 2023 are subject to mandatory sinking fund redemption on the dates and in the respective principal amounts set forth in the table below, at a redemption price equal to the principal amount thereof plus accrued interest to the date fixed for redemption:

| Mandatory<br>Redemption Date | Principal<br>Amount (\$) |
|------------------------------|--------------------------|
| August 15, 2021              | 335,000                  |
| August 15, 2022              | 350,000                  |
| August 15, 2023*             | 370,000                  |

\* Stated Maturity

**EXHIBIT "B"**

**PAYING AGENT/REGISTRAR AGREEMENT**

**PAYING AGENT/REGISTRAR AGREEMENT**

**THIS AGREEMENT** dated as of March 1, 2003 ("Agreement"), by and between Avery Ranch Road District No. 1 (the "Issuer"), and JPMorgan Chase Bank, a New York banking corporation duly organized and existing under the laws of the State of New York ("Bank").

**RECITALS**

**WHEREAS**, the Issuer has duly authorized and provided for the issuance of bonds to be issued only in registered form, as to payment of principal and interest thereon in an aggregate principal amount of \$4,620,000 and titled Unlimited Tax Road Bonds, Series 2003 (the "Bonds"); and

**WHEREAS**, the Bonds are scheduled to be delivered to the initial purchasers thereof on or about April 1, 2003; and

**WHEREAS**, the Issuer has selected the Bank to serve as Paying Agent/Registrar in connection with the payment of the principal of, premium, if any, and interest on the Bonds and with respect to the registration, transfer and exchange thereof by the registered owners thereof; and

**WHEREAS**, the Bank has agreed to serve in such capacities for and on behalf of the District and has full power and authority to perform and serve as Paying Agent/Registrar for the Bonds;

**NOW, THEREFORE**, it is mutually agreed as follows:

**ARTICLE ONE  
APPOINTMENT OF BANK AS  
PAYING AGENT AND REGISTRAR**

**Section 1.01. Appointment.**

The Issuer hereby appoints the Bank to serve as Paying Agent with respect to the Bonds. As Paying Agent for the Bonds, the Bank shall be responsible for paying on behalf of the District the principal, premium (if any), and interest on the Bonds as the same become due and payable to the registered owners thereof, all in accordance with this Agreement and the "Order" (hereinafter defined).

The Issuer hereby appoints the Bank as Registrar with respect to the Bonds. As Registrar for the Bonds, the Bank shall keep and maintain for and on behalf of the Issuer books and records as to the ownership of the Bonds and with respect to the transfer and exchange thereof as provided herein and in the "Order."

The Bank hereby accepts its appointment, and agrees to serve as the Paying Agent and Registrar for the Bonds.

**Section 1.02. Compensation.**

As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank the fees and amounts set forth in Schedule A attached hereto.

In addition, the Issuer agrees to reimburse the Bank upon its request for all reasonable expenses, disbursements and advances incurred or made by the Bank in accordance with any of the provisions hereof (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

**ARTICLE TWO  
DEFINITIONS**

**Section 2.01. Definitions.**

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

"Acceleration Date" on any Security means the date on and after which the principal or any or all installments of interest, or both, are due and payable on any Security which has become accelerated pursuant to the terms of the Security.

"Bank Office" means the corporate trust office of the Bank as indicated herein. The Bank will notify the County in writing of any change in location of the Bank Office.

"Fiscal Year" means the fiscal year of the Issuer.

"Holder" and "Bond Holder" each means the Person in whose name a Bond is registered in the Bond Register.

"Issuer Request" and "Issuer Order" means a written request or order signed in the name of the Issuer by an officer of the governing body of the Issuer or such other person named, or appointed by virtue of holding a particular position with the Issuer, in the Security Resolution as authorized to sign, delivered to the Bank.

"Legal Holiday" means a day on which the Bank is required or authorized to be closed.

"Order" means the order of the governing body of the District pursuant to which the Bonds are issued, certified by the governing body of the District and delivered to the Bank.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government.

"Predecessor Bonds" of any particular Bond means every previous Bond evidencing all or a portion of the same obligation as that evidenced by such particular Bond (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Bond for which a replacement Bond has been registered and delivered in lieu thereof pursuant to Section 4.06 hereof and the Orders).

"Redemption Date" when used with respect to any Bond to be redeemed means the date fixed for such redemption pursuant to the terms of the Orders.

"Responsible Officer" when used with respect to the Bank means the Chairman or Vice-Chairman of the Board of Directors, the Chairman or Vice-Chairman of the Executive Committee of the Board of Directors, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Cashier, any Assistant Cashier, any Trust Officer or Assistant Trust Officer, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"Bond Register" means a register maintained by the Bank on behalf of the District providing for the registration and transfer of the Bonds.

"Stated Maturity" means the date specified in the Orders on which the principal of a Bond is scheduled to be due and payable.

#### **Section 2.02. Other Definitions.**

The terms "Bank," "Issuer," and "Bonds" have the meanings assigned to them in the recital paragraphs of this Agreement.

The term "Paying Agent/Registrar" refers to the Bank in the performance of the duties and functions of this Agreement.

### **ARTICLE THREE PAYING AGENT**

#### **Section 3.01. Duties of Paying Agent.**

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the principal of each Bond at its Stated Maturity, Redemption Date, or Acceleration Date, to the Holder upon surrender of the Bond to the Bank at the Bank Office.

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Bond when due, by computing the amount of interest to be paid each Holder and preparing and sending checks by United States Mail, first class postage prepaid, on each payment date, to the Holders of the Bonds (or their Predecessor Bonds) on the respective Record Date, to the address appearing on the Bond Register or by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder's risk and expense.

#### **Section 3.02. Payment Dates.**

The Issuer hereby instructs the Bank to pay the principal of and interest on the Bonds on the dates specified in the Orders.

### **ARTICLE FOUR REGISTRAR**

#### **Section 4.01. Bond Register - Transfers and Exchanges.**

The Bank agrees to keep and maintain for and on behalf of the Issuer at the Bank Office books and records (herein sometimes referred to as the "Bond Register") for recording the names and addresses of the Holders of the Bonds, the transfer, exchange and replacement of the Bonds and the payment of the principal of and interest on the Bonds to the Holders and containing such other information as may be reasonably required by the Issuer and subject to such reasonable regulations as the Issuer and the Bank may prescribe. All transfers, exchanges and replacement of Bonds shall be noted in the Bond Register.

Every Bond surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the National Association of Bond Dealers, Inc., in form satisfactory to the Bank, duly executed by the Holder thereof or his agent duly authorized in writing.

The Bank may request any supporting documentation it feels necessary to effect a re-registration, transfer or exchange of the Bonds.



To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Bonds, the exchange or transfer by the Holders thereof will be completed and new Bonds delivered to the Holder or the assignee of the Holder in not more than three (3) business days after the receipt of the Bonds to be canceled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Holder, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

**Section 4.02. Bonds.**

The Issuer shall provide an adequate inventory of printed Bonds to facilitate transfers or exchanges thereof. The Bank covenants that the inventory of printed Bonds will be kept in safekeeping pending their use, and reasonable care will be exercised by the Bank in maintaining such Bonds in safekeeping, which shall be not less than the care maintained by the Bank for debt Bonds of other political subdivisions or corporations for which it serves as registrar, or that is maintained for its own securities.

**Section 4.03. Form of Bond Register.**

The Bank, as Registrar, will maintain the Bond Register relating to the registration, payment, transfer and exchange of the Bonds in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain such Bond Register in any form other than those which the Bank has currently available and currently utilizes at the time.

The Bond Register may be maintained in written form or in any other form capable of being converted into written form within a reasonable time.

**Section 4.04. List of Bond Holders.**

The Bank will provide the Issuer at any time requested by the Issuer, upon payment of the required fee, a copy of the information contained in the Bond Register. The Issuer may also inspect the information contained in the Bond Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

The Bank will not release or disclose the contents of the Bond Register to any person other than to, or at the written request of, an authorized officer or employee of the Issuer, except upon receipt of a court order or as otherwise required by law. Upon receipt of a court order and prior to the release or disclosure of the contents of the Bond Register, the Bank will notify the Issuer so that the Issuer may contest the court order or such release or disclosure of the contents of the Bond Register.

**Section 4.05. Return of Cancelled Bonds.**

The Bank will, at such reasonable intervals as it determines, surrender to the Issuer, Bonds in lieu of which or in exchange for which other Bonds have been issued, or which have been paid.

**Section 4.06. Mutilated, Destroyed, Lost or Stolen Bonds.**

The Issuer hereby instructs the Bank, subject to the applicable provisions of the Order, to deliver and issue Bonds in exchange for or in lieu of mutilated, destroyed, lost, or stolen Bonds as long as the same does not result in an overissuance.

In case any Bond shall be mutilated, or destroyed, lost or stolen, the Bank, in its discretion, may execute and deliver a replacement Bond of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Bond, or in lieu of and in substitution for such destroyed lost or stolen Bond, only after (1) the filing by the Holder thereof with the Bank of evidence satisfactory to the Bank of the destruction, loss or theft of such Bond, and of the authenticity of the ownership thereof and (ii) the furnishing to the Bank of indemnification in an amount satisfactory to hold the Issuer and the Bank harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Bond shall be borne by the Holder of the Bond mutilated, or destroyed, lost or stolen.

**Section 4.07. Transaction Information to Issuer.**

The Bank will, within a reasonable time after receipt of written request from the Issuer, furnish the Issuer information as to the Bonds it has paid pursuant to Section 3.01, Bonds it has delivered upon the transfer or exchange of any Bonds pursuant to Section 4.01, and Bonds it has delivered in exchange for or in lieu of mutilated, destroyed, lost, or stolen Bonds pursuant to Section 4.06.

**ARTICLE FIVE  
THE BANK****Section 5.01. Duties of Bank.**

The Bank undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof.

**Section 5.02. Reliance on Documents, Etc.**

(a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on Bonds or opinions furnished to the Bank.

(b) The Bank shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Bank was negligent in ascertaining the pertinent facts.

(c) No provisions of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

(d) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, bond, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. Without limiting the generality of the foregoing statement, the Bank need not examine the ownership of any Bonds, but is protected in acting upon receipt of Bonds containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Holder or an agent of the Holder. The Bank shall not be bound to make any investigation into the facts or matters stated in a resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, bond, or other paper or document supplied by Issuer.

(e) The Bank may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered, or omitted by it hereunder in good faith and in reliance thereon.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Bank.

#### **Section 5.03. Recitals of Issuer.**

The recitals contained herein with respect to the Issuer and in the Bonds shall be taken as the statements of the Issuer, and the Bank assumes no responsibility for their correctness.

The Bank shall in no event be liable to the Issuer, any Holder or Holders of any Bond, or any other Person for any amount due on any Bond from its own funds.

#### **Section 5.04. May Hold Bonds.**

The Bank, in its individual or any other capacity, may become the owner or pledgee of Bonds and may otherwise deal with the Issuer with the same rights it would have if it were not the Paying Agent/Registrar, or any other agent.

**Section 5.05. Moneys Held by Bank.**

The Bank shall deposit any moneys received from the Issuer into a trust account to be held in a paying agency capacity for the payment of the Bonds, with such moneys in the account that exceed the deposit insurance available to the Issuer by the Federal Deposit Insurance Corporation to be fully collateralized with Bonds or obligations that are eligible under the laws of the State of Texas to secure and be pledged as collateral for trust accounts, until the principal and interest on such Bonds have been presented for payment and paid to the owner thereof. Payments made from such trust account shall be made by check drawn on such trust account unless the owner of such Bonds shall, at its own expense and risk, request such other medium of payment.

Subject to the Unclaimed Property Laws of the State of Texas, any money deposited with the Bank for the payment of the principal, premium (if any), or interest on any Bond and remaining unclaimed for three years after the final maturity of the Bond has become due and payable will be paid by the Bank to the Issuer if the Issuer so elects, and the Holder of such Bond shall hereafter look only to the Issuer for payment thereof, and all liability of the Bank with respect to such monies shall thereupon cease. If the Issuer does not elect, the Bank is directed to report and dispose of the funds in compliance with Title Six of the Texas Property Code, as amended.

**Section 5.06. Indemnification.**

To the extent permitted by law, the Issuer agrees to indemnify the Bank for, and hold it harmless against, any loss, liability, or expense incurred without negligence or bad faith on the Bank's part, arising out of or in connection with the Bank's acceptance or administration of its duties hereunder, including the cost and expense incurred by the Bank in defending against any claim or from liability imposed on the Bank in connection with the Bank's exercise or performance of any of its powers or duties under this Agreement.

**Section 5.07. Interpleader.**

The Issuer and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in either a Federal or State Issuer Court located in the State and County where either the Bank Office or the administrative offices of the Issuer is located, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 6.03 of this Agreement shall constitute adequate service. The Issuer and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction to determine the rights of any Person claiming any interest herein.

**Section 5.08. Depository Trust Company Services.**

It is hereby represented and warranted that, in the event the Bonds are otherwise qualified and accepted for "Depository Trust Company" services or equivalent depository trust services by other

organizations, the Bank has the capability and, to the extent within its control, will comply with the "Operational Arrangements," effective August 1, 1987, which establishes requirements for Bonds to be eligible for such type depository trust services, including, but not limited to, requirements for the timeliness of payments and funds availability, transfer turnaround time, and notification of redemptions and calls.

Attached hereto is a copy of the Blanket Issuer Letter of Representations with The Depository Trust Company.

## **ARTICLE SIX MISCELLANEOUS PROVISIONS**

### **Section 6.01. Amendment.**

This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

### **Section 6.02. Assignment.**

This Agreement may not be assigned by either party without the prior written consent of the other.

### **Section 6.03. Notices.**

Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted hereby to be given or furnished to the Issuer or the Bank shall be mailed or delivered to the Issuer or the Bank, respectively, at the addresses shown on the signature page of this Agreement.

### **Section 6.04. Effect of Headings.**

The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

### **Section 6.05. Successors and Assigns.**

All covenants and agreements herein by the Issuer shall bind its successors and assigns, whether so expressed or not.

**Section 6.06. Severability.**

In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**Section 6.07. Benefits of Agreement.**

Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder.

**Section 6.08. Entire Agreement.**

This Agreement and the Order constitutes the entire agreement between the parties hereto relative to the Bank acting as Paying Agent/Registrar and if any conflict exists between this Agreement and the Order, the Order shall govern.

**Section 6.09. Counterparts.**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

**Section 6.10. Termination.**

This Agreement will terminate (i) on the date of final payment of the principal of and interest on the Bonds to the Holders thereof or (ii) may be earlier terminated by either party upon sixty (60) days written notice; provided, however, an early termination of this Agreement by either party shall not be effective until (a) a successor Paying Agent/Registrar has been appointed by the Issuer and such appointment accepted and (b) notice has been given to the Holders of the Bonds of the appointment of a successor Paying Agent/Registrar. Furthermore, the Bank and Issuer mutually agree that the effective date of an early termination of this Agreement shall not occur at any time which would disrupt, delay or otherwise adversely affect the payment of the Bonds.

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Bond Register (or a copy thereof), together with other pertinent books and records relating to the Bonds, to the successor Paying Agent/Registrar designated and appointed by the Issuer.

The provisions of Section 1.02 and of Article Five shall survive and remain in full force and effect following the termination of this Agreement.

**Section 6.11. Governing Law.**

This Agreement shall be construed in accordance with and governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

JPMORGAN CHASE BANK

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

600 Travis Street, Suite 1150  
Houston, Texas 77002

Attest:

\_\_\_\_\_  
Title \_\_\_\_\_

[BANK SEAL]



**AVERY RANCH ROAD DISTRICT NO. 1**

By: John C. Daehler  
County Judge

710 Main Street, 2<sup>nd</sup> Floor  
Georgetown, Texas 78626



[ISSUER SEAL]

Attest:

Nancy E. Rister  
County Clerk

**SCHEDULE A**

**Paying Agent/Registrar Fee Schedule**

|                           |          |
|---------------------------|----------|
| Acceptance Fee            | \$ -0-   |
| Annual Administration Fee | \$ _____ |

**[To Be Provided by Bank]**

**EXHIBIT "C"****CONTINUING DISCLOSURE**

Information of the general type included in the Official Statement under the headings:

- 1) "FINANCIAL INFORMATION CONCERNING THE DISTRICT";
- 2) "TAX DATA"; and
- 3) "INVESTMENT CONSIDERATIONS - Future Debt."

**Accounting Principles**

The accounting and reporting policies of the District relating to the funds and account groups will conform to generally accepted accounting principles (GAAP) as applied to governmental entities.

IN WITNESS WHEREOF, the District has caused this Bond to be signed with the manual or facsimile signature of the County Judge and countersigned with the manual or facsimile signature of the County Clerk and County Treasurer, and has caused the official seal to be duly impressed, or placed in facsimile, on this Bond.

**AVERY RANCH ROAD DISTRICT NO. 1**

Nancy E. Rister  
County Clerk

John C. Daefler  
County Judge

William L. Hook  
County Treasurer



**GENERAL AND NO-LITIGATION CERTIFICATE****THE STATE OF TEXAS**

§

§

**COUNTY OF WILLIAMSON**

§

We, the undersigned elected officials of the District, hereby certify as follows:

**GENERAL**

1. This certificate is executed for and on behalf of the District, for the benefit of the Attorney General of the State of Texas and for the benefit of the Underwriter in connection with the issuance of the Bonds. The words and terms used herein shall have the meanings whenever they are used given in Exhibit "A" attached hereto.

2. Any certificate signed by an official of the District delivered to the Underwriter or the Attorney General of the State of Texas shall be deemed a representation and warranty by the District as to the statement made therein. The Public Finance Division of the Office of the Attorney General of the State of Texas is hereby authorized to date this certificate as of the date of approval of the Bonds and is entitled to rely upon the accuracy of the information contained herein unless notified by telephone or fax to the contrary. The Comptroller of Public Accounts is further authorized to register the Bonds upon receipt of the Attorney General approval. After registration, the Bonds, opinions and registration papers shall be delivered to C.D. Pumbo at McCall, Parkhurst & Horton L.L.P.

**MATTERS RELATING TO THE DISTRICT**

3. We officially executed and signed the Bonds with our manual signatures or by causing facsimiles of our manual signatures to be imprinted or copies on each of the Bonds, and, if appropriate, we hereby adopt said facsimile signatures as our own, respectively, and declare that the facsimile signatures constitute our signatures the same as if we had manually signed each of the Bonds.

4. The Bonds are substantially in the form, and have been duly executed and signed in the manner prescribed in the Order.

5. At the time we so executed and signed the Bonds we were, and at the time of executing this certificate we are, the duly chosen, qualified and acting officers indicated therein, and authorized to execute the same.

6. No litigation of any nature has been filed or is now pending to restrain or enjoin the issuance or delivery of the Bonds, or which would affect the provision made for their payment or security, or in any manner questioning the proceedings or authority concerning the issuance of the Bonds, and that so far as we know and believe no such litigation is threatened.

7. Neither the corporate existence nor boundaries of the District is being contested, no litigation has been filed or is now pending which would affect the authority of the officers of the District to issue, execute, sign, and deliver the Bonds, and no authority or proceedings for the issuance of the Bonds have been repealed, revoked or rescinded. The boundaries of the District have not changed since creation of the District.

8. We have caused the official seal of the County to be impressed, or printed, or copied on the Bonds and said seal on the Bonds has been duly adopted as, and is hereby declared to be, the official seal of the District. The current officers and members of the Williamson County Commissioners Court are:

John Doerfler - County Judge  
Mike Heiligenstein - County Commissioner, Precinct 1  
Greg Boatright - County Commissioner, Precinct 2  
David Hays - County Commissioner, Precinct 3  
Frankie Limmer - County Commissioner, Precinct 4

Such officers and members have served as the governing body of the County and the District at all times since February 14, 2002.

9. The currently outstanding tax debt of the District and the proposed Bonds are set forth in Exhibit "B" attached hereto.

10. The true and correct schedule showing the annual requirements of the Bonds and outstanding bonds, is set forth in Exhibit "C" hereto.

11. The estimated taxable assessed value of the real property of the District as of January 1, 2003 is \$176,009,789.

12. The District has one series of bonds outstanding in the aggregate principal amount of \$11,045,000. The County has \$231,885,000 principal amount of Article III, Section 52 Bonds outstanding and has a 2002 certified taxable assessed value of real property of \$14,093,401,189. The Bonds together with the Article III, Section 52 Bonds of the County represent 0.051% of the \$14,093,401,189, 2002 taxable assessed value of real property in the County. Calculated as follows: estimated taxable value of real property of the District \$176,009,789, represents 1.25% of the certified 2002 taxable real property of the County. 1.25% of the County's outstanding \$213,885,000 Article III, Section 52 debt equals \$2,898,562.50. The Bonds together with such percentage of the County Article III, Section 52 debt equals \$13,943,562.50 which is 7.922% of the taxable assessed value of real property in the District.

13. The construction of the road for which the Bonds are being issued was (i) carried out through the award of contracts in substantial conformity with the bid procedure applicable to the County, and (ii) performed in accordance with the road standards and rules of the County. The road was not open for public use or accepted by official action of a government entity before the District

agreed to the reimbursement or purchase. All such construction contracts were approved by the Commissioners Court.

### **CLOSING MATTERS**

14. That to the best of his or her knowledge and belief as of the date of the delivery of the Bonds (i) the representations, warranties and covenants of the District contained in the Bond Purchase Agreement are true and correct in all material respects on and as of the date of the delivery of the Bonds, with the same effect as if made on the date of the delivery of the Bonds by the District; (ii) no litigation is pending or, to our knowledge, threatened in any court in any way affecting the existence of the District or the titles of its officers or the County Commissioners to their respective positions, or seeking to restrain or to enjoin the issuance, sale or delivery of the Bonds, or the levy or collection of taxes by the Commissioners Court on behalf of the District, the application of tax revenues of the District or in any way contesting or affecting the validity or enforceability of the Bond Order, the Bonds or the Bond Purchase Agreement, or contesting in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or contesting the powers of the District or its authority with respect to the Bond Order, the Bonds or the Bond Purchase Agreement; (iii) as of the date of the Official Statement and at all times subsequent thereto, up to and including the date of Closing, the Official Statement of the District did not and does not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; (iv) no event affecting the District has occurred since the date of the Official Statement that should be disclosed in the Official Statement for the purposes for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading in any respect; and (v) the District has complied in all material respects with all the requirements and satisfied all material conditions on its part to be performed or satisfied at or prior to the delivery of the Bonds;

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

SIGNED AND SEALED this the \_\_\_\_\_ day of \_\_\_\_\_, 2003.

Nancy E. Rister  
County Clerk

John C. Daufle  
County Judge

William L. Hood  
County Treasurer

Execute either I or II below:

- I. The signatures of the officers subscribed above are hereby certified to be true and genuine.

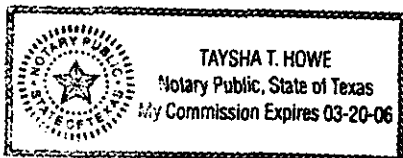
\_\_\_\_\_  
Bank

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

(BANK SEAL) or (Initials of Authorized Officer if Bank has no seal on premises  
\_\_\_\_\_)

- II. Before me, on this day personally appeared the foregoing individuals, known to me to be the officers whose true and genuine signatures were subscribed to the foregoing instrument in my presence.

Given under my hand and seal of office this 18<sup>th</sup> day of March 2003.



(Notary Seal)

Taysha T. Howe  
Notary Public



**EXHIBIT A****DEFINITIONS**

|                                |  |
|--------------------------------|--|
| <i>Bonds</i>                   | Avery Ranch Road District No. 1 Unlimited Tax Road Bonds, Series 2003 in the aggregate principal amount of \$4,620,000.  |
| <i>Bond Purchase Agreement</i> | The Bond Purchase Agreement among the District and the Underwriter, dated March 4, 2003.   |
| <i>Closing</i>                 | April 1, 2003 or at such other time agreed upon between the District and the Underwriter.  |
| <i>County</i>                  | Williamson County, Texas.  |
| <i>Underwriter</i>             | Morgan Keegan & Co.  |
| <i>Official Statement</i>      | Collectively, the Preliminary Official Statement dated February 25, 2003 and the Official Statement dated March 4, 2003 relating to the issuance of the Bonds. |
| <i>Order</i>                   | The Order adopted by the Williamson County Commissioners Court on March 4, 2003 authorizing the issuance of the Bonds.   |

**EXHIBIT B****OUTSTANDING DISTRICT TAX INDEBTEDNESS****Outstanding Bonds**

Avery Ranch Road District No. 1 Unlimited Tax Road Bonds, Series 2002   \$ 6,425,000

**Bonds in Process of Issuance**

Avery Ranch Road District No. 1 Unlimited Tax Road Bonds, Series 2003   \$ 4,620,000

**TOTAL DISTRICT INDEBTEDNESS ..... \$ 11,045,000**

**OUTSTANDING COUNTY ARTICLE III, SECTION 52 BONDS****Outstanding Bonds**

Williamson County, Texas Unlimited Tax Road Bonds, Series 2002 ..... \$ 121,515,000

Williamson County, Texas Unlimited Tax Road Bonds, Series 2001 ..... 95,000,000

Williamson County, Texas Unlimited Tax Road Bonds, Series 1997 ..... 14,100,000

**TOTAL OUTSTANDING COUNTY ARTICLE III, SECTION 52 BONDS .. \$ 230,615,000**

EXHIBIT C

C-1

FEDERAL TAX CERTIFICATE

1. In General.

1.1. The undersigned is the President of the Board of Trustees of the Avery Ranch Road District No. 1 (the "Issuer").

1.2. This Certificate is executed for the purpose of establishing the reasonable expectations of the Issuer as to future events regarding the Issuer's Unlimited Tax Road Bonds, Series 2003 (the "Bonds"). The Bonds are being issued pursuant to an order of the Issuer (the "Order") adopted on the date of sale of the Bonds. The Order is incorporated herein by reference.

1.3. To the best of the undersigned's knowledge, information and belief, the expectations contained in this Certificate are reasonable.

1.4. The undersigned is an officer of the Issuer delegated with the responsibility of issuing and delivering the Bonds.

1.5. The undersigned is not aware of any facts or circumstances that would cause him to question the accuracy of the representations made by Morgan Keegan & Co., Inc. (the "Underwriter") in Section 5 of this Certificate.

2. The Purpose of the Bonds and Useful Lives of Projects.

2.1. The Bonds are being issued pursuant to the Order (a) to construct and reimburse the costs of construction and acquisition of roads and related bridges, drainage work and other similar facilities, including reimbursing the cost of construction of .67 miles of a four lane divided road located within the District generally known as Avery Ranch Boulevard (the "Road"), funding approximately 24 months of capitalized interest and to pay cost of issuing the Bonds (the "Projects").

2.2. The Issuer expects that the aggregate useful lives of the Projects exceed 20 years from the later of the date the Projects are placed in service or the date on which the Bonds are issued.

2.3. All earnings, such as interest and dividends, received from the investment of the proceeds of the Bonds during the period of acquisition and construction of the Projects and not used to pay interest on the Bonds, will be used to pay the costs of the Projects, unless required to be rebated and paid to the United States in accordance with section 148(f) of the Internal Revenue Code of 1986 (the "Code"). The proceeds of the Bonds, together with any investment earnings thereon, are expected not to exceed the amount necessary for the governmental purpose of the Bonds. The Issuer expects that no disposition proceeds will arise in connection with the Projects or the Bonds.

3. Expenditure of Bond Proceeds and Use of Projects.

3.1. The Issuer will incur, within six months after the date of issue of the Bonds, a binding obligation to commence the Projects, either by entering into contracts for the construction of the Projects or by entering into contracts for architectural or engineering services for such Projects, or contracts for the development, purchase of construction materials, or purchase of equipment, for the Projects, with the amount to be paid under such contracts to be in excess of five percent of the proceeds which are estimated to be used for the cost of the Projects.

3.2. After entering into binding obligations, work on such Projects will proceed promptly with due diligence to completion.

3.3. All original proceeds derived from the sale of the Bonds to be applied to the Projects and all investment earnings thereon (other than any amounts required to be rebated to the United States pursuant to section 148(f) of the Code) will be expended for the Projects no later than a date which is three years after the date of issue of the Bonds.

3.4. The Order provides that allocations of proceeds to expenditures for the Projects are expected not to be later than 18 months after the later of the date of the expenditure or the date that the Projects are placed in service, but, in any event, not longer than 60 days after the earlier of five years of the date hereof or the date the Bonds are retired.

3.5. The Issuer will not invest the proceeds prior to such expenditure in any guaranteed investment contract or other non-purpose investment with a substantially guaranteed yield for a period equal to or greater than four years.

3.6. Other than members of the general public, the Issuer expects that throughout the lesser of the term of the Bonds, or the useful lives of the Projects, the only user of the Projects will be the Issuer or the Issuer's employees and agents. The Issuer will be the manager of the Projects.

3.7. Except as stated below, the Issuer expects not to sell or otherwise dispose of property constituting the Projects prior to the earlier of the end of such property's useful life or the final maturity of the Bonds. The Order provides that the Issuer will not sell or otherwise dispose of the Projects unless the Issuer receives an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Bonds.

3.8. For purposes of Section 3.7 hereof, the Issuer has not included the portion of the Projects comprised of personal property that is disposed in the ordinary course at a price that is expected to be less than 25 percent of the original purchase price. The Issuer, upon any disposition of such property, will transfer the receipts from the disposition of such property to the general operating fund and expend such receipts within six months for other governmental programs.

#### 4. Interest and Sinking Fund.

4.1. The Order creates an Interest and Sinking Fund. Other than as described herein, money deposited in the Interest and Sinking Fund will be used to pay the principal of and interest on the Bonds (the "Bona Fide Debt Service Portion").

4.2. Amounts deposited in the Interest and Sinking Fund constituting the Bona Fide Debt Service Portion will be spent within a thirteen-month period beginning on the date of deposit, and any amount received from the investment of money held in the Interest and Sinking Fund will be spent within a one-year period beginning on the date of receipt.

4.3. The Bona Fide Debt Service Portion constitutes a fund that is used primarily to achieve a proper matching of revenues and debt service within each bond year. Such portion will be completely depleted at least once each year except for an amount not in excess of the greater of (a) one-twelfth of the debt service on the Bonds for the previous year, or (b) the previous year's earnings on such portion of the Interest and Sinking Fund.

4.4. A portion of the funds on deposit in the Interest and Sinking Fund, not otherwise used to pay debt service on the Bonds within thirteen months, will be held in trust for the benefit of the holders of the Bonds (the "Reserve Portion"). If on any interest payment or maturity date, sufficient amounts are not available to make debt service payments on the Bonds, the Issuer is required to use such money constituting the Reserve Portion in an amount sufficient to make such payments.

4.5. The present value of the investments deposited to the Reserve Portion of the Interest and Sinking Fund and allocable to the Bonds that will be invested at a yield higher than the yield on the Bonds will not, as of any date, exceed an aggregate amount which equals the lesser of (a) 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Bonds, (b) 1.25 of the average annual debt service on the Bonds, or (c) maximum annual debt service on the Bonds.

4.6. Based on advice to the Issuer by its financial advisors, the amount on deposit in the Reserve Portion of the Interest and Sinking Fund should be maintained as a balance allocable to the Bonds in the Interest and Sinking Fund consistent with accepted standards of prudent fiscal management for similar governmental bodies and in order to provide a reserve against periodic fluctuations in the amount and timing of payment of ad valorem taxes to the Issuer.

5. Yield.

All of the Bonds have been the subject of a bona fide initial offering to the public (excluding bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers) at prices no higher or at yields no lower than that shown on the cover of the Official Statement. At least 10 percent of the principal amount of each maturity of the Bonds were sold to the public (excluding such bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at an initial offering price or yield not greater than the price or not lower than the yield shown on the cover of the Official Statement for such maturity. The Official Statement is included in the transcript for the Bonds and is incorporated herein by reference.

6. Invested Sinking Fund Proceeds, Replacement Proceeds.

6.1. The Issuer has, in addition to the moneys received from the sale of the Bonds, certain other moneys that are invested in various funds which are pledged for various purposes. These other funds are not available to accomplish the purposes described in Section 2 of this Certificate.

6.2. Other than the Interest and Sinking Fund, there are, and will be, no other funds or accounts established, or to be established, by or on behalf of the Issuer (a) which are reasonably expected to be used, or to generate earnings to be used, to pay debt service on the Bonds, or (b) which are reserved or pledged as collateral for payment of debt service on the Bonds and for which there is reasonable assurance that amounts therein will be available to pay such debt service if the Issuer encounters financial difficulties. Accordingly, there are no other amounts constituting "gross proceeds" of the Bonds, within the meaning of section 148 of the Code.

7. Other Obligations.

There are no other obligations of the Issuer which (a) are sold at substantially the same time as the Bonds, i.e., within 15 days of the date of sale of the Bonds, (b) are sold pursuant to a common plan of financing with the Bonds, and (c) will be payable from the same source of funds as the Bonds.

8. Rebate to United States.

The Issuer has covenanted in the Order that it will comply with the requirements of the Code, including section 148(f) of the Code, relating to the required rebate to the United States. Specifically, the Issuer will take steps to ensure that all earnings on gross proceeds of the Bonds in excess of the yield on the Bonds required to be rebated to the United States will be timely paid to the United States. The Issuer acknowledges receipt of the memorandum attached hereto as Exhibit "A" which discusses regulations promulgated pursuant to section 148(f) of the Code. This memorandum does not constitute an opinion of Bond Counsel as to the proper federal tax or accounting treatment of any specific transaction.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]**

DATED:

AVERY RANCH ROAD DISTRICT NO. 1

By: John C. Daerle  
Williamson County Judge



The undersigned represents that, to the best of the undersigned's knowledge, information and belief, the representations contained in Section 5 of this Federal Tax Certificate are accurate.

MORGAN KEEGAN & CO., INC.

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

## Exhibit "A"

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January 1, 1995

**ARBITRAGE REBATE REGULATIONS**

The Tax Reform Act of 1986 amended the provisions of the Internal Revenue Code by providing a newly-enacted section 148(f) of the Internal Revenue Code of 1986 (the "Code"), relating to arbitrage rebate. This arbitrage rebate requirement generally provides that in order for interest on any issue of obligations to be excluded from gross income (i.e., tax-exempt) the issuer must rebate to the United States the sum of, (1) the excess of the amount earned on all "nonpurpose investments" acquired with "gross proceeds" of the issue over the amount which would have been earned if such investments had been invested at a yield equal to the yield on the issue, and (2) the earnings on such excess earnings. These rules are substantially similar to the rules which, prior to the Tax Reform Act of 1986, applied to industrial development bonds and mortgage revenue bonds.

Section 148(f) of the Code has been amended by several subsequent tax acts, most notably, the Revenue Reconciliation Acts of 1989 and 1990. These amendments primarily provided a special exception to rebate for certain construction issues, as discussed under the heading "Exceptions to Rebate."

On June 18, 1993, the U.S. Treasury Department promulgated regulations relating to the computation of arbitrage rebate and the rebate exceptions. These regulations, which replace the previously-published regulations promulgated on May 15, 1989, and on May 18, 1992, are effective for bonds issued after June 30, 1993. These newly-promulgated regulations also replace the arbitrage regulations, other than those relating to rebate, which were published in 1978. This memorandum was prepared by McCall, Parkhurst & Horton L.L.P. and provides a general discussion of the arbitrage rebate regulations. This memorandum does not otherwise discuss the general arbitrage regulations, other than as they may incidentally relate to rebate. This memorandum also does not attempt to provide an exhaustive discussion of the arbitrage rebate regulations and should not be considered advice with respect to the arbitrage rebate requirements as applied to any individual or governmental unit or any specific transaction. McCall, Parkhurst & Horton L.L.P. remains available to provide legal advice to issuers with respect to the provisions of these tax regulations but recommends

that issuers seek competent financial and accounting assistance in calculating the amount of such issuer's rebate liability under section 148(f) of the Code and in making elections to apply the rebate exceptions.

In this memorandum the word "bond" is defined to include any bond, note, certificate, financing lease or other obligation of an issuer.

### **Effective Dates**

The regulations promulgated on June 18, 1993, generally apply to bonds delivered after June 30, 1993, but, as discussed below, also permit an issuer to elect to apply the newly-promulgated rules to bonds issued prior to that date. The temporary regulations adopted by the U.S. Treasury Department in 1989 and 1992 incorporated the same effective dates which generally apply for purposes of section 148(f) of the Code. The statutory provisions of section 148(f) of the Code, other than the exception for construction issues, apply to all bonds issued after August 15, 1986, (for private activity bonds) and August 31, 1986, (for governmental public purpose bonds). As such, the previous versions of the rebate regulations generally applied to bonds issued between August 1986 and June 30, 1993 (or, with an election, to bonds issued prior to August 15, 1993). The statutory exception to rebate applicable to construction issues generally applies to such issues if delivered after December 19, 1989.

The newly-promulgated regulations provide numerous transitional rules for bonds sold prior to July 1, 1993. Moreover, since, under prior law, rules were previously published with respect to industrial development bonds and mortgage revenue bonds, the transitional rules contained in these newly-promulgated regulations permit an issuer to elect to apply certain of these rules for computing rebate on pre-1986 bonds. The regulations provide for numerous elections which would permit an issuer to apply the newly-promulgated rules (other than 18-month spending exception) to bonds which were issued prior to July 1, 1993 and remain outstanding on June 30, 1993. Due to the complexity of the regulations, it is impossible to discuss in this memorandum all circumstances for which specific elections are provided. If an issuer would prefer, in certain circumstances, to use the newly-promulgated regulations in lieu of the computational method stated under prior law (e.g., due to prior redemption) or the previously-published regulations, please contact McCall, Parkhurst & Horton L.L.P. for advice as to the availability of such options.

### **Future Value Computation Method**

The regulations employ an actuarial method for computing the rebate amount based on the future value of the investment receipts (i.e., earnings) and payments. The rebate method employs a two-step computation to determine the amount of the rebate payment. First, the issuer determines the bond yield. Second, the issuer determines the arbitrage rebate amount. The regulations require that the computations be made at the end of each five-year period and upon final maturity of the issue (the "computation dates"). **THE FINAL MATURITY DATE WILL ACCELERATE IN CIRCUMSTANCES IN WHICH THE BONDS ARE OPTIONALLY REDEEMED PRIOR TO MATURITY. AS SUCH, IF BONDS ARE REFUNDED OR OTHERWISE REDEEMED, THE REBATE MAY BE DUE EARLIER THAN INITIALLY**

**PROJECTED.** In order to accommodate accurate record-keeping and to assure that sufficient amounts will be available for the payment of arbitrage rebate liability, however, we recommend that the computations be performed at least annually.

Under the future value method, the amount of rebate is determined by compounding the aggregate earnings on all the investments from the date of receipt by the issuer to the computation date. Similarly, a payment for an investment is future valued from the date that the payment is made to the computation date. The receipts and payments are future valued at a discount rate equal to the yield on the bonds. The rebatable arbitrage, as of any computation date, is equal to the excess of the (1) future value of all receipts (i.e., earnings) from investments, over (2) the future value of all payments.

The following example is provided in the regulations to illustrate how arbitrage rebate is computed under the future value method for a fixed-yield bond:

"On January 1, 1994, City A issues a fixed yield issue and invests all the sale proceeds of the issue (\$49 million). There are no other gross proceeds. The issue has a yield of 7.0000 percent per year compounded semiannually (computed on a 30 day month/360 day year basis). City A receives amounts from the investment and immediately expends them for the governmental purpose of the issue as follows:

| <u>Date</u> | <u>Amount</u> |
|-------------|---------------|
| 2/1/1994    | \$ 3,000,000  |
| 4/1/1994    | 5,000,000     |
| 6/1/1994    | 14,000,000    |
| 9/1/1994    | 20,000,000    |
| 7/1/1995    | 10,000,000    |

City A selects a bond year ending on January 1, and thus the first required computation date is January 1, 1999. The rebate amount as of this date is computed by determining the future value of the receipts and the payments for the investment. The compounding interval is each 6-month (or shorter) period and the 30 day month/360 day year basis is used because these conventions were used to compute yield on the issue. The future value of these amounts, plus the computation credit, as of January 1, 1999, is:

| <u>Date</u>                | <u>Receipts (Payments)</u> | <u>FY (7.0000 percent)</u> |
|----------------------------|----------------------------|----------------------------|
| 01/1/1994                  | (\$49,000,000)             | (\$69,119,339)             |
| 02/1/1994                  | 3,000,000                  | 4,207,602                  |
| 04/1/1994                  | 5,000,000                  | 6,932,715                  |
| 06/1/1994                  | 14,000,000                 | 19,190,277                 |
| 09/1/1994                  | 20,000,000                 | 26,947,162                 |
| 01/1/1995                  | (1,000)                    | (1,317)                    |
| 07/1/1995                  | 10,000,000                 | 12,722,793                 |
| 01/1/1996                  | (1,000)                    | <u>(1,229)</u>             |
| Rebate amount (01/01/1999) |                            | <u>\$878,664"</u>          |

#### **General Method for Computing Yield on Bonds**

In general, the term "yield," with respect to a bond, means the discount rate that when used in computing the present value of all unconditionally due payments of principal and interest and all of the payments for a qualified guarantee produces an amount equal to the present value of the issue price of the bond. For this purpose, the term "issue price" has the same meaning as provided in sections 1273 and 1274 of the Code. That is, if bonds are publicly offered (i.e., sold by the issuer to a bond house, broker or similar person acting in the capacity of underwriter or wholesaler), the issue price of each bond is determined on the basis of the initial offering price to the public (not to the aforementioned intermediaries) at which price a substantial amount of such bond was sold to the public (not to the aforementioned intermediaries). The "issue price" is separately determined for each bond (i.e., maturity) which comprises an issue.

The regulations also provide varying periods for computing yield on the bonds depending on the method by which the interest payment is determined. Thus, for example, yield on an issue of bonds sold with variable interest rates (i.e., interest rates which are reset periodically based on changes in market) is computed separately for each annual period ending on the first anniversary of the delivery date that the issue is outstanding. In effect, yield on a variable yield issue is determined on each computation date by "looking back" at the interest payments for such period. The regulations, however, permit an issuer of a variable-yield issue to elect to compute the yield for annual periods ending on any date in order to permit a matching of such yield to the expenditure of the proceeds. Any such election must be made in writing, is irrevocable, and must be made no later than the earlier of (1) the fifth anniversary date, or (2) the final maturity date.

Yield on a fixed interest rate issue (i.e., an issue of bonds the interest rate on which is determined as of the date of the issue) is computed over the entire term of the issue. Issuers of fixed-yield issues generally use the yield computed as of the date of issue for all rebate computations. Such yield on fixed-yield issues generally is recomputed only if (1) the issue is sold at a substantial premium, may be retired within five years of the date of delivery, and such date is earlier than its scheduled maturity date, or (2) the issue is a stepped-coupon bond. In such cases, the regulations require the issuer to recompute the yield on such issues by taking

into account the early retirement value of the bonds. Similarly, recomputation occurs in circumstances in which the issuer or bondholder modify or waive certain terms of, or rights with respect to, the issue or in sophisticated hedging transactions. **IN SUCH CIRCUMSTANCES, ISSUERS ARE ADVISED TO CONSULT McCALL, PARKHURST & HORTON L.L.P. TO ADDRESS THE FEDERAL INCOME TAX CONSEQUENCES OF THESE TRANSACTIONS.**

For purposes of determining the principal or redemption payments on a bond, different rules are used for fixed-rate and variable-rate bonds. The payment is computed separately on each maturity of bonds rather than on the issue as a whole. In certain circumstances, the yield on the bond is determined by assuming that principal on the bond is paid as scheduled and that the bond is retired on the final maturity date for the stated retirement price. For bonds subject to early redemption or stepped-coupon bonds, described above, or for bonds subject to mandatory early redemption, the yield is computed assuming the bonds are paid on the early redemption date for an amount equal to their value.

Section 148 of the Code provides that premiums paid to guarantee the payment of debt service on bonds are taken into account in computing the yield on the bond. Payments for guarantees are taken into account by treating such premiums as the payment of interest on the bonds. This treatment, in effect, raises the yield on the bond, thereby permitting the issuer to recover such fee with excess earnings.

The guarantee must be an unconditional obligation of the guarantor enforceable by the bondholder for the payment of principal or interest on the bond or the tender price of a tender bond. The guarantee may be in the form of an insurance policy, surety bond, irrevocable letter or line of credit, or standby purchase agreement. Importantly, the guarantor must be legally entitled to full reimbursement for any payment made on the guarantee either immediately or upon commercially reasonable repayment terms. The guarantor may not be a co-obligor of the bonds or a user of more than 10 percent of the proceeds of the bonds.

Payments for the guarantee may not exceed a reasonable charge for the transfer of credit risk. This reasonable charge requirement is not satisfied unless it is reasonably expected that the guarantee will result in a net present value savings on the bond (i.e., the premium does not exceed the present value of the interest savings resulting by virtue of the guarantee). If the guarantee is entered into after June 14, 1989, then any fees charged for the nonguarantee services must be separately stated or the guarantee fee is not recoverable.

The regulations also treat certain "hedging" transactions in a manner similar to qualified guarantees. "Hedges" are contracts, e.g., interest rate swaps, futures contracts or options, which are intended to reduce the risk of interest rate fluctuations. Hedges and other financial derivatives are sophisticated and ever-evolving financial products with which a memorandum, such as this, can not readily deal. **IN SUCH CIRCUMSTANCES, ISSUERS ARE ADVISED TO CONSULT McCALL, PARKHURST & HORTON L.L.P. TO ADDRESS THE FEDERAL INCOME TAX CONSEQUENCES OF THESE TRANSACTIONS.**

**Earnings on Nonpurpose Investments**

The arbitrage rebate provisions apply only to the receipts from the investment of "gross proceeds" in "nonpurpose investments." For this purpose, nonpurpose investments are stock, bonds or other obligations acquired with the gross proceeds of the bonds for the period prior to the use of the gross proceeds for its ultimate purpose. For example, investments deposited to construction funds, reserve funds (including surplus taxes or revenues deposited to sinking funds) or other similar funds are nonpurpose investments. Such investments include only those which are acquired with "gross proceeds." For this purpose, "gross proceeds" include original proceeds received from the sale of the bonds, investment earnings from the investment of such original proceeds, amounts pledged to the payment of debt service on the bonds or amounts actually used to pay debt service on the bonds. The regulations do not provide a sufficient amount of guidance to include an exhaustive list of "gross proceeds" for this purpose; however, it can be assumed that "gross proceeds" represent all amounts received from the sale of bonds, amounts earned as a result of such sale or amounts (including taxes and revenues) which are used to pay, or secure the payment of, debt service for the bonds. The total amount of "gross proceeds" allocated to a bond generally can not exceed the outstanding principal amount of the bonds.

The regulations provide generally that an investment is allocated to an issue for the period (1) that begins on the date gross proceeds are used to acquire the investment, and (2) that ends on the date such investment ceases to be allocated to the issue. In general, proceeds are allocated to a bond issue until expended for the ultimate purpose for which the bond was issued or for which such proceeds are received (e.g., construction of a bond-financed facility or payment of debt service on the bonds). Deposit of gross proceeds to the general fund of the issuer (or other fund in which they are commingled with revenues or taxes) does not alleviate the obligation to compute rebate in most cases. As such, proceeds commingled with the general revenues of the issuer are not "freed-up" from the rebate obligation. An exception to this commingling limitation for bonds, other than private activity bonds, permits "investment earnings" (but not sale proceeds or other types of gross proceeds) to be considered spent when deposited to a commingled fund if those amounts are reasonably expected to be spent within six months. Other than for these amounts, issuers may consider segregating investments in order to more easily compute the amount of such arbitrage earnings by not having to allocate investments.

Special rules are provided for purposes of advance refundings. These rules are too complex to discuss in this memorandum. Essentially, the rules relating to refundings, however, do not require that amounts deposited to the escrow fund to defease the prior obligations of the issuer be subject to arbitrage rebate to the extent that the investments deposited to the escrow fund do not have a yield in excess of the yield on the bonds. Any loss resulting from the investment of proceeds in an escrow fund below the yield on the bonds, however, may be recovered by combining those investments with investments deposited to other funds, e.g., reserve or construction funds.

The arbitrage regulations also provide that the investment of bond proceeds in tax-exempt obligations does not result in arbitrage. The provisions of the Technical and Miscellaneous Revenue Act of 1988, however, amended that rule by providing that investment

of bond proceeds in "private activity bonds" (i.e., bonds subject to the alternative minimum tax under section 57(a)(5) of the Code) are treated as investments in taxable obligations. As such, earnings from these tax-exempt investments are subject to rebate.

Similarly, the investment of gross proceeds in certain tax-exempt mutual funds are treated as a direct investment in the tax-exempt obligations deposited in such fund. While issuers may invest in such funds for purposes of avoiding arbitrage rebate, they should be aware that if "private activity bonds" are included in the fund then a portion of the earnings will be subject to arbitrage rebate. Issuers should be prudent in assuring that the funds do not contain private activity bonds.

The arbitrage regulations provide a number of instances in which earnings will be imputed to the nonpurpose investments. Receipts generally will be imputed to investments that do not bear interest at an arm's-length (i.e., market) interest rate. As such, the regulations adopt a "market price" rule. In effect, this rule prohibits an issuer from investing bond proceeds in investments at a price which is higher than the market price of comparable obligations, in order to reduce the yield. Special rules are included for determining the market price for investment contracts, certificates of deposit and certain U.S. Treasury obligations. For example, to establish the fair market value of investment contracts a bidding process between three qualified bidders must be used. The fair market value of certificates of deposit which bear a fixed interest rate and are subject to an early withdrawal penalty is its purchase price if that price is not less than the yield on comparable U.S. Treasury obligations and is the highest yield available from the institution. In any event, a basic "common sense" rule-of-thumb that can be used to determine whether a fair market value has been paid is to ask whether the general funds of the issuer would be invested at the same yield. An exception to this market price rule is available for United States Treasury Obligations - State or Local Government Series in which case the purchase price is always the market price.

#### **Reimbursement and Working Capital**

The final regulations provide new rules for purposes of determining whether gross proceeds are used for working capital and, if so, at what times those proceeds are considered spent. In general, working capital financings are subject to many of the same rules that have existed since the mid-1970s. For example, the regulations generally continue the 13-month temporary period. By adopting a "proceeds-spent-last" rule, the regulations also generally require that an issuer actually incur a deficit (i.e., expenditures must exceed receipts) for the computation period (which generally corresponds to the issuer's fiscal year). Also, the regulations continue to permit an operating reserve, but unlike prior regulations the amount of such reserve may not exceed five percent of the issuer's actual working capital expenditures for the prior fiscal year. Another change made by the regulations is that the issuer may not finance the operating reserve with proceeds of a tax-exempt obligation.

Importantly, the regulations also adopt rules for determining whether proceeds used to reimburse an issuer for costs paid prior to the date of issue of the obligation, in fact, are considered spent at the time of reimbursement. These rules apply to an issuer who uses general revenues for the payment of all or a portion of the costs of a project then uses the proceeds of the bonds to reimburse those general revenues. Failure to comply with these rules



would result in the proceeds continuing to be subject to federal income tax restrictions, including rebate.

To qualify for reimbursement, a cost must be described in an expression (e.g., resolution, legislative authorization) evidencing the issuer's intent to reimburse which is made no later than 60 days after the payment of the cost. Reimbursement must occur no later than 18 months after the later of (1) the date the cost is paid or (2) the date the project is placed in service. Except for projects requiring an extended construction period or small issuers, in no event can a cost be reimbursed more than three years after the cost is paid.

Reimbursement generally is not permitted for working capital; only capital costs, grants and loans may be reimbursed. Moreover, certain anti-abuse rules apply to prevent issuers from avoiding the limitations on refundings. IN CASES INVOLVING WORKING CAPITAL OR REIMBURSEMENT, ISSUERS ARE ADVISED TO CONTACT McCALL, PARKHURST & HORTON L.L.P. TO ADDRESS THE FEDERAL INCOME TAX CONSEQUENCES OF THE TRANSACTION.

### **Rebate Payments**

Rebate payments generally are due 60 days after each installment computation date. The interim computation dates occur each fifth anniversary of the issue date. The final computation date is on the latest of (1) the date 60 days after the date the issue of bonds is no longer outstanding, (2) the date eight months after the date of issue for certain short-term obligations (i.e., obligations retired within three years), or (3) the date the issuer no longer reasonably expects any spending exception, discussed below, to apply to the issue. On such payment dates, other than the final payment date, an issuer is required to pay 90 percent of the rebatable arbitrage to the United States. On the final payment date, an issuer is required to pay 100 percent of the remaining rebate liability.

Failure to timely pay rebate does not necessarily result in the loss of tax-exemption. Late payments, however, are subject to the payment of interest, and unless waived, a penalty of 50 percent (or, in the case of private activity bonds, other than qualified 501(c)(3) bonds, 100 percent) of the rebate amount which is due. IN SUCH CIRCUMSTANCES, ISSUERS ARE ADVISED TO CONSULT McCALL, PARKHURST & HORTON L.L.P. TO ADDRESS THE FEDERAL INCOME TAX CONSEQUENCES OF THESE TRANSACTIONS.

Rebate payments are refundable. The issuer, however, must establish to the satisfaction of the Commissioner of the Internal Revenue Service that the issuer paid an amount in excess of the rebate and that the recovery of the overpayment on that date would not result in additional rebatable arbitrage. An overpayment of less than \$5,000 may not be recovered before the final computation date.

### **Alternative Penalty Amount**

In certain cases, an issuer of a bond the proceeds of which are to be used for construction may elect to pay a penalty, in lieu of rebate. The penalty may be elected in circumstances in which the issuer expects to satisfy the two-year spending exception which is

more fully described under the heading "Exceptions to Rebate." The penalty is payable, if at all, within 60 days after the end of each six-month period. This is more often than rebate. The election of the alternative penalty amount would subject an issuer, which fails the two-year spend-out requirements, to the payment of a penalty equal to one and one-half of the excess of the amount of proceeds which was required to be spent during that period over the amount which was actually spent during the period.

The penalty has characteristics which distinguish it from arbitrage rebate. First, the penalty would be payable without regard to whether any arbitrage profit is actually earned. Second, the penalty continues to accrue until either (1) the appropriate amount is expended or (2) the issuer elects to terminate the penalty. To be able to terminate the penalty, the issuer must meet specific requirements and, in some instances, must pay an additional penalty equal to three percent of the unexpended proceeds.

### **Exceptions to Rebate**

The Code and regulations provide certain exceptions to the requirement that the excess investment earnings be rebated to the United States.

a. Small Issuers. The first exception provides that if an issuer (together with all subordinate issuers) during a calendar year does not issue tax-exempt obligations in an aggregate face amount exceeding \$5 million, then the obligations are not subject to rebate. Only issuers with general taxing powers may take advantage of this exception. For this purpose, "private activity bonds" neither are afforded the benefit of this exception nor are taken into account for purposes of determining the amount of bonds issued. Subordinate issuers are those issuers which derive their authority to issue bonds from the same issuer, e.g., a city and a health facilities development corporation, or which are controlled by the same issuer, e.g., a state and the board of a public university.

b. Spending Exceptions.

Six-Month Exception. The second exception to the rebate requirement is available to all tax-exempt bonds, all of the gross proceeds of which are expended during six months. The six month rule is available to bonds issued after the effective date of the Tax Reform Act of 1986. See the discussion of effective dates on page two. For this purpose, proceeds used for the redemption of bonds (other than proceeds of a refunding bond deposited to an escrow fund to discharge refunded bonds) can not be taken into account as expended. As such, bonds with excess gross proceeds generally can not satisfy the second exception unless the amount does not exceed the lesser of five percent or \$100,000 and such de minimis amount must be expended within one year.

Certain gross proceeds are not subject to the spend-out requirement, including amounts deposited to a bona fide debt service fund, to a reserve fund and amounts which become gross proceeds received from purpose investments. These amounts themselves, however, may be subject to rebate even though the originally expended proceeds were not.

The Code provides a special rule for tax and revenue anticipation notes (i.e., obligations issued to pay operating expenses in anticipation of the receipt of taxes and other revenues). Such notes are referred to as TRANs. To determine the timely expenditure of the proceeds of a TRAN, the computation of the "cumulative cash flow deficit" is important. If the "cumulative cash flow deficit" (i.e., the point at which the operating expenditures of the issuer on a cumulative basis exceed the revenues of the issuer during the fiscal year) occurs within the first six months of the date of issue and must be equal to at least 90 percent of the proceeds of the TRAN, then the notes are deemed to satisfy the exception. This special rule requires, however, that the deficit actually occur, not that the issuer merely have an expectation that the deficit will occur. In lieu of the statutory exception for TRANs, the regulations also provide a second exception. Under this exception, 100 percent of the proceeds must be spent within six months, but before note proceeds can be considered spent, all other available amounts of the issuer must be spent first ("proceeds-spent-last" rule). In determining whether all available amounts are spent, a reasonable working capital reserve equal to five percent of the prior year's expenditures may be set aside and treated as unavailable.

**18-Month Exception.** The regulations also establish a non-statutory exception to arbitrage rebate if all of the gross proceeds (including investment earnings) are expended within 18 months after the date of issue. Under this exception, 15 percent of the gross proceeds must be expended within a six-month spending period, 60 percent within a 12-month spending period and 100 percent within an 18-month spending period. The rule permits an issuer to rely on its reasonable expectations for computing investment earnings which are included as gross proceeds during the first and second spending period. A reasonable retainage not to exceed five percent of the sale proceeds of the issue is not required to be spent within the 18-month period but must be expended within 30 months. Rules similar to the six-month exception relate to the definition of gross proceeds.

**Two Year Exception.** Bonds issued after December 19, 1989 (i.e., the effective date of the Omnibus Reconciliation Act of 1989), at least 75 percent of the net proceeds of which are to be used for construction, may be exempted from rebate if the gross proceeds are spent within two years. Bonds more than 25 percent of the proceeds of which are used for acquisition or working capital may not take advantage of this exception. The exception applies only to governmental bonds, qualified 501(c)(3) bonds and private activity bonds for governmentally-owned airports and docks and wharves. The two-year exception requires that at least 10 percent of the available construction proceeds must be expended within six months after the date of issue, 45 percent within 12 months, 75 percent within 18 months and 100 percent within 24 months. The term "available construction proceeds" generally means sale proceeds of the bonds together with investment earnings less amounts deposited to a qualified reserve fund or used to pay costs of issuance. Under this rule, a reasonable retainage not to exceed five percent need not be spent within 24 months but must be spent within 36 months.

The two-year rule also provides for numerous elections which must be made not later than the date of issuance of the bonds. Once made, the elections are irrevocable. Certain elections permit an issuer to bifurcate bond issues, thereby treating only a portion of the issue as a qualified construction bond; and, permit an issuer to disregard earnings from reserve funds for purposes of determining "available construction proceeds." Another election permits an issuer to pay the alternative penalty amount discussed above in lieu of rebate if the issuer

ultimately fails to satisfy the two-year rule. Issuers should discuss these elections with their financial advisors prior to issuance of the bonds. Of course, McCall, Parkhurst & Horton L.L.P. remains available to assist you by providing legal interpretations thereof.

c. Debt Service Funds. Additionally, an exception to the rebate requirement, whether or not any of the previously discussed exceptions are available, applies for earnings on "bona fide debt service funds." A "bona fide debt service fund" is one in which the amounts are expended within 13 months of the accumulation of such amounts by the issuer. In general, most interest and sinking funds (other than any excess taxes or revenues accumulated therein) satisfy these requirements. For private activity bonds, short term bonds (i.e., have a term of less than five years) or variable rate bonds, the exclusion is available only if the gross earnings in such fund does not exceed \$100,000, for the bond year. For other bonds issued after November 11, 1988, no limitation is applied to the gross earnings on such funds for purposes of this exception. Therefore, subject to the foregoing discussion, the issuer is not required to take such amounts into account for purposes of the computation.

**FOR BONDS ISSUED AFTER THE EFFECTIVE DATE OF THE TAX REFORM ACT OF 1986 WHICH WERE OUTSTANDING AS OF NOVEMBER 11, 1988, OTHER THAN PRIVATE ACTIVITY BONDS, SHORT TERM BONDS OR VARIABLE RATE BONDS, A ONE-TIME ELECTION MAY BE MADE TO EXCLUDE EARNINGS ON "BONA FIDE DEBT SERVICE FUNDS" WITHOUT REGARD TO THE \$100,000, LIMITATION. THE ELECTION MUST BE MADE IN WRITING (AND MAINTAINED AS PART OF THE ISSUER'S BOOKS AND RECORDS) NO LATER THAN THE LATER OF MARCH 21, 1990, OR THE FIRST DATE A REBATE PAYMENT IS REQUIRED.**

### Conclusion

McCall, Parkhurst & Horton L.L.P. hopes that this memorandum will prove to be useful as a general guide to the arbitrage rebate requirements.

Again, this memorandum is not intended as an exhaustive discussion nor as specific advice with respect to any specific transaction. We advise our clients to seek competent financial and accounting assistance. Of course, we remain available to provide legal advice regarding all federal income tax matters, including arbitrage rebate. If you have any questions, please feel free to contact Harold T. Flanagan at (214) 754-9200.

## Exhibit "B"

LAW OFFICES

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March 18, 2003

Judge John Doerfler  
Williamson County Judge  
Avery Ranch Road District No. 1  
710 Main Street  
Georgetown, Texas 78626

Re: Avery Ranch Road District No. 1  
Unlimited Tax Road Bonds, Series 2003

Dear Judge Doerfler:

As you know, the District will issue the captioned bonds in order to provide for the acquisition and construction of the project. As a result of that issuance, the federal income tax laws impose certain restrictions on the investment and expenditure of amounts to be used for the project or to be deposited to the interest and sinking fund for the captioned bonds. The purpose of this letter is to set forth, in somewhat less technical language, those provisions of the tax law which require the timely use of bond proceeds and that investment of these amounts be at a yield which is not higher than the yield on the bonds.

Generally, the federal tax laws provide that, unless excepted, amounts to be used for the project or to be deposited to the interest and sinking fund must be invested in obligations the combined yield on which does not exceed the yield on the bonds. For this purpose, please refer to line 21(e) of the Form 8038-G included in the transcript of proceedings for the yield. Importantly, for purposes of administrative convenience, the bonds, however, have been structured in such a way as to avoid, for the most part, this restriction on investment yield. As such, for analytical purposes only, we have segregated the interest and sinking fund into three separate accounts. This does not require that you segregate monies deposited to the interest and sinking fund into those accounts, but you should keep in mind the limitations imposed on each of those hypothetical accounts. They also contain certain covenants relating to expenditures of proceeds designed to alert you to unintentional failures to comply with the laws affecting expenditures of proceeds and dispositions of property.

First, the sale and investment proceeds to be used for the project may be invested for up to three years without regard to yield. (Such amounts, however, may be subject to rebate.) Thereafter, they must be invested at or below the bond yield. Importantly, expenditure of these proceeds must be accounted in your books and records. Allocations of these expenditures must occur within 18 months of the later of the date paid or the date the project is completed. The foregoing notwithstanding, the allocation should not

occur later than 60 days after the earlier of (1) of five years after the delivery date of the bonds or (2) the date the bonds are retired unless you obtain an opinion of bond counsel.

Second, the interest and sinking fund is made up of taxes which are levied annually for the payment of current debt service on all the District's outstanding bonds. Any taxes deposited to the interest and sinking fund which are to be used for the payment of current debt service on the captioned bonds, or any other outstanding bonds, are not subject to yield restriction. By definition, current debt service refers only to debt service to be paid within one year of the date of receipt of the taxes. For the most part, this would be debt service in the current fiscal year. These amounts deposited to the account for current debt service may be invested without regard to any constraint imposed by the federal income tax laws.

Third, the interest and sinking fund contains an amount of taxes, which although not expended for debt service within the current year, are necessary to ensure that amounts will be sufficient to pay debt service in the event that taxes are insufficient during that period. This amount, commonly referred to as "coverage," represents a reserve account against periodic fluctuations in the receipt of tax revenues. The Internal Revenue Code permits amounts which are held in reserve for the payment of debt service, in such instances, to be invested without regard to yield restriction if such amounts do not exceed the lesser of (1) 10 percent of the outstanding principal amount of all outstanding bonds, (2) maximum annual debt service on all outstanding bonds, or (3) 125 percent of average annual debt service on all outstanding bonds.

Fourth, a portion of the interest and sinking fund is permitted to be invested without regard to yield restriction as a "minor portion." The "minor portion" exception is available for de minimis amounts of taxes deposited to the interest and sinking fund. The maximum amount that may be invested as part of this account may not exceed the lesser of five percent of the principal amount of the bonds or \$100,000.


Accordingly, you should review the current balance in the interest and sinking fund in order to determine if such balance exceeds the aggregate amount of these three accounts. Additionally, in the future it is important that you be aware of these accounts as additional amounts are deposited to the interest and sinking fund. The amounts which are subject to yield restriction would only be the amounts which are in excess of the sum of (1) the current debt service account, (2) the reserve account, and (3) the "minor portion" account. Moreover, to the extent that additional bonds are issued by the District, whether for new money projects or for refunding, these amounts will change in their proportion.

Finally, you should notice that the Order contains a covenant that limits the ability of the District to sell or otherwise dispose of bond-financed property for compensation. Beginning for obligations issued after May 15, 1997 (including certain refunding bonds), or in cases in which an issuer elects to apply new private activity bond regulations, such sale or disposition causes the creation of a class of proceeds referred to as "disposition proceeds." Disposition proceeds, like sale proceeds and investment earnings, are tax-restricted funds. Failure to appropriately account, invest or expend such disposition proceeds would adversely affect the tax-exempt status of the bonds. In the event that you anticipate selling property, even in the ordinary course, please contact us.

Obviously, this letter only presents a fundamental discussion of the yield restriction rules as applied to amounts deposited to the interest and sinking fund. Moreover, this letter does not address the rebate consequences with respect to the interest and sinking fund and you should review the memorandum attached to the Federal Tax Certificate as Exhibit "A" for this purpose. If you have certain concerns with respect to the matters discussed in this letter or wish to ask additional questions with regards to certain limitations imposed, please feel free to contact our firm. Thank you for your consideration and we look forward to our continued relationship.

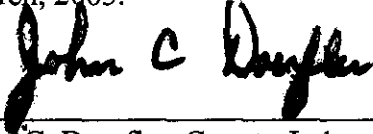
Very truly yours,

McCALL, PARKHURST & HORTON L.L.P.

|   |   |   |                               |           |
|---|---|---|-------------------------------|-----------|
| Form <b>8038-G</b><br>(Rev. November 2000)<br>Department of the Treasury<br>Internal Revenue Service  | <b>Information Return for Tax-Exempt Governmental Obligations</b><br>▶ Under Internal Revenue Code section 149(e)<br>▶ See separate instructions.<br><b>Caution: If the issue price is under \$100,000, use Form 8038-GC.</b> | OMB No. 1545-0720   |                               |           |
| <b>Part I Reporting Authority</b> <span style="float: right;">If Amended Return, check here <input type="checkbox"/></span>   |   |   |                               |           |
| 1 Issuer's name<br><b>AVERY RANCH ROAD DISTRICT NO. 1</b>   |   | 2 Issuer's employer identification number<br><b>74 : 6000978</b>                  |                               |           |
| 3 Number and street (or P.O. box if mail is not delivered to street address)<br><b>710 MAIN STREET, 2ND STREET</b>  |   | 4 Report number<br><b>3 01</b>  |                               |           |
| 5 City, town, or post office, state, and ZIP code<br><b>GEORGETOWN, TEXAS 78626</b>   |   | 6 Date of issue   |                               |           |
| 7 Name of issue<br><b>UNLIMITED TAX ROAD BONDS, SERIES 2003</b>   |   | 8 CUSIP number  |                               |           |
| 9 Name and title of officer or legal representative whom the IRS may call for more information<br><b>JUDGE JOHN DOERFLER, WILLIAMSON COUNTY JUDGE</b>   |   | 10 Telephone number of officer or legal representative<br><b>( 512 ) 930-4300</b> |                               |           |
| <b>Part II Type of Issue (check applicable box(es) and enter the issue price) See instructions and attach schedule</b>  |   |   |                               |           |
| 11 <input type="checkbox"/> Education   |   | 11  |                               |           |
| 12 <input type="checkbox"/> Health and hospital   |   | 12  |                               |           |
| 13 <input type="checkbox"/> Transportation  |   | 13  |                               |           |
| 14 <input type="checkbox"/> Public safety   |   | 14  |                               |           |
| 15 <input type="checkbox"/> Environment (including sewage bonds)  |   | 15  |                               |           |
| 16 <input type="checkbox"/> Housing   |   | 16  |                               |           |
| 17 <input checked="" type="checkbox"/> Utilities  |   | 17  |                               |           |
| 18 <input type="checkbox"/> Other. Describe ▶   |   | 18  |                               |           |
| 19 If obligations are TANs or RANs, check box <input type="checkbox"/> If obligations are BANs, check box <input type="checkbox"/>  |   |   |                               |           |
| 20 If obligations are in the form of a lease or installment sale, check box <input type="checkbox"/>  |   |   |                               |           |
| <b>Part III Description of Obligations. Complete for the entire issue for which this form is being filed.</b>   |   |   |                               |           |
| (a) Final maturity date   | (b) Issue price   | (c) Stated redemption price at maturity   | (d) Weighted average maturity | (e) Yield |
| 21  | \$  | \$  | years                         | %         |
| <b>Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)</b>  |   |   |                               |           |
| 22 Proceeds used for accrued interest   |   | 22  |                               |           |
| 23 Issue price of entire issue (enter amount from line 21, column (b))  |   | 23  |                               |           |
| 24 Proceeds used for bond issuance costs (including underwriters' discount)   |   | 24  |                               |           |
| 25 Proceeds used for credit enhancement   |   | 25  |                               |           |
| 26 Proceeds allocated to reasonably required reserve or replacement fund  |   | 26  |                               |           |
| 27 Proceeds used to currently refund prior issues   |   | 27  |                               |           |
| 28 Proceeds used to advance refund prior issues   |   | 28  |                               |           |
| 29 Total (add lines 24 through 28)  |   | 29  |                               |           |
| 30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)   |   | 30  |                               |           |
| <b>Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)</b>  |   |   |                               |           |
| 31 Enter the remaining weighted average maturity of the bonds to be currently refunded  |   | years   |                               |           |
| 32 Enter the remaining weighted average maturity of the bonds to be advance refunded  |   | years   |                               |           |
| 33 Enter the last date on which the refunded bonds will be called   |   |   |                               |           |
| 34 Enter the date(s) the refunded bonds were issued   |   |   |                               |           |
| <b>Part VI Miscellaneous</b>  |   |   |                               |           |
| 35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)  |   | 35  |                               |           |
| 36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)  |   | 36a   |                               |           |
| b Enter the final maturity date of the guaranteed investment contract ▶   |   | 37a   |                               |           |
| 37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units  |   |   |                               |           |
| b If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the name of the issuer ▶ and the date of the issue ▶                     |   |   |                               |           |
| 38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(iii) (small issuer exception), check box <input type="checkbox"/>   |   |   |                               |           |
| 39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box <input type="checkbox"/>   |   |   |                               |           |
| 40 If the issuer has identified a hedge, check box <input type="checkbox"/>   |   |   |                               |           |
| Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. |   |   |                               |           |
| <b>Sign Here</b>  |   |   |                               |           |
| Signature of issuer's authorized representative<br>  |   | Date  | Type or print name and title  |           |

**THE ROAD DISTRICT MEETING ADJOURNED AT 11:50 A.M. ON TUESDAY, MARCH 18, 2003.**

THE FOREGOING MINUTES recorded on Minutes Pages 1 through 377 inclusive, had at a Regular Session of Commissioners' Court of Williamson County, Texas, having been read are hereby approved this 25th day of March, 2003.



John C. Doerfler, County Judge

ATTEST: Nancy E. Rister, Clerk County Court & Ex-officio Clerk,  
Commissioners' Court, Williamson County, Texas

By:



Deputy Clerk