HIDALGO COUNTY PURCHASING POLICIES AND PROCEDURES

I. Introduction.

1.01. The Purchasing Department of Hidalgo County, Texas (the "Purchasing Department" or "Purchasing") was created by the Hidalgo County Commissioners Court (the "Commissioners Court") on May 3, 1988, pursuant to the provisions of Texas Local Government Code § 262.0115. As a result, the Commissioners Court has appointed a Purchasing Agent to coordinate the purchases made by Hidalgo County, Texas (the "County"). The Purchasing Agent serves at the pleasure of the Commissioners Court, and is authorized by statute to make all purchases not subject to competitive bidding requirements, supervise the competitive bidding process, and receive and deliver materials purchased in accordance with contracts awarded by bids. Pursuant to the requirements established by the Commissioners Court and the Local Government Code, these Hidalgo County Purchasing Policies and Procedures are adopted by the Commissioners Court on this the 8th day of August, 1995, to be effective for all purchases by the County, or any department or agency thereof, requested on or after August 8,1995.

II. Objectives of the Centralized Purchasing Program.

2.01. A centralized purchasing program has been established in the County to achieve the objectives listed as follows:

- 2.01.01. To obtain goods and services at the best price possible.
- 2.01.02. To obtain goods and services best suited to the particular needs of the County.
- 2.01.03. To ensure the timely delivery and adequate availability of goods and services.
- 2.01.04. To ensure that purchases conform to state law, County policies, the County budget and payment ability.
- 2.01.05. To ensure that all responsible prospective providers of goods and services to the County are afforded an equal opportunity to compete for County contracts.
- 2.01.06. To ensure that public spending is not used to enrich elected officials, departments heads or government employees, or to confer favors on favored constituents, or to give the appearance of impropriety.

III. Purchasing Code of Ethics.

3.01. **Statement of Purchasing Policy.** Public employment is a public trust. It is the policy of the County to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the County. Such policy is implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public service.

Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the Purchasing Department.

To achieve the purpose of this Article, and these Policies, it is essential that those doing business with the County also observe the ethical standards prescribed here.

3.02. **General Ethical Standards.**

3.02.01. It shall be a breach of ethics to attempt to realize personal gain through public employment with the County by any conduct inconsistent with the proper discharge of the elected official's, department head's or employee's duties.

3.02.02. It shall be a breach of ethics to attempt to influence any elected official, department head or public employee of the County to breach the standards of ethical conduct set forth in this code.

3.02.03. It shall be a breach of ethics for any elected official, department head or employee of the County to participate directly or indirectly in a procurement when the elected official, department head or employee knows that:

a. the elected official, department head or employee or any member of the elected official's, department head's or employee's immediate family has a financial interest pertaining to the procurement;

b. a business or organization in which the elected official, department head or employee, or any member of the elected official's, department head's or employees immediate family, has a financial interest pertaining to the procurement;

c. any other person, business or organization with whom the elected official, department head or employee or any member of the elected official's, department head's or employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

3.02.04. It shall be a breach of ethics to offer, give or agree to give any elected official, department head or employee, or former elected official, department head or employee, of the County, or for any elected official, department head or employee or former elected official, department head or employee of the County, to solicit, demand, accept or agree to accept from another person, entity or organization, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor pending before any department or agency of the County.

3.02.05. It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for the County, or any person associated therewith, as an inducement for the award of a subcontract or order.

3.02.06. The prohibition against gratuities and kickbacks prescribed in subparagraphs 4 and 5 shall be conspicuously set forth in every contract and solicitation therefor.

3.02.07. It shall be a breach of ethics for any current or former elected official, department head or employee of the County knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person, entity or organization.

3.03. **Construction with other provisions.** The provisions of this Purchasing Code of Ethics shall be in addition to the ethical provisions contained in any County personnel manual or Civil Service rules and policies. In the event of a conflict between the provisions of this Purchasing Code of Ethics and the provisions of such manuals, rules or policies, the more restrictive shall control. A violation of this Purchasing Code of Ethics by an employee of the County covered under the County's civil service system shall be punishable under the provisions of the governing rules and policies of such system.

IV. Duties of the Purchasing Agent.

4.01. **Generally.** The duties of the Purchasing Agent shall include purchasing or approving the purchase of all supplies, materials and equipment required or used and contracting for all repairs to property used by the County or any of its agencies, officers or employees, except purchases and contracts required by law to be made on competitive bid pursuant to Chapter 262, Texas Local Government Code. Except where expressly permitted herein, no person, other than the Purchasing Agent, may purchase supplies, materials or equipment or make contracts for repairs.

4.02. **Supervise All Purchases.** The Purchasing Agent shall supervise all purchases made by competitive bid and shall ensure that all purchased supplies, materials and equipment are delivered to the proper County officer or department in accordance with the purchase order or contract.

4.03. **Interlocal Cooperation.** The Purchasing Agent may cooperate with the purchasing agent or department of the state of Texas and/or any local government unit to purchase any item in volume as may be necessary. Warrants or checks drawn by the County Auditor shall be honored by the County Treasurer to reimburse such purchasing agent or department making the purchase for the County.

4.04. **Inter-Department Transfers.** To prevent unnecessary purchases, the Purchasing Agent shall transfer County supplies, materials and equipment from an agency of the County, a County department, officer or employee of the County that are not needed or used to another County agency, County department, officer or employee of the County requiring the supplies or materials or use of the equipment. The Purchasing Agent shall furnish to the County Auditor a list of transferred supplies, materials and equipment.

4.05. **Disposal of Salvage Property.** The Purchasing Agent, acting for the Commissioners Court and by delegation of the Commissioners Court, shall dispose of surplus or salvage property following the procedures required by state statute and as set out in the instructions accompanying Form SLVG-PD-001. Form SLVG-PD-001 **must** be completed and necessary approvals received for all surplus/salvage property dispositions.

4.06. **Prepare Specifications.** The Purchasing Agent, along with the person requesting the purchase of any item or items requiring competitive bids, pursuant to Chapter 262, Texas Local Government Code, shall prepare bid specifications which shall be approved by the Commissioners Court and advertised, received and awarded, in accordance with Chapter 262, Texas Local Government Code.

V. <u>Delegation of Duties.</u>

5.01. **Purchases Not Exceeding $1,000.00.** The Purchasing Agent may delegate to any elected official or department head the authority to purchase materials and supplies valued up to One Thousand Dollars ($1,000.00).

5.02. **Repairs–Vehicles & Equipment.** The Purchasing Agent may delegate to any elected official or department head the authority to purchase repair parts and services for motor vehicles, office or shop equipment, and similar items valued up to Two Thousand Dollars ($2,000.00).

5.03. **Repairs–Heavy Machinery.** Purchases of repair parts and services for road-building and other heavy machinery valued up to Five Thousand Dollars ($5,000.00) is delegated to each County Commissioner and to the Manager of Hidalgo County Drainage District #1.

5.04. **Limitation of Delegation.** Notwithstanding any provision herein to the contrary, no delegation of authority to purchase any item bought from the permanent improvement fund or any equipment which shall be recorded in the physical inventory record is hereby made.

5.05. **Authorized Employees.** Elected officials and department heads may also delegate the authority to purchase materials and supplies valued up to One Thousand Dollars ($1,000.00) by furnishing the Purchasing Agent a memorandum listing the employee(s) so authorized.

5.06. **Waiver by County Judge.** Pursuant to the provisions of Texas Local Government Code § 113.901(c), the County Judge may, by written order, waive the requirement of approval of all requisitions and purchase orders. In such event, all claims must be approved by Commissioners Court in open court prior to payment.

VI. <u>Requisition Process.</u>

6.01. **Overview.** Requisitioning is the process of formally requesting that a purchase be made. Counties are required by statute (Tex. Loc. Govt. Code § 113.901) to use a requisitioning system. The purpose of the Requisition is to inform the Purchasing Department of what to buy, when it is required and where to deliver it.

6.02. **Procedures and Forms.**

6.02.01. All purchases of goods and services, even purchases made under the authority delegated in Article V, shall be commenced by the requesting department completing a Hidalgo County Requisition Form (Form HCPD-01) and submitting it to the Purchasing Department.

6.02.02. Form HCPD-01 should be completed well in advance of the date that the goods or services are required by the requesting department in order to allow the Purchasing Department and the vendor to assure the goods are delivered or services performed by the date required by the requesting department.

6.02.03. Form HCPD-01 *must* be completed in its entirety. Incomplete Requisition Forms will be returned to the requesting department and will delay the order and delivery of the requested goods or services.

6.03. **Requisition Priority Designations.** Each Form HCPD-01 must contain a priority designation and state a definite date by which the items are needed (i.e., not "Rush" or "ASAP"). The priority categories set forth below will be strictly adhered to, and the Purchasing Agent is authorized to investigate priority designations to determine abuse or potential abuse of expedited purchasing procedures. Requisitions are divided according to the type of action required on the purchase:

6.03.01. **Routine** - (for all normal purchasing transactions requiring a Requisition Form). The Purchasing Department will process these requisitions using routine procedures set out in Procedures Number 6.04.01. Routine purchases are designated **Priority Four**.

6.03.02. **Expedited** - (for items that are needed sooner than the normal purchasing process would be able to get them). The only legitimate purposes for Expedited purchases are to prevent work stoppages or loss of the County's money. Expedited purchases are *not* emergency purchases. They are for items needed quickly to prevent costly delays, and therefore warrant the additional cost and effort caused by the interruption of the normal purchasing routine. However, they are *not* to be used unless absolutely required. The two types of Expedited purchases are:

a. **Walk Through** - (for items needed within ten working days to avoid work interruption, loss of service or significant added cost of operations). The Purchasing Department processes these requisitions using routine procedures set out in Procedure Number 6.04.02. The requisition and other documents are hand-carried through the purchasing process by the requesting department. These purchases are designated **Priority Three**.

b. **Work Stoppage** - (for items needed immediately to prevent work stoppage due to *unanticipated* requirements). The Purchasing Department processes these requisitions using routine procedures set out in Procedure Number 6.04.03, but the process may be started by telephone request to the Purchasing Department, followed by delivery of a completed Form HCPD-01. These purchases are designated **Priority Two**.

6.03.03. **Emergency** - (for all requirements because of an emergency condition as defined in Procedure Number 9.01.01). The Purchasing Department processes these requisitions using routine procedures set out in Procedure Number 6.04.04. These purchases are designated **Priority One**.

6.04. **Processing of Requisitions.**

6.04.01. **Priority Four Requisition.** When a requisition is received in the Purchasing Department, it must be verified for accuracy, authorization and budget authority. Purchasing will do the following: (a) check the requisition for completeness; (b) check computations for accuracy; (c) verify contract provisions (if purchase under existing contract); (d) verify authorizations against authorization lists; (e) verify budget authority (budget line-item authority and unencumbered budget balance); (f) prepare purchase order (see Procedure Number 6.04.06).

6.04.02. **Priority Three Requisition.** (a) The Form HCPD–01 is completed as with a Priority Four requisition, coding it Priority Three. (b) The preparer should then notify the Purchasing Department by telephone, specifying that a Priority Three requisition is being walked through. Purchasing should be provided with all details of the purchase. (c) Walk the requisition to all required stations. (d) Hand carry the requisition to Purchasing. Purchasing makes the purchase in accordance with either Article VII or Article VIII.

6.04.03. **Priority Two Requisition.** (a) The Form HCPD-01 is completed as with a Priority Four requisition, coding it Priority Two. (b) The preparer should then notify the Purchasing Department by telephone, specifying that a Priority Three requisition is being walked through. Purchasing should be provided with all details of the purchase. (c) Continue as with a Priority Three requisition. (d) Purchasing begins the purchase process immediately upon receiving the telephone call in Step (b), and makes the purchase in accordance with either Article VII or Article VIII.

6.04.04. **Priority One Requisition.** (a) The Form HCPD-01 is completed as with a Priority Four requisition, coding it Priority One. (b) The preparer should then notify Purchasing by telephone, specifying that a Priority One requisition is being walked through. Purchasing should be provided with all details of the purchase. (c) Walk the requisition to all required stations. (d) Hand carry the requisition to Purchasing. Purchasing begins the purchase immediately upon receiving the telephone call in accordance with Procedure 9.01.02.

6.04.05. *NOTE: For all purchases required under Priority Two and Priority Three which also require competitive bidding, an emergency must be declared in order to bypass the competitive bidding process. All Priority One purchases* ***must*** *meet the qualifications for emergency purchases in the pertinent statutes, as outlined in Procedure 9.01.01.*

6.04.06. **Purchase Order.** When the completed requisition is received in the purchasing office, a purchase order ("PO", Form HCPD-02) will be prepared. The Requisition and the PO are approved by the County Judge. The prepared PO is delivered to the vendor which is awarded the contract, in accordance with Article VII or VIII.

VII. Competitive Bidding.

7.01. **Bidding Required.** Before any person, department, official or agent of the County may purchase one or more items under a contract that requires an expenditure exceeding Twenty-Five Thousand Dollars ($25,000.00), the competitive bidding requirements prescribed by Chapter 262, Texas Local Government Code, must be utilized with the assistance of the Purchasing Agent. In applying the competitive bidding or competitive proposals, all separate, sequential or component purchases (purchases made separately, purchases made over a period of time or purchases of component parts of an item or items that in the normal purchasing practice would be purchased in one purchase) are treated as if they are part of a single purchase and of a single contract. This requirement includes leases, installment payments and lease purchases in the event the total amount of payments will exceed Twenty-Five Thousand Dollars ($25,000.00) over the life of the contract. Pursuant to Section 262.026(a), the Commissioners Court has delegated the authority to make extensions on the date for the opening of bids to the Purchasing Agent.

7.02. **Exception.** The only exceptions to the competitive bidding process outlined in this Article VII are set forth in Section 262.024, Texas Local Government Code, and Article IX herein. These exceptions shall be determined solely as provided in Article IX.

7.03. **Specifications/Procedures.**

7.03.01. When the purchase of one or more items requiring competitive bidding pursuant to Chapter 262, Texas Local Government Code, and this Article 7, is required, the person desiring to purchase the item shall first submit written specifications to the Purchasing Agent. The Purchasing Agent shall, upon request, assist in developing the specifications.

7.03.02. No specifications shall be written, which by design exclude legitimate competition between vendors. No brand names shall be utilized unless a disclaimer is used which opens the specification to competing brands of equal or superior quality.

7.03.03. The requisition, along with the proposed specifications and a bidding timeline, are submitted to the Commissioners Court which shall approve the form and content of the specifications and determine when the bids will be opened and when results will be submitted to the Commissioners Court.

7.03.04. After approval of the specifications and bidding timeline, the Purchasing Department will proceed with advertising for bids in accordance with the timeline and applicable provisions of the Local Government Code.

7.03.05. The Purchasing Agent may mail an Invitation to Bid form to potential vendors when, in the judgment of the Purchasing Agent, such Invitation to Bid would enhance the bidding process.

7.03.06. Alternative competitive proposals may be obtained on purchases of insurance and high-technology items (as defined by statute), and for items for which it is impractical to prepare detailed specifications. The procedure for this is prescribed in Sections 262.0295 and 262.030 of the Texas Local Government Code and may be utilized by the Purchasing Agent when approved by the Commissioners Court.

7.04. **Selection of Successful Bidder.**

7.04.01. In competitive bidding, informal bids or proposals, the evaluation of the bids and proposals and the selection of vendors shall be done with the view to obtain the best value for the money spent. The vendor selected shall be a responsible bidder who submits the lowest and best bid.

7.04.02. The Purchasing Agent shall present the bids to the Commissioners Court at a meeting of the Commissioners Court.

7.04.03. In the event two (2) responsible bidders submit the lowest and best bid, the Commissioners Court shall decide between the two (2) by drawing lots in a manner prescribed by the County Judge or reject all bids and publish a new notice.

7.04.04. No contract shall be awarded to a bidder who is not the lowest dollar bidder meeting the specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appeal before the Commissioners Court and present evidence concerning the lower bidder's responsibility.

7.04.05. In the event the Alternative Competitive Proposal Procedure or Alternative Multistep Competitive Proposal Procedure are utilized, as provided for in Procedure 7.02.06, the lowest responsible bidder selected in accordance therewith may be determined through negotiation with parties submitting proposals.

7.04.06. In the event that information on costs of the repair, maintenance or repurchase of earth-moving, material-handling, road maintenance or construction equipment is requested in a bid notice or specifications, such information can be considered by the Commissioners Court in selecting the most responsible bidder.

7.04.07. In considering the purchase of road construction materials, the location for pickup and delivery, and the cost to the County for hauling or delivering the materials may be considered in selecting the most responsible bidder.

7.04.08. Multiple contracts may be awarded for the purchase of road construction materials if more than one bidder submits the lowest and best bid or a particular type or location of material.

7.05. **Changes in Plans and Specifications.** When there are changes in plan specifications or proposals after a contract is made or if it becomes necessary to increase or decrease the quantity of items purchased, the Commissioners Court may make those changes; provided, however, the total contract price may not be increased unless the cost of the change can be paid from available funds. If a change order involves an increase or decrease in cost of Fifty Thousand Dollars ($50,000.00) or less, the Commissioners Court may grant general authority to an employee to approve the change orders; provided, however, that the original contract price may not be increased by more than twenty-five percent (25%) unless the change order is necessary to comply with a federal or state statute, rule, regulation, or judicial decision enacted, adopted, or rendered after the contract was made. The original contract price may not be decreased by eighteen percent (18%) or more without the consent of the contractor.

VIII. Non-Bid Purchases.

8.01. **Purchases Under Delegated Authority.** For purchases, the authority for which is delegated under Article V hereof:

8.01.01. An authorized person submits a Form HCPD-01 to Purchasing, together with the invoice for the goods or services acquired. *Note: the completed requisition must be completed and dated prior to the purchase being made, but need only be submitted to Purchasing once the purchase is completed.*

8.01.02. Purchasing checks the Requisition in accordance with Procedure 6.04.01, and forwards it to the County Judge, along with a PO for approval. After the approval of the County Judge, the Requisition and PO are forwarded to the County Auditor for payment. It is the Department's responsibility to confirm, in advance, that there is budget authorization and a sufficient unencumbered budget balance to cover the purchase, and to request a budget amendment or line item transfer if necessary.

8.01.03. When an emergency occurs outside of regular office hours, a County official or department head may release a verbal order to the vendor and then complete and submit a Requisition to Purchasing with a written explanation of the emergency.

8.01.04. When a purchase is made under this procedure without proper budget authority, the cost of the purchase shall be the personal responsibility of the highest-level person ordering/approving such purchase within the requesting department.

8.01.05. The Purchasing Department shall periodically review purchases made under this procedure for repetitive, component or sequential purchases which are being made in violation of the competitive bidding laws and these Policies.

8.02. **Non-Delegated Purchases Not Exceeding $5,000.00.**

8.02.01. An authorized person shall complete a Form HCPD-01 which shall include the listing of at least three (3) potential suppliers, together with verbal or telephone quotations from such suppliers. Vendors who are located throughout the County and state should be contacted. A record of all quotations (written or taken by telephone) shall be maintained. The list of vendors contacted should be rotated so that over time, all vendors are contacted approximately equally.

8.02.02. The Requisition is processed in the normal manner and submitted to Purchasing.

8.02.03. Purchasing verifies the Requisition, approves same, and, after approval of the County Judge, issues a PO to the most responsible vendor, as determined by the Purchasing Agent. If the approved quotation is not the lowest quotation, the reason must be stated in writing on the Requisition.

8.02.04. If the Requisition is disapproved for any reason, the Requisition is returned to the user with a written reason for the disapproval.

8.02.05. The Purchasing Agent shall establish policies requiring the random verification of telephone or oral quotations, and may, whenever the Purchasing Agent deems appropriate, solicit additional oral, telephone or written quotations before authorizing a purchase.

8.03. **Purchases Between $5,000.01 and $25,000.00.**

8.03.01. An authorized person shall complete a Form HCPD-01 which shall include the listing of at least three (3) potential suppliers, together with written, firm quotations from such suppliers. Vendors who are located throughout the County and state should be contacted. A record of all quotations shall be maintained. The list of vendors contacted should be rotated so that over time, all vendors are contacted approximately equally.

8.03.02. The Requisition is processed in the normal manner and submitted to Purchasing.

8.03.03. Purchasing verifies the Requisition, approves same, and, after obtaining approval of the County Judge, issues a PO to the most responsible vendor, as determined by the Purchasing Agent. If the approved quotation is not the lowest quotation, the reason must be stated in writing on the Requisition.

8.03.04. If the Requisition is disapproved for any reason, the Requisition is returned to the user with a written reason for the disapproval.

8.03.05. The Purchasing Agent shall establish policies requiring the random verification of written quotations, and may, whenever the Purchasing Agent deems appropriate, solicit additional written quotations before authorizing a purchase.

8.04. **Information Contained in Quotes.** For all oral or written quotations obtained, the following information must be exchanged between the vendor and the County:

8.04.01. Information related to the prospective vendor should include a description of the item (or items), the quantity required (in standardized units, if applicable), the required delivery date, the last date quotations will be accepted, and the terms and conditions of purchase. The vendor shall be informed that the price quotations are *required* to be honored during the stated period.

8.04.02. Information obtained from the prospective vendor *must* include the name, address and telephone/telecopier numbers of the vendor, the total or unit price, as specified, the date through which the quoted price will be effective, the name of the representative providing the quote, and the specific (i.e., name brand and model number) product offered. For written quotations, this information must be included on the face of the written proposal.

8.05. **Selection of Vendor.** In selecting the most responsible vendor, the Purchasing Agent will consider such matters as price (all other factors being equal, the lowest price should always be taken), relative quality of good or service (if more than one vendor can deliver at an acceptable price, the relative quality should be considered), reliability of vendor (based on actual, documented experience of purchasing agent, not on intuition or rumor), ability to service items purchased, other relevant factors as determined by the Purchasing Agent.

IX. <u>Emergency and Sole Source Purchases, Other Exempt Purchases.</u>

9.01. **Emergency Defined, Procedures.**

9.01.01. Emergency (Priority One) purchases are governed by Tex. Loc. Govt. Code § 262.024(a)(1), (2) & (3) and are not utilized at all, except:

a. In the case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the County;

b. To purchase an item necessary to preserve or protect the public health or safety of the residents of the County; or

c. To purchase an item necessary because of unforeseen damage to public property.

9.01.02. The following procedures *must* be followed for Priority One purchases:

a. <u>Qualification.</u> The purchase must qualify as an emergency purchase under the definition in Procedure 9.01.01, or in Tex. Loc. Govt. Code § 262.024.

b. <u>Designation.</u> The designation of *Priority One* indicates a situation of such urgency that the normal purchasing procedure must be modified in the interest of speed, and therefore no competitive bids or quotations are required.

c. <u>Normal Working Hours.</u> All emergency purchases occurring during normal working hours are processed through the Purchasing Department as follows:

i. The using department will notify the purchasing office by telephone immediately, with as much information as possible about the emergency purchase required, so that the purchasing action can be initiated immediately.

ii. Simultaneously, a purchasing requisition is prepared and hand carried through the normal channels.

iii. The Purchasing Department or using department head contacts as many vendors as are necessary to arrange the emergency purchase. If time permits, the PO is completed in accordance with Procedure 6.04.06. Otherwise, the purchase is completed by telephone, and the PO is completed after the fact and delivered to the vendor.

iv. The buyer requests expedited delivery, and if not available, the using department or Purchasing arranges to pick up the emergency purchase from the vendor.

b. Evenings, Weekends and Holidays. For other than normal working hours, when purchasing support is unavailable, emergency purchases shall be processed as follows:

i. The responsible official of the using department takes whatever steps are necessary to procure needed supplies, services or equipment to relieve the emergency situation. If possible, only those goods or services needed during the evening, weekend or holiday are procured.

ii. On the first working day following the emergency, the responsible official prepares a requisition and hand-carries it to the purchasing office, as described in Procedure 9.01.02 (d)(ii), above, attaching the invoices, bills for materials, receipts or other documents related to the purchase.

c. Certification. The official in charge of the using department must certify in writing on the next business day, or as soon thereafter as possible, that the purchase involved was necessary because of one of the reasons listed in Procedure 9.01.01.

d. Commissioners Court Approval. If a competitive bid would normally have been required under Article VII hereof to accomplish the purchase, the Commissioners Court must, by order, accept the certification of the official and enter it into the minutes of the Commissioners Court at its next meeting, together with authorization of the exception from the requirements of Article VII.

9.02. **Sole Source Defined, Procedures.**

9.02.01. A purchase qualifies as a “Sole Source” purchase when the item or service requested can only be obtained from one source, including:

a. items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;

b. films, manuscripts or books;

c. electric power, gas or other utility services;

d. captive replacement parts or components for equipment.

9.02.02. Sole Source purchases are handled the same as other purchases, with these exceptions:

a. If the requesting department determines that the item is a Sole Source item, a statement must be attached to the Form HCPD-01 stating that a sufficient number of vendors have been contacted to determine that only one practical source of supply exists, or stating other reasons why only one source of supply exists. The Requisition is otherwise completed in the normal manner.

b. If the Purchasing Department concurs that the item is a Sole Source purchase, a similar statement must also be attached to the Requisition. If the Purchasing Department does not concur, the Requisition is to be returned to the requesting department with an explanation of the reasons therefor.

c. For Sole Source purchases in amounts which otherwise require competitive bidding under Article VII hereof, the Purchasing Agent shall tender to the Commissioners Court a signed statement stating the reasons that the item is a Sole Source purchase. If the Commissioners Court concurs that the item is a Sole Source purchase, it shall, by order, enter the statement into its minutes, and grant an exception from the requirements of Article VII.

d. Purchases of items described in Procedure 9.02.01(d) are hereby deemed Sole Source, and are exempted from the requirements of these Procedures.

e. After the Requisition is approved, a PO is prepared in accordance with Procedure 6.04.06.

9.03. **Other Exempt Purchases.** In addition to emergency and Sole Source purchases, the following purchases may be exempted from the procedures outlined in Article VII, and the procedures outlined in Article VIII, provided that, for purchases falling under Article VII, an order of the Commissioners Court is entered authorizing the exception, and for purchases falling under Article VIII, the Purchasing Agent approves the exception in writing:

9.03.01. A personal or professional service (note prohibitions on competitive bidding for professional services contained in the Professional Services Procurement Act, Tex. Govt. Code Ch. 2254, Subch. A);

9.03.02. Any work performed and paid for by the day, as the work progresses;

9.03.03. Any land or right-of-way (including a lease of land or a building, in accordance with Attorney General Opinion No. MW-535 (1982));

9.03.04. Any item of food, provided, however, that in lieu of competitive bidding for purchases over $5,000.00, the procedures outlined in Procedure 8.03 are followed at intervals established by the Commissioners Court;

9.03.05. Personal property sold at an auction by state licensed auctioneer, at a going out of business sale conducted in accordance with Texas Business & Commerce Code Chapter 17, Subchapter F, or by a political subdivision of this state, or an entity of the federal government;

9.03.06. Any work performed under a contract for community and economic development made by a county under Tex. Loc. Govt. Code § 381.004; or

9.03.07. The renewal or extension of a lease or of an equipment maintenance agreement if (a) the lease or agreement has gone through the competitive bidding or quote procedures within the preceding twelve (12) months; (b) the renewal or extension does not exceed one year; and (c) the renewal or extension is the first renewal or extension of the lease or agreement.

X. Cooperative Purchasing.

10.01. **State Cooperation.** The requirements of Article VII and Article VIII may be satisfied by compliance with the procedures and requirements of Tex. Loc. Govt. Code §§ 271.081-271.083.

10.02. **Local Cooperation.** The County shall, whenever advantageous to do so, enter into cooperative purchasing arrangements with other local governments pursuant to the Interlocal Cooperation Act, Tex. Govt. Code Ch. 791. In the event such an arrangement is made, purchases thereunder shall be made in accordance with the more strict requirements of relevant statutes and purchasing policies. For example, the County is not required to address the issue of Historically Underutilized Businesses ("HUBs"), but municipalities must do so in purchases over $3,000.00; therefore, in a cooperation agreement with a municipality, purchases over such amount must follow state statutes governing the use of HUBs.

XI. Bonds.

11.01. **May Be Required.** The County may, and if mandated by statute, shall, require a bid bond, a performance bond and/or a payment bond, to the extent permitted by applicable state statutes, for any contract by including such requirement in the bid specifications or request for proposals. Any such bond so required shall be executed with a surety company authorized to do business in the State of Texas.

11.02. **Bid Bond.** If a contract is for the construction of public works or is a contract exceeding One Hundred Thousand Dollars ($100,000.00) the bid specifications or request for proposals may require the bidder to furnish a good and sufficient bid bond in the amount of five percent (5%) of the total price.

11.03. **Payment and Performance Bond--Permissive.** In the event the contract exceeds Fifty Thousand Dollars ($50,000.00) and is not covered by Procedure 11.06, the County may require the successful bidder to furnish a payment bond and a performance bond to the County in the full amount of the contract within thirty (30) days after the date of signing of the contract or issuance of a Purchase Order following the acceptance of a bid or proposal, but in any event prior to the commencement of actual work.

11.04. **Contracts Less Than $50,000.00.** In the event the contract is for Fifty Thousand Dollars ($50,000.00) or less, the County may provide in the bid notice or request for proposal that no money will be paid to the contractor until completion and acceptance of the work or the fulfillment of the purchase obligation to the County.

11.05. **Regulated Bidder--No Performance or Bid Bond.** A bidder or proposal offerer whose rates are subject to regulations by a state agency may not be required to furnish a performance bond or a bid bond.

11.06. **Performance and Payment Bond--Mandatory.** If a contract is for the construction, alteration or repair of public buildings or public works, the bid specifications *shall* require a performance bond for a contract in excess of One Hundred Thousand Dollars ($100,000.00) and *shall* require a payment bond for a contract in excess of Twenty Five Thousand Dollars ($25,000.00), as required by Tex. Govt. Code Ch. 2253.

NOTE: **On August 31, 1999 Commissioners' Court approved a revision to the Hidalgo County Purchasing Policies and Procedures, Section VII, Competitive Bidding, Article 7.01, Bidding Required, *from $15,000 limit to $25,000* pursuant to Senate Bill 1669, effective September 1, 1999. (Texas Local Government Code Chapter 262,§262.023).**