



CITY COUNCIL WORKSHOP/SPECIAL MEETING

December 9, 2024 at 6:15 PM

Hewitt City Hall, 200 Patriot Court, Hewitt, TX 76643

AGENDA

Steve Fortenberry, Mayor: Ward 3, – **Erica Bruce**, Mayor Pro Tem: Ward 3
Michael S. Bancale, Council Member: At-Large – **Johnny Stephens**, Council Member: Ward 1
Bob Potter, Council Member: Ward 2 – **Brad Turner**, Council Member: Ward 1
Vacant Seat, Council Member: Ward 2

The meeting will be streamed live on the city's website at www.cityofhewitt.com/790/Hewitt-TX-TV.

Pursuant to Texas Government Code Sec. 551.127, on a regular, non-emergency basis, members may attend and participate in the meeting remotely by video conference. Should that occur, a quorum of the members will be physically present at the location noted above on this agenda.

WORKSHOP MEETING - 6:15 PM

WORKSHOP DECLARATION OF A QUORUM AND CALL TO ORDER

WORKSHOP AGENDA

1. Introduction and demonstration of the new Council computers.
2. Presentation on bid results for the construction of Fire Station No. 2.

WORKSHOP ADJOURNMENT

REGULAR MEETING - 7:00 PM

DECLARATION OF A QUORUM AND CALL TO ORDER

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

The City Council invites citizens to speak on any topic not already scheduled for a public hearing. The Texas Open Meetings Act prohibits the Council from discussing, responding to, or acting on any

comments or items not posted on the agenda. (Note: Citizens who wish to speak must complete a “Public Comment Form” and present it to the City Secretary before the meeting.)

REGULAR AGENDA ITEMS

3. Approve minutes of the November 18, 2024, City Council Regular Meeting.
4. Discussion and possible action on reappointments to the Parks and Beautification Committee.
5. Discussion and possible action on a reappointment to the Library Board.
6. Discussion and possible action on an appointment to the Library Board.
7. Discussion and possible action to approve the purchase of a John Deere 60P mini excavator and hydraulic hammer.
8. Discussion and possible action to award a bid for the construction of Fire Station No. 2.
9. Discussion and possible action on the 2025 Interlocal Agreement for Household Hazardous Waste Collection with the City of Waco.
10. Discussion and possible action on **Resolution No. 2024-16**, opting into the global opioid settlement with Kroger Co., and authorizing the Mayor to execute an additional settlement agreement.
11. Discussion and possible action on **Resolution No. 2024-17**, authorizing the City Manager to renew an agreement with the Greater Hewitt Chamber of Commerce for the marketing and promotion of Hewitt.

ADJOURNMENT

I certify that the above notice of meeting was posted on the Public Notice Board in front of City Hall on **December 4, 2024**, by 5:00 PM.

CITY OF HEWITT

Lydia Lopez

Lydia Lopez, TRMC/CMC
City Secretary

In compliance with the Americans with Disabilities Act, the City of Hewitt will provide reasonable accommodations for persons attending and/or participating in City Council meetings. The facility is wheelchair accessible, with accessible parking at the front of the building. Requests for sign interpreters or special services must be received forty-eight (48) hours before the meeting by calling the City Secretary at 254.296.5602 or by fax at 254.666.6014.



COUNCIL AGENDA ITEM FORM

MEETING DATE: December 9, 2024

AGENDA ITEM #: 3.

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Approve minutes of the November 18, 2024, City Council Regular Meeting.

STAFF RECOMMENDATION/ITEM SUMMARY:

Attached is a copy of the meeting minutes. Please review and advise if any corrections are needed.

FISCAL IMPACT:

Amount Budgeted - N/A

Line Item in Budget - N/A

SUGGESTED MOTION:

I move to approve the minutes as presented but to allow corrections.

ATTACHMENTS:

1. November 18, 2024, City Council Regular Meeting Minutes



CITY COUNCIL REGULAR MEETING

November 18, 2024 at 7:00 PM

Hewitt City Hall, 200 Patriot Court, Hewitt, TX 76643

MINUTES

Steve Fortenberry, Mayor: Ward 3, – **Erica Bruce**, Mayor Pro Tem: Ward 3
Michael S. Bancale, Council Member: At-Large – **Johnny Stephens**, Council Member: Ward 1
Bob Potter, Council Member: Ward 2 – **Brad Turner**, Council Member: Ward 1
Vacant Seat, Council Member: Ward 2

REGULAR MEETING - 7:00 PM

DECLARATION OF A QUORUM AND CALL TO ORDER

Mayor Steve Fortenberry called the Regular Meeting to order at 7:00 PM, announced all members were present, and declared a quorum.

PLEDGE OF ALLEGIANCE

Mayor Steve Fortenberry led the Pledge of Allegiance.

PUBLIC COMMENTS

The City Council invites citizens to speak on any topic not already scheduled for a public hearing. The Texas Open Meetings Act prohibits the Council from discussing, responding to, or acting on any comments or items not posted on the agenda. (Note: Citizens who wish to speak must complete a “Public Comment Form” and present it to the City Secretary before the meeting.)

Mayor Fortenberry read the statement above and inquired if the City Secretary received any public comment forms. The City Secretary received no public comment forms.

REGULAR AGENDA ITEMS

1. Approve minutes of the November 4, 2024, City Council Regular Meeting.
MOTION: Council Member Michael Bancale moved to approve the minutes as presented but to allow for corrections.
SECOND: Council Member Bob Potter
AYES: Bancale, Potter, Stephens, Turner, Bruce, and Fortenberry
NAYES: None

ABSENT: None

MOTION PASSED.

2. Presentation of the report from the City Engineer Miles Whitney, P.E.
Update on pending utility projects.
Update on pending street projects.
Update on pending drainage projects.
City Manager Bo Thomas presented a review of the listed projects.
3. Discussion concerning Financial Statements ending October 31, 2024.
City Manager Bo Thomas advised that Finance Director Lee Garcia previously sent the October Financial Statements electronically on November 7, 2024, for review. The Council raised no questions or concerns.
4. Discussion and possible action on an appointment to the Board of Adjustment.
City Manager Bo Thomas presented.
MOTION: Council Member Bob Potter moved to approve the appointment of Jeff Lara as an alternate member of the Board of Adjustment, with a term expiring in April 2026.
SECOND: Council Member Michael Bancale
AYES: Bancale, Potter, Stephens, Turner, Bruce, and Fortenberry
NAYES: None
ABSENT: None
MOTION PASSED.
5. Discussion and possible action on **Resolution No. 2024-14**, declaring intent to reimburse expenditures.
City Manager Bo Thomas presented.
MOTION: Council Member Michael Bancale moved to approve **Resolution No. 2024-14**, declaring the city's official intent to reimburse expenditures incurred concerning specific projects or programs or from certain funds with the proceeds of debt.
SECOND: Mayor Pro Tem Erica Bruce
AYES: Bancale, Potter, Stephens, Turner, Bruce, and Fortenberry
NAYES: None
ABSENT: None
MOTION PASSED.
6. Discussion and possible action on **Resolution No. 2024-15**, amending and adopting the City of Hewitt's Investment Policy.
City Manager Bo Thomas presented.
MOTION: Council Member Bob Potter moved to approve **Resolution No. 2024-15**, amending and adopting the City of Hewitt's Investment Policy.
SECOND: Mayor Pro Tem Erica Bruce
AYES: Bancale, Potter, Stephens, Turner, Bruce, and Fortenberry
NAYES: None
ABSENT: None
MOTION PASSED.

ADJOURNMENT

MOTION: Mayor Pro Tem Erica Bruce moved to adjourn the Regular Meeting at 7:17 PM.

SECOND: Council Member Bob Potter

AYES: Bancala, Potter, Stephens, Turner, Bruce, and Fortenberry

NAYES: None

ABSENT: None

MOTION PASSED.

Approved: _____

ATTEST:

Lydia Lopez, City Secretary

Steve Fortenberry, Mayor



COUNCIL AGENDA ITEM FORM

MEETING DATE: December 9, 2024

AGENDA ITEM #: 4.

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Discussion and possible action on reappointments to the Parks and Beautification Committee.

STAFF RECOMMENDATION/ITEM SUMMARY:

The Parks and Beautification Committee has three positions expiring in December 2024. Richard Driver and Vernon Bailey have agreed to serve another term. The staff received a resignation notice from Committee Member Jerry Snider. The Committee has two vacancies. If you have any recommendations, please forward those to me.

FISCAL IMPACT:

Amount Budgeted - N/A

Line Item in Budget - N/A

SUGGESTED MOTION:

I move to approve Richard Driver's and Vernon Bailey's reappointment to the Parks and Beautification Committee, with terms expiring in December 2026.

ATTACHMENTS:

1. Council-Boards- Commissions-Committees list - 2024

CITY OF HEWITT: COUNCIL, BOARDS, COMMISSIONS, AND COMMITTEES

City Hall 666-6171 (Fax 666-6014); Community Services 666-2447; Utility Billing 666-3151 (after hours emergency 666-6272); Police Adm. 666-1661; Drug Tips 666-3333; Animal Control 666-6272; Library 666-2442; Park Reservations 666-6173; Municipal Court 666-1208; Chamber of Commerce 666-1200. City of Hewitt web site: www.cityofhewitt.com; Email: citysecretary@cityofhewitt.com

City Council 2 YR Term – May	Board of Adjustment 2 YR Term – April	Planning & Zoning Commission 2 YR Term – June	Parks & Beautification Committee 2 YR Term – December	Library Board 2 YR Term – December	Civil Service Commission 3 YR Term – December
1 st & 3 rd Monday – 7 PM	3 rd Thursday - 6 PM	1 st Tuesday – 6 PM	3 rd Wed. – 6 PM	Quarterly as needed	Called
Brad Turner Ward 1 (05-2025) 425 W. Chapman Rd. (254) 709-3614	(04-2026) Chair Jim Winton 1136 Heatherwood (254) 857-9436	(06-2024) Paul D. Lasater 1321 Ridgeview (254) 716-0025	(12-2024) Jerry Snider 108 Brenda Dr. (254) 307-0613	(12-2024) Jerry Snider 108 Brenda Dr. (254) 307-0613	(12-2024) Chair Tom Mattern 1204 Ridgeview Cr. (254) 644-9632
Johnny Stephens Ward 1 (05-2026) 305 Travis Ln. (254) 709-3989	(04-2026) Brenda Turner 209 Laredo Dr. (254) 666-0087	(06-2026) Brian Dalrymple 821 Sunny's Halo Dr. (254) 744-9711	(12-2025) Nathan Rusterholtz 1200 Dendron Dr. (972) 978-3202	(12-2025) Betty J. Smith 709 Seminole Trail (254) 666-7931	(12-2025) Vice Chair Sam MacKinnon 113 Emmalyn Dr. (254) 299-7788
Ward 2 (05-2026) VACANCY	(04-2025) Douglas Bergen 264 Earle Rd. (254) 666-0855	(06-2026) Walter H. Peterson 500 Moss Hill Rd. (254) 757-5128	(12-2025) Casey Lowrey 700 Wind Hill Dr. (254) 424-1266	(12-2024) Julie Holcomb 112 Travis Ln. (972) 935-4528	(12-2026) Sammy L. Thomas 100 Coventry Dr. (254) 749-0800
Bob Potter Ward 2 (05-2025) 409 W Wall St. (254) 709-3666	(04-2025) Royce W. Smith 1128 Regina (254) 652-3099	(06-2025) Dustin Crawford 1001 December Dr. (903) 754-1204	(12-2025) Tyler Green 905 Regina Dr. (903) 806-8993	(12-2024) Lydia Dashner 520 Angel Fire Dr. (254) 666-9623	
Mayor Pro Tem Erica Bruce Ward 3 (05-2025) 717 Fieldstone Dr. (254) 709-4050	(04-2025) Drexel King 331 Earle Rd. (919) 518-4801	(06-2025) Bobby Drake 107 Westchester Way (254) 772-7440	(12-2024) Vernon Bailey 301 Tampico Dr. (512) 797-6377	(12-2024) Jennifer Hunt 228 Cross Country Dr. (254) 498-0102	
Mayor Steve Fortenberry Ward 3 (05-2026) 701 Oakmont Dr. (254) 709-0030	Alternate (04-2026) Jeff Lara 436 W. Wall St. (254) 412-8653	(06-2025) Michael Lee Hix 336 Bowie Ln. (254) 723-5071	(12-2024) Richard D. Driver 320 E. Spring Valley Rd. (806) 241-0098	(12-2025) Delores K. Sincerney 119 Russell Ln. (254) 744-5752	
Michael S. Bancale At-Large (05-2025) 909 Stoneridge Dr. (254) 709-3522	Alternate (04-2025) VACANCY	(06-2025) Travis Bailey 412 Oklahoma Ave. (254) 666-1492	(12-2024) VACANCY	(12-2025) Sally Goldman 132 Texas (254) 666-2436	

Updated: 11/21/2024



COUNCIL AGENDA ITEM FORM

MEETING DATE: December 9, 2024

AGENDA ITEM #: 5.

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Discussion and possible action on a reappointment to the Library Board.

STAFF RECOMMENDATION/ITEM SUMMARY:

Jerry Snider, Julie Holcomb, Lydia Dashner, and Jennifer Hunt's terms will expire in December 2024. Julie Holcomb is the only board member who has agreed to serve another two-year term. Ms. Holcomb is in good standing. Staff recommends approval of this reappointment.

FISCAL IMPACT:

Amount Budgeted - N/A

Line Item in Budget - N/A

SUGGESTED MOTION:

I move to approve Julie Holcomb's reappointment to the Library Board for a two-year term ending in December 2026.

ATTACHMENTS:

1. Council-Boards- Commissions-Committees list - 2024

CITY OF HEWITT: COUNCIL, BOARDS, COMMISSIONS, AND COMMITTEES

City Hall 666-6171 (Fax 666-6014); Community Services 666-2447; Utility Billing 666-3151 (after hours emergency 666-6272); Police Adm. 666-1661; Drug Tips 666-3333; Animal Control 666-6272; Library 666-2442; Park Reservations 666-6173; Municipal Court 666-1208; Chamber of Commerce 666-1200. City of Hewitt web site: www.cityofhewitt.com; Email: citysecretary@cityofhewitt.com

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Johnny Stephens Ward 1 (05-2026) 305 Travis Ln. (254) 709-3989	(04-2026) Brenda Turner 209 Laredo Dr. (254) 666-0087	(06-2026) Brian Dalrymple 821 Sunny's Halo Dr. (254) 744-9711	(12-2025) Nathan Rusterholtz 1200 Dendron Dr. (972) 978-3202	(12-2025) Betty J. Smith 709 Seminole Trail (254) 666-7931	(12-2025) Vice Chair Sam MacKinnon 113 Emmalyn Dr. (254) 299-7788
Ward 2 (05-2026) VACANCY	(04-2025) Douglas Bergen 264 Earle Rd. (254) 666-0855	(06-2026) Walter H. Peterson 500 Moss Hill Rd. (254) 757-5128	(12-2025) Casey Lowrey 700 Wind Hill Dr. (254) 424-1266	(12-2024) Julie Holcomb 112 Travis Ln. (972) 935-4528	(12-2026) Sammy L. Thomas 100 Coventry Dr. (254) 749-0800
Bob Potter Ward 2 (05-2025) 409 W Wall St. (254) 709-3666	(04-2025) Royce W. Smith 1128 Regina (254) 652-3099	(06-2025) Dustin Crawford 1001 December Dr. (903) 754-1204	(12-2025) Tyler Green 905 Regina Dr. (903) 806-8993	(12-2024) Lydia Dashner 520 Angel Fire Dr. (254) 666-9623	
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Michael S. Bancale At-Large (05-2025) 909 Stoneridge Dr. (254) 709-3522	Alternate (04-2025) VACANCY	(06-2025) Travis Bailey 412 Oklahoma Ave. (254) 666-1492	(12-2024) VACANCY	(12-2025) Sally Goldman 132 Texas (254) 666-2436	

Updated: 11/21/2024



COUNCIL AGENDA ITEM FORM

MEETING DATE: December 9, 2024

AGENDA ITEM #: 6.

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Discussion and possible action on an appointment to the Library Board.

STAFF RECOMMENDATION/ITEM SUMMARY:

Several members of the Library Board will not be serving another term, leaving vacancies and opportunities for others to serve. Kevin Lightfoot has applied to serve on the Library Board. I've attached his application for you to review. He will be present for the meeting should the Council wish to ask him any questions.

If the Council makes this appointment, there will be two vacancies.

FISCAL IMPACT:

Amount Budgeted - N/A

Line Item in Budget - N/A

SUGGESTED MOTION:

I move to approve the appointment of Kevin Lightfoot to the Library Board with a term expiring in December 2026.

ATTACHMENTS:

1. Boards and Commissions Volunteer Application_Kevin Lightfoot

APPLICATION FOR BOARDS & COMMISSIONS TO THE CITY OF HEWITT

The City of Hewitt appreciates your interest in serving the community. A listing of the boards and commissions is found behind your application. Appointments are made during the year as vacancies occur. This is great opportunity for you to play a vital role in shaping your community.

NAME OF APPLICANT: _____

HOME ADDRESS: _____

DAYTIME TELEPHONE NUMBER: _____ E-MAIL ADDRESS: _____

PLEASE CHECK APPROPRIATE STATEMENTS: ☐ I reside within the city limits of Hewitt, Texas.*

* **IMPORTANT** - - By checking this box and signing this form, you are indicating that your legal residence or domicile - your home and fixed place of habitation to which you intend to return after any temporary absence - is located within the city limits of Hewitt, Texas.

LENGTH OF TIME APPLICANT HAS RESIDED IN THE HEWITT CITY LIMITS: _____

PLEASE INDICATE BELOW HOW YOU WOULD LIKE TO SERVE THE CITY OF HEWITT. (**IMPORTANT**: IF MORE THAN ONE AREA IS INDICATED, **NUMBER YOUR PREFERENCES** WITH "1" BEING YOUR FIRST CHOICE, "2" BEING YOUR SECOND CHOICE, ETC.). PLEASE SEE REVERSE SIDE FOR DESCRIPTIVE INFORMATION.

- _____ Board of Adjustment (must be resident of Hewitt)
- _____ Civil Service Commission (must be resident of Hewitt)
- _____ Library Board (must be resident of Hewitt)
- _____ Parks and Beautification Committee (must be resident of Hewitt)
- _____ Planning and Zoning Commission (must be resident of Hewitt)

OTHER WAYS YOU SERVE YOUR COMMUNITY: _____

SPECIAL INTERESTS/SKILLS/EXPERIENCE/EDUCATION YOU FEEL MAY BE HELPFUL: _____

OCCUPATION/EMPLOYER: _____

REFERENCES (MUST BE HEWITT RESIDENTS): _____ TELEPHONE #: _____

_____ TELEPHONE #: _____

SIGNATURE OF APPLICANT: _____ DATE: _____

Return Application to:
Lydia Lopez, City Secretary
200 Patriot Court
Hewitt, Texas 76643
Phone: 254-296-5602 - Fax: 254-666-6014
Email: citysecretary@cityofhewitt.com

OFFICE USE ONLY

Date interviewed by Council: _____

Date appointed by Council: _____

Date sworn in by Council: _____

Reappointed: _____

Term to expire: _____

Term to expire: _____



COUNCIL AGENDA ITEM FORM

MEETING DATE: December 9, 2024

AGENDA ITEM #: 7.

SUBMITTED BY: Kevin Reinke, Utilities Director

ITEM DESCRIPTION:

Discussion and possible action to approve the purchase of a John Deere 60P mini excavator and hydraulic hammer.

STAFF RECOMMENDATION/ITEM SUMMARY:

The excavator is replacing a 410 John Deere backhoe that will be used to repair/replace water and wastewater mains.

The hydraulic hammer is replacing a broken hydraulic hammer. The new hammer will have options to work with other city-owned equipment.

FISCAL IMPACT:

Amount Budgeted -\$85,000.00

Line Item in Budget -20-50615-91-00

SUGGESTED MOTION:

I move to approve the purchase of a John Deere 60P mini excavator and hydraulic hammer from RDO Equipment Co. for the amount of \$80,737.36.

ATTACHMENTS:

1. 60P excavator quote- 2024
2. Hydraulic Hammer Quote-2024



JOHN DEERE

Retail Purchase Order

RDO Equipment Co.
215 Enterprise
Hewitt TX, 76643
Phone: (254) 666-3900 - Fax: (254) 666-7466

Bill To:
CITY OF HEWITT
200 PATRIOT CT
HEWITT, TX, 76643
MCLENNAN ()
(254) 666-6171

Purchase Order Date: 4/4/2024
Purchase Order #: 1760435
Purchaser Account #: 1200046

Customer Purchaser Type: Non Governmental - Medium Fleet (10-24)
Customer Market Use: Underground - Gas/Water/Electric
Location of First Working Use: HEWITT, TX, 76643
Dealer Account Number: 177418
Utility Sales Professional: Brad Meece
Phone: (254) 666-3900
Fax: (254) 666-7466
Email: BMeece@rdoequipment.com

Comments

Sourcewell Contract # 011723-JDC
Sourcewell Customer # 140783
RDO Promise for Two Years or 2000 Hours.

Equipment Information

Quantity	Serial Number Stock Number	Hours (approx.)	Status / Year / Make / Model Additional Items	Cash Price
1	1FF060PALPJ000621 Z019135	2	New 2024 JOHN DEERE 60P	\$117,229.00
			Freight Out	\$595.00
			Freight in FACTORY FREIGHT IN	\$2,475.00
			Prep / Reconditioning PRE DELIVERY INSPECTION	\$1,470.00
			Customer Discount Sourcewell Discount	(\$31,652.00)
			Warranty -John Deere MFG. Base-24 Months, 2000 Hours,Deductible: 0	\$0.00
			Warranty -John Deere Power Train & Hyd.-60 Months, 3000 Hours,Deductible: 0, Exp Date: 4/1/2029	\$988.00
1	TBD TBD	0	Attachment - New 2024 JOHN DEERE RADIO	\$1,359.79
1	TBD TBD	0	Attachment - New 2024 JOHN DEERE 60THUMB	\$3,512.00
1	TBD TBD	0	Attachment - New 2024 JOHN DEERE 60HD18	\$1,814.00
1	TBD TBD	0	Attachment - New 2024 JOHN DEERE 60HD24	\$1,995.00
Equipment Subtotal:				\$99,785.79

Trade Information

Serial Number	Year / Make / Model	Payoff Information	Trade In Hours	Trade In Value
1T0410JXKA0194037	2011 JOHN DEERE 410J	\$0.00	859	(\$30,000.00)
X777780	2017 ROCKHOUND ATTACHMENTS 123456	\$0.00	0	(\$3,500.00)
Total Trade in Value:				(\$33,500.00)
Trade Balance Owed:				\$0.00
Net Difference:				(\$33,500.00)

Purchase Order Totals

Balance:	\$66,285.79
Total Taxable Amount:	\$0.00
TX STATE TAX:	\$0.00
TX COUNTY TAX:	\$0.00
TX CITY TAX:	\$0.00
Sales Tax Total:	\$0.00
HEI:	\$147.59
Sub Total:	\$66,433.38
Cash with Order:	\$0.00
Balance Due:	\$66,433.38

Legal Information

For the Construction Product(s)

ACKNOWLEDGMENTS - Purchaser offers to sell, transfer, and convey the item(s) listed as "Trade In" to the Dealer at or prior to the time of delivery of the above Product(s), as a "trade-in" to be applied against the cash price. Purchaser represents that each "trade-in" item shall be free and clear of all security interests, liens, and encumbrances at the time of transfer to the Dealer except to the extent shown below. The price to be allowed for each "trade-in" item is listed on this document. The Purchaser promises to pay the balance due shown hereon in cash, or to execute a Time Sale Agreement (Retail Installment Contract), or a Loan Agreement for the purchase price of the Product(s), plus additional charges shown thereon, or to execute a Lease Agreement, on or before delivery of the Product(s) ordered herein. Despite delivery of the Product(s) to the Purchaser, title shall remain with the Seller until one of the foregoing is accomplished. Except as provided herein and as necessary to protect RDO Equipment from the claims of a bankruptcy trustee or a buyer in the ordinary course of business, the Purchaser and the Dealer agree that this Purchase Order is not a security agreement and that delivery of the Product(s) to the Purchaser pursuant to this Purchase Order will not constitute possession of the Product(s) by the Purchaser, as a debtor, for the purposes of the purchase money security provisions in any statutes relating to personal property security or its equivalent. Purchaser understands that its rights in connection with this purchase are limited as set forth in this Purchase Order. I (we) hereby grant a security interest to RDO Equipment in the Product.

DISCLOSURE OF REGULATION APPLICABILITY - When operated in California, any off-road diesel vehicle may be subject to the California Air Resources Board In-Use Off-Road Diesel Vehicle Regulation. It therefore could be subject to retrofit or accelerated turnover requirements to reduce emissions of air pollutants. More information is available on the California Air Resources Board website at <http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>.

IMPORTANT WARRANTY NOTICE - The Standard Warranty for new John Deere construction and forestry products is set forth in a separate document provided by the dealer. Please read the Standard Warranty carefully before signing. No express warranty is made unless specified in the Warranty Statement. PURCHASER'S RIGHTS AND REMEDIES PERTAINING TO THIS PURCHASE ARE LIMITED AS INDICATED IN THE STANDARD WARRANTY AND PURCHASE ORDER. WHERE PERMITTED BY LAW, NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS IS MADE.

Telematics: Orders of telematic devices include only the hardware. Where available, telematics software, including JDLink™ connectivity service, may be enabled from your local John Deere Operations Center or JDLink website. Please see your authorized John Deere dealer for assistance.

The undersigned purchaser(s) (the "Purchaser") hereby orders the product (the "Product") described above from the Dealer. The Dealer shall not be liable for failure to provide the Product or for any delay in delivery if such failure or delay is due to the Dealer's inability to obtain such Product from the manufacturer or supplier or other cause beyond the Dealer's control. The cash price shown above is subject to the Dealer receiving the Product from the manufacturer or supplier prior to any change in price by the manufacturer or supplier and is also subject to any new or increased taxes being imposed upon the sale of the Product after the date of this Purchase Order.

Upon signature of delivery acknowledgment, customer is accepting the equipment, including attachments, in "AS IS" condition, agreeing to notify RDO Equipment Co. within 24 hours of any damages or discrepancies found upon receipt of equipment.

Signature Area

Purchase Order Accepted By:

(Customer's Signature)

(Date Accepted)

(Authorized Signature of Dealer)

(Date Accepted)

Delivery of Equipment Acknowledgement:

(Customer's Signature)

Date Accepted

(Account Manager's Signature)

Date Accepted

Standard Warranty Acknowledgement:

(Delivered On)

(Warranty Begins)

(Customer's
Initials)

(Account
Manager's
Initials)

Extended Warranty Oil Sampling Acknowledgement:

(Customer's Initials)

(Account Manager's Initials)

Equipment Options

Qty	Serial Number	Year / Make / Model	Description
1	1FF060PALPJ000621	2024 JOHN DEERE 60P	0259 ENGLISH CUSTOMER DELIVERY OM 0406 CFG6 CAB RBR TRK LONG ARM
1	TBD	2024 JOHN DEERE RADIO	None
1	TBD	2024 JOHN DEERE 60THUMB	BYT11748 Deere Hydraulic Thumb
1	TBD	2024 JOHN DEERE 60HD18	BYT10989 Deere 18 Inch HD Bucket
1	TBD	2024 JOHN DEERE 60HD24	BYT10991 Deere 24 HD Dirt Bucket

STANDARD WARRANTY FOR NEW JOHN DEERE CONSTRUCTION, COMPACT CONSTRUCTION (CCE) FORESTRY, AND UTILITY PRODUCTS – US & Canada

- **Construction & Forestry Products:** 12 months/unlimited hours (whichever occurs first) Full Machine Standard Warranty
- **Compact Construction Equipment (CCE) Products:** 24 months or 2000 hours (whichever occurs first) Full Machine Standard Warranty
- **C&E Series Pull-Type Scrapers:** 6 months Full Machine Standard Warranty
- **DC & DE Pull-Type Scrapers:** 12 months Full Machine Standard Warranty
- **Scraper Tractors:** 24 Months or 2000 Hours (whichever occurs first) Full Machine Standard Warranty
- **Forestry Attachments:** 12 Months or 2000 Hours (whichever occurs first) Full Machine Standard Warranty

The "Standard Warranty" is part of the warranty protection package available from John Deere Construction & Forestry Company (John Deere Limited in Canada) ("John Deere") to purchasers of new John Deere products ("product"):

STANDARD Warranty is John Deere's standard new product warranty, described in this document, provided at no additional charge to the purchaser.

EXTENDED Warranty is a separate repair contract made available by John Deere for purchasers who wish to complement their Standard Warranty coverage. Complete Extended Warranty details, including coverage options and limitations, are set forth in the Application for Extended Warranty, which is available from authorized John Deere dealers.

STRUCTURAL Warranty applies to certain structural components as listed below and as described in this document.

FACTORY-INSTALLED UNDERCARRIAGE Warranty applies to certain undercarriage components as listed below and as described in this document.

A. STANDARD WARRANTY - GENERAL PROVISIONS

John Deere will repair or replace, at its option, any parts (except those specified below) of a new John Deere product that, as delivered to the original retail purchaser(s), are defective in material or workmanship. Performance of this warranty will be free of charge for parts and labor, except as otherwise stated below. Standard Warranty applies only to purchases from John Deere and authorized John Deere dealers and, except as otherwise provided in the next sentence and section L below, is extended only to the original retail purchaser of the product. Remaining Standard Warranty applicable to a used John Deere product is transferred to a subsequent purchaser of the product only if the subsequent purchaser requests a transfer from an authorized John Deere dealer before the product's Standard Warranty expires. Coverage begins on the date of delivery of the product to the original retail purchaser. For purposes of this warranty, a product that has been rented, used for demonstration purposes for 150 or more hours, or otherwise used prior to its original retail purchase has been "used" for the total duration of such use. Warranty statements required by law covering engine emissions-related parts and components are found on a separate written warranty certificate provided to the purchaser at the time of the original retail purchase.

B. WHAT IS COVERED BY STANDARD WARRANTY -

All parts of a new John Deere product (except those noted in Sections D and E below) are covered during the Standard Warranty period set out above.

C. EXCLUSIVE REMEDY -

The repair or replacement of covered parts or components that are defective, as provided in Sections A, B, D.2 and D.3 herein, shall be the purchaser's exclusive remedy for any defect in the product. However, if after repeated attempts such repair or replacement fails to correct the performance problem caused by the defect, the purchaser's sole remedy shall be a refund of the amount paid for the product (in exchange for a return of the product), excluding any transportation charges, license fees, taxes and insurance premiums, and less a reasonable allowance for use of the product prior to its return. In no event will the dealer, John Deere or any company affiliated with John Deere be liable for any incidental or consequential damages, including but not limited to loss of profits, rental of substitute equipment or other commercial loss. Correction of defects in the manner provided above shall constitute fulfillment of all liabilities of the Dealer, John Deere, or any company affiliated with John Deere to the purchaser or any other person, whether based upon contract, tort, strict liability, or otherwise. This limitation does not apply to claims for personal injury.

D. ITEMS COVERED SEPARATELY -

1. Standard Warranty does not apply to batteries, radios, tires, cameras, or to Cummins, MTU or Detroit Diesel Engines installed in John Deere products, which are covered by separate written warranties.
2. Factory-Installed Undercarriage Warranty covers all non-rubberized factory-installed undercarriage wear components for 3 years or 4,000 hours from the date of delivery to the original retail purchaser, whichever occurs first (unless terminated earlier under Section F, below). For purposes of this warranty, a product that has been rented, used for demonstration purposes for 150 or more hours, or otherwise used prior to its original retail purchase has been "used" for the total duration of such use. In addition to the items listed in section E below, Factory-Installed Undercarriage Warranty does not cover: failures due to wear, machine application, maintenance practices, or improper machine configuration; removal and installation labor; transportation or hauling costs; unapproved parts; non-wear items; and rubberized undercarriage components such as rubber tracks. Warranty claims will be pro-rated based upon wear of the failed component and whether track shoe width is approved by John Deere. Factory-Installed Undercarriage Warranty does not apply to Scraper Tractors.
3. StructurALL Warranty for new John Deere Products (except Compact Excavators & Loaders, Skid-Steer Loaders, Compact Track Loaders, Scraper Tractors, Pull-Type Scrapers, and Forestry Attachments, which are not eligible for StructurALL Warranty) begins at the date of delivery to the original retail purchaser and ends (unless terminated earlier under Section F, below) after three (3) years, or 10,000 hours (whichever occurs first). For purposes of this warranty, a product that has been rented, used for demonstration purposes for 150 or more hours, or otherwise used prior to its original retail purchase has been "used" for the total duration of such use. **StructurALL Warranty applies only to the following structural components listed below as installed on the product at the time of original manufacture.** If a particular component is not listed below it is not covered by StructurALL Warranty.

Arm; Articulation Joint (incl. pins & bushings); Bin Frame; Boom; Carbody; C-Frame*; Circle Frame; Coupler (John Deere built ONLY); Dipperstick; Draft Frame; Engine Frame; Equipment Frame; Grapple Arch and Grapple Boom; Loader Arm; Loader Frame; Mainframe; Moldboard Lift Arm; NeverGrease™ Pin Joints [Includes steering pin and bushing joints (standard equipment), roller elements (roller bearings) in bucket to boom joints and sliding elements (bushing) for boom and linkage joints (optional equipment)]; Rollover Protection Structure (ROPS); Side Frame; Swing Frame; Track Frame; Undercarriage Frame; X-Frame; Z-bar loader linkage (including bell crank and bucket driver link); Specialty booms and arms marketed as "heavy duty" by John Deere.

Items Covered by StructurALL for Cut-to-Length Forestry Machines: Front frame (welded assembly); Rear frame (welded assembly); Crane king post with basement; Middle joint frame; Cabin swing frame; Main Boom

StructurALL Warranty does not apply to:

1. Any product used primarily in extreme duty or severe duty applications such as but not limited to: demolition and wrecking, chemical plant (including fertilizer plants), salt mines, steel mill, land fill and transfer stations, scrap handling, scarifying and other applications that are similarly destructive or similarly heavy duty except specialty booms and arms as stated in Section D.3 above.
2. C-Frames on Crawlers equipped with root rakes or used in forestry applications unless equipped with an "extreme duty" reinforcement package.
3. Cut-to-Length Forestry Heads and Slash Bundler Units.
4. Crawlers equipped with optional side booms.
5. Cut-to-Length Forestry, Excavator, and Log Loader swing bearings.
6. Motor Graders equipped with front- or rear-mounted snow wings.

E. ITEMS NOT COVERED -

John Deere is NOT responsible for the following:

1. Freight
2. Adjustments to compensate for wear, for periodic maintenance or adjustments that result from normal wear and tear.
3. Damage caused by unapproved adjustments (electronic or mechanical) to machine or machine components outside of published specifications including but not limited to engine, hydraulic components and relief valves.
4. Program updates, calibrations, and pressure adjustments.
5. Additional Labor Time - Above Dealer Labor Rate
6. Additional Cleaning - Above Dealer Labor Rate
7. Rental Fees
8. Depreciation or damage caused by normal wear or application, lack of reasonable and proper maintenance, failure to follow operating instructions, misuse, lack of proper protection during storage, vandalism, negligence, collision, or other accidents.
9. Premiums charged for Overtime Labor
10. Transportation to and from the dealership.
11. Travel time, mileage, or service calls by the dealer.
12. Non-John Deere components or modifications, Rotobec grapples, and attachments installed aftermarket.
13. Shop supplies and maintenance items such as, but not limited to: filters, fuels, oil, hydraulic fluid, lubricants, coolants, conditioners, shop towels, cleaners and degreasers.
14. Torn, cut, or worn hoses.
15. Wear items, such as, but not limited to: body liner, belts, blades, bulbs, lubricated joints (including pins and bushings), dry brakes, brake linings, dry clutch linings, saw blades, chains, skidder grapple shocks, color marking nozzles, and articulation bumpers.
16. Items such as cutting-edge parts, delimbing knives, bucket teeth and rubber track are not warranted for depreciation or damage caused by normal wear, lack of proper maintenance, misuse, failure to follow operating instructions, the elements or accident.
17. Any defect in a non-covered component, or damage to or failure of a covered component caused by a defect in a non-covered component.
18. Secondary damage which occurs from continued operation of a product after recognition of the occurrence of a failure.
19. Parts supplied by or repairs, maintenance or modifications performed by someone other than an authorized John Deere dealer, including any damage caused by such use of parts, repairs, maintenance, or modifications not performed by an authorized John Deere dealer.
20. Topping off fluids when fluid levels fall in the range between low and full
21. Parts/Kits not ordered on machine and installed aftermarket. These parts will be covered by any applicable parts warranty.
22. Attachments installed aftermarket – i.e., Winch not installed at factory.
23. Custom options installed outside the factory – i.e., G.R. Manufacturing option packages.
24. Used Products (except as otherwise provided in section L below).

F. TERMINATION OF WARRANTY-

John Deere is relieved of its obligations under Standard Warranty, StructurALL Warranty, Factory-Installed Undercarriage Warranty and/or Extended Warranty if:

1. The product is modified or altered in ways not approved by John Deere; or
2. Any unapproved or improperly sized attachment is installed on the product. Approval and attachment size shall be at John Deere's sole discretion. (Consult dealer prior to installing attachments or product modification).
3. The product is moved outside the US and/or Canada.

G. PARTS REPLACED UNDER WARRANTY -

Only new or remanufactured parts or components furnished or approved by John Deere, will be used if John Deere elects to repair the product. If any such part or component is defective in material or workmanship when installed in the product, John Deere will repair or replace, as it elects, such defective part or component, provided the defect is reported to an authorized John Deere dealer within 90 days of installation or before expiration of the applicable Standard Warranty, Factory-Installed Undercarriage Warranty and/or StructurALL Warranty whichever is later.

H. TELEMATICS

NOTICE: Products may be equipped with telematics hardware and software ("Telematics") that transmit data to John Deere/ Dealer. Purchaser may deactivate Telematics at www.jdlink.com.

Notwithstanding Purchaser's right, title or interest in the Products, Purchaser agrees that John Deere and Dealer (their affiliates, successors and assigns), without further notice to Purchaser have the right to:

1. Access, use, collect and disclose any data generated by, collected by, or stored in, Products or any hardware or devices interfacing with Products ("Machine Data");
2. Access Machine Data directly through data reporting devices integrated within, or attached to, Products, including Telematics ("Data Reporting Systems"); and
3. Update the Data Reporting Systems software from time to time. Machine Data will only be used in accordance with John Deere's Machine Data Policy, located at www.JohnDeere.com/MachineDataPolicy.

I. OBTAINING WARRANTY SERVICE -

To obtain warranty service, the purchaser must request warranty service from a John Deere dealer authorized to sell the product to be serviced. When making such a request, the purchaser must present evidence of the product's delivery date, make the product available at the dealer's place of business, and inform the dealer in what way the purchaser believes the product to be defective. Standard Warranty, Factory-Installed Undercarriage Warranty and/or StructurALL Warranty repairs may be made in the field if the purchaser and servicing dealer so desire. However, John Deere will not be responsible for any charges (such as dealer travel time, mileage or extra labor) that would not have been incurred had the product been repaired at the dealer's place of business.

J. NO IMPLIED WARRANTY, CONDITIONS OR OTHER REPRESENTATION -

Where permitted by law, neither John Deere nor any company affiliated with it makes any warranties, representations, conditions or promises, express or implied, as to the quality, performance, or freedom from defect of its products, other than those set forth in this document and **NO IMPLIED WARRANTY OF MERCHANTABILITY, CONDITIONS OR FITNESS IS MADE.**

K. NO DEALER WARRANTY -

The selling dealer makes no warranty of its own on any item covered by this warranty and makes no warranty on other items unless the dealer delivers to the purchaser a separate written warranty certificate specifically warranting the item. **The dealer has no authority to make any representation or promise on behalf of John Deere, or to modify the terms or limitations of this warranty in any way.**

L. USED JOHN DEERE PRODUCTS ONLY -

John Deere will transfer remaining Standard Warranty, Factory-Installed Undercarriage Warranty and/or StructurALL Warranty to the purchaser of a used John Deere construction and/or forestry product that has been used for less than the full warranty period provided at the product's original retail purchase. This transfer is not effective until change of ownership is registered by a John Deere dealer. **ALL THE TERMS, INCLUDING LIMITATIONS AND EXCLUSIONS, OF THE JOHN DEERE STANDARD WARRANTY, FACTORY-INSTALLED UNDERCARRIAGE WARRANTY, AND/OR STRUCTURALL WARRANTY ORIGINALLY PROVIDED FOR THE PRODUCT REMAIN IN EFFECT AND APPLICABLE.**



JOHN DEERE

Retail Purchase Order

RDO Equipment Co.
215 Enterprise
Hewitt TX, 76643

Phone: (254) 666-3900 - Fax: (254) 666-7466

Bill To:

CITY OF HEWITT
200 PATRIOT CT
HEWITT, TX, 76643
MCLENNAN ()
(254) 666-6171

Purchase Order Date:

11/12/2024

Purchase Order #:

1839420

Purchaser Account #:

1200046

Customer Purchaser Type:

Non Governmental - Medium Fleet (10-24)

Customer Market Use:

Underground - Gas/Water/Electric

Location of First Working Use:

HEWITT, TX, 76643

Dealer Account Number:

177418

Sales Professional:

Brad Meece

Phone:

(254) 732-8608

Fax:

(254) 666-7466

Email:

BMeece@rdoequipment.com

Comments

Sourcwell Contract # 011723-JDC
Sourcwell Customer # 140783

Included front screen for 60P

Equipment Information

Quantity	Serial Number Stock Number	Status / Year / Make / Model Additional Items	Cash Price
1	TBD TBD	New 2025 JOHN DEERE HH80	\$15,993.00
		Customer Discount Sourcwell Discount	(\$2,239.02)
		Freight in Factory Freight	\$550.00
Equipment Subtotal:			\$14,303.98

Purchase Order Totals

Balance:	\$14,303.98
Total Taxable Amount:	\$0.00
TX STATE TAX:	\$0.00
TX COUNTY TAX:	\$0.00
TX CITY TAX:	\$0.00
Sales Tax Total:	\$0.00
Sub Total:	\$14,303.98
Cash with Order:	\$0.00
Balance Due:	\$14,303.98

Legal Information

For the Construction Product(s)

ACKNOWLEDGMENTS - Purchaser offers to sell, transfer, and convey the item(s) listed as "Trade In" to the Dealer at or prior to the time of delivery of the above Product(s), as a "trade-in" to be applied against the cash price. Purchaser represents that each "trade-in" item shall be free and clear of all security interests, liens, and encumbrances at the time of transfer to the Dealer except to the extent shown below. The price to be allowed for each "trade-in" item is listed on this document. The Purchaser promises to pay the balance due shown hereon in cash, or to execute a Time Sale Agreement (Retail Installment Contract), or a Loan Agreement for the purchase price of the Product(s), plus additional charges shown thereon, or to execute a Lease Agreement, on or before delivery of the Product(s) ordered herein. Despite delivery of the Product(s) to the Purchaser, title shall remain with the Seller until one of the foregoing is accomplished. Except as provided herein and as necessary to protect RDO Equipment from the claims of a bankruptcy trustee or a buyer in the ordinary course of business, the Purchaser and the Dealer agree that this Purchase Order is not a security agreement and that delivery of the Product(s) to the Purchaser pursuant to this Purchase Order will not constitute possession of the Product(s) by the Purchaser, as a debtor, for the purposes of the purchase money security provisions in any statutes relating to personal property security or its equivalent. Purchaser understands that its rights in connection with this purchase are limited as set forth in this Purchase Order. I (we) hereby grant a security interest to RDO Equipment in the Product.

DISCLOSURE OF REGULATION APPLICABILITY - When operated in California, any off-road diesel vehicle may be subject to the California Air Resources Board In-Use Off-Road Diesel Vehicle Regulation. It therefore could be subject to retrofit or accelerated turnover requirements to reduce emissions of air pollutants. More information is available on the California Air Resources Board website at <http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>.

IMPORTANT WARRANTY NOTICE - The Standard Warranty for new John Deere construction and forestry products is set forth in a separate document provided by the dealer. Please read the Standard Warranty carefully before signing. No express warranty is made unless specified in the Warranty Statement. PURCHASER'S RIGHTS AND REMEDIES PERTAINING TO THIS PURCHASE ARE LIMITED AS INDICATED IN THE STANDARD WARRANTY AND PURCHASE ORDER. WHERE PERMITTED BY LAW, NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS IS MADE.

Telematics: Orders of telematic devices include only the hardware. Where available, telematics software, including JDLink™ connectivity service, may be enabled from your local John Deere Operations Center or JDLink website. Please see your authorized John Deere dealer for assistance.

The undersigned purchaser(s) (the "Purchaser") hereby orders the product (the "Product") described above from the Dealer. The Dealer shall not be liable for failure to provide the Product or for any delay in delivery if such failure or delay is due to the Dealer's inability to obtain such Product from the manufacturer or supplier or other cause beyond the Dealer's control. The cash price shown above is subject to the Dealer receiving the Product from the manufacturer or supplier prior to any change in price by the manufacturer or supplier and is also subject to any new or increased taxes being imposed upon the sale of the Product after the date of this Purchase Order.

Upon signature of delivery acknowledgment, customer is accepting the equipment, including attachments, in "AS IS" condition, agreeing to notify RDO Equipment Co. within 24 hours of any damages or discrepancies found upon receipt of equipment.

Signature Area

Purchase Order Accepted By:

(Customer's Signature)

(Date Accepted)

(Authorized Signature of Dealer)

(Date Accepted)

Delivery of Equipment Acknowledgement:

(Customer's Signature)

Date Accepted

(Account Manager's Signature)

Date Accepted

Standard Warranty Acknowledgement:

(Delivered On)

(Warranty Begins)

(Customer's
Initials)

(Account
Manager's
Initials)

Equipment Options

Qty	Serial Number	Year / Make / Model	Description
1	TBD	2025 JOHN DEERE HH80	None

STANDARD WARRANTY FOR NEW JOHN DEERE CONSTRUCTION, COMPACT CONSTRUCTION (CCE) FORESTRY, AND UTILITY PRODUCTS – US & Canada

- **Construction & Forestry Products:** 12 months/unlimited hours (whichever occurs first) Full Machine Standard Warranty
- **Compact Construction Equipment (CCE) Products:** 24 months or 2000 hours (whichever occurs first) Full Machine Standard Warranty
- **C&E Series Pull-Type Scrapers:** 6 months Full Machine Standard Warranty
- **DC & DE Pull-Type Scrapers:** 12 months Full Machine Standard Warranty
- **Scraper Tractors:** 24 Months or 2000 Hours (whichever occurs first) Full Machine Standard Warranty
- **Forestry Attachments:** 12 Months or 2000 Hours (whichever occurs first) Full Machine Standard Warranty

The "Standard Warranty" is part of the warranty protection package available from John Deere Construction & Forestry Company (John Deere Limited in Canada) ("John Deere") to purchasers of new John Deere products ("product"):

STANDARD Warranty is John Deere's standard new product warranty, described in this document, provided at no additional charge to the purchaser.

EXTENDED Warranty is a separate repair contract made available by John Deere for purchasers who wish to complement their Standard Warranty coverage. Complete Extended Warranty details, including coverage options and limitations, are set forth in the Application for Extended Warranty, which is available from authorized John Deere dealers.

STRUCTURAL Warranty applies to certain structural components as listed below and as described in this document.

FACTORY-INSTALLED UNDERCARRIAGE Warranty applies to certain undercarriage components as listed below and as described in this document.

A. STANDARD WARRANTY - GENERAL PROVISIONS

John Deere will repair or replace, at its option, any parts (except those specified below) of a new John Deere product that, as delivered to the original retail purchaser(s), are defective in material or workmanship. Performance of this warranty will be free of charge for parts and labor, except as otherwise stated below. Standard Warranty applies only to purchases from John Deere and authorized John Deere dealers and, except as otherwise provided in the next sentence and section L below, is extended only to the original retail purchaser of the product. Remaining Standard Warranty applicable to a used John Deere product is transferred to a subsequent purchaser of the product only if the subsequent purchaser requests a transfer from an authorized John Deere dealer before the product's Standard Warranty expires. Coverage begins on the date of delivery of the product to the original retail purchaser. For purposes of this warranty, a product that has been rented, used for demonstration purposes for 150 or more hours, or otherwise used prior to its original retail purchase has been "used" for the total duration of such use. Warranty statements required by law covering engine emissions-related parts and components are found on a separate written warranty certificate provided to the purchaser at the time of the original retail purchase.

B. WHAT IS COVERED BY STANDARD WARRANTY -

All parts of a new John Deere product (except those noted in Sections D and E below) are covered during the Standard Warranty period set out above.

C. EXCLUSIVE REMEDY -

The repair or replacement of covered parts or components that are defective, as provided in Sections A, B, D.2 and D.3 herein, shall be the purchaser's exclusive remedy for any defect in the product. However, if after repeated attempts such repair or replacement fails to correct the performance problem caused by the defect, the purchaser's sole remedy shall be a refund of the amount paid for the product (in exchange for a return of the product), excluding any transportation charges, license fees, taxes and insurance premiums, and less a reasonable allowance for use of the product prior to its return. In no event will the dealer, John Deere or any company affiliated with John Deere be liable for any incidental or consequential damages, including but not limited to loss of profits, rental of substitute equipment or other commercial loss. Correction of defects in the manner provided above shall constitute fulfillment of all liabilities of the Dealer, John Deere, or any company affiliated with John Deere to the purchaser or any other person, whether based upon contract, tort, strict liability, or otherwise. This limitation does not apply to claims for personal injury.

D. ITEMS COVERED SEPARATELY -

1. Standard Warranty does not apply to batteries, radios, tires, cameras, or to Cummins, MTU or Detroit Diesel Engines installed in John Deere products, which are covered by separate written warranties.
2. Factory-Installed Undercarriage Warranty covers all non-rubberized factory-installed undercarriage wear components for 3 years or 4,000 hours from the date of delivery to the original retail purchaser, whichever occurs first (unless terminated earlier under Section F, below). For purposes of this warranty, a product that has been rented, used for demonstration purposes for 150 or more hours, or otherwise used prior to its original retail purchase has been "used" for the total duration of such use. In addition to the items listed in section E below, Factory-Installed Undercarriage Warranty does not cover: failures due to wear, machine application, maintenance practices, or improper machine configuration; removal and installation labor; transportation or hauling costs; unapproved parts; non-wear items; and rubberized undercarriage components such as rubber tracks. Warranty claims will be pro-rated based upon wear of the failed component and whether track shoe width is approved by John Deere. Factory-Installed Undercarriage Warranty does not apply to Scraper Tractors.
3. StructurALL Warranty for new John Deere Products (except Compact Excavators & Loaders, Skid-Steer Loaders, Compact Track Loaders, Scraper Tractors, Pull-Type Scrapers, and Forestry Attachments, which are not eligible for StructurALL Warranty) begins at the date of delivery to the original retail purchaser and ends (unless terminated earlier under Section F, below) after three (3) years, or 10,000 hours (whichever occurs first). For purposes of this warranty, a product that has been rented, used for demonstration purposes for 150 or more hours, or otherwise used prior to its original retail purchase has been "used" for the total duration of such use. **StructurALL Warranty applies only to the following structural components listed below as installed on the product at the time of original manufacture.** If a particular component is not listed below it is not covered by StructurALL Warranty.

Arm; Articulation Joint (incl. pins & bushings); Bin Frame; Boom; Carbody; C-Frame*; Circle Frame; Coupler (John Deere built ONLY); Dipperstick; Draft Frame; Engine Frame; Equipment Frame; Grapple Arch and Grapple Boom; Loader Arm; Loader Frame; Mainframe; Moldboard Lift Arm; NeverGrease™ Pin Joints [Includes steering pin and bushing joints (standard equipment), roller elements (roller bearings) in bucket to boom joints and sliding elements (bushing) for boom and linkage joints (optional equipment)]; Rollover Protection Structure (ROPS); Side Frame; Swing Frame; Track Frame; Undercarriage Frame; X-Frame; Z-bar loader linkage (including bell crank and bucket driver link); Specialty booms and arms marketed as "heavy duty" by John Deere.

Items Covered by StructurALL for Cut-to-Length Forestry Machines: Front frame (welded assembly); Rear frame (welded assembly); Crane king post with basement; Middle joint frame; Cabin swing frame; Main Boom

StructurALL Warranty does not apply to:

1. Any product used primarily in extreme duty or severe duty applications such as but not limited to: demolition and wrecking, chemical plant (including fertilizer plants), salt mines, steel mill, land fill and transfer stations, scrap handling, scarifying and other applications that are similarly destructive or similarly heavy duty except specialty booms and arms as stated in Section D.3 above.
2. C-Frames on Crawlers equipped with root rakes or used in forestry applications unless equipped with an "extreme duty" reinforcement package.
3. Cut-to-Length Forestry Heads and Slash Bundler Units.
4. Crawlers equipped with optional side booms.
5. Cut-to-Length Forestry, Excavator, and Log Loader swing bearings.
6. Motor Graders equipped with front- or rear-mounted snow wings.

E. ITEMS NOT COVERED -

John Deere is NOT responsible for the following:

1. Freight
2. Adjustments to compensate for wear, for periodic maintenance or adjustments that result from normal wear and tear.
3. Damage caused by unapproved adjustments (electronic or mechanical) to machine or machine components outside of published specifications including but not limited to engine, hydraulic components and relief valves.
4. Program updates, calibrations, and pressure adjustments.
5. Additional Labor Time - Above Dealer Labor Rate
6. Additional Cleaning - Above Dealer Labor Rate
7. Rental Fees
8. Depreciation or damage caused by normal wear or application, lack of reasonable and proper maintenance, failure to follow operating instructions, misuse, lack of proper protection during storage, vandalism, negligence, collision, or other accidents.
9. Premiums charged for Overtime Labor
10. Transportation to and from the dealership.
11. Travel time, mileage, or service calls by the dealer.
12. Non-John Deere components or modifications, Rotobec grapples, and attachments installed aftermarket.
13. Shop supplies and maintenance items such as, but not limited to: filters, fuels, oil, hydraulic fluid, lubricants, coolants, conditioners, shop towels, cleaners and degreasers.
14. Torn, cut, or worn hoses.
15. Wear items, such as, but not limited to: body liner, belts, blades, bulbs, lubricated joints (including pins and bushings), dry brakes, brake linings, dry clutch linings, saw blades, chains, skidder grapple shocks, color marking nozzles, and articulation bumpers.
16. Items such as cutting-edge parts, delimbing knives, bucket teeth and rubber track are not warranted for depreciation or damage caused by normal wear, lack of proper maintenance, misuse, failure to follow operating instructions, the elements or accident.
17. Any defect in a non-covered component, or damage to or failure of a covered component caused by a defect in a non-covered component.
18. Secondary damage which occurs from continued operation of a product after recognition of the occurrence of a failure.
19. Parts supplied by or repairs, maintenance or modifications performed by someone other than an authorized John Deere dealer, including any damage caused by such use of parts, repairs, maintenance, or modifications not performed by an authorized John Deere dealer.
20. Topping off fluids when fluid levels fall in the range between low and full
21. Parts/Kits not ordered on machine and installed aftermarket. These parts will be covered by any applicable parts warranty.
22. Attachments installed aftermarket – i.e., Winch not installed at factory.
23. Custom options installed outside the factory – i.e., G.R. Manufacturing option packages.
24. Used Products (except as otherwise provided in section L below).

F. TERMINATION OF WARRANTY-

John Deere is relieved of its obligations under Standard Warranty, StructurALL Warranty, Factory-Installed Undercarriage Warranty and/or Extended Warranty if:

1. The product is modified or altered in ways not approved by John Deere; or
2. Any unapproved or improperly sized attachment is installed on the product. Approval and attachment size shall be at John Deere's sole discretion. (Consult dealer prior to installing attachments or product modification).
3. The product is moved outside the US and/or Canada.

G. PARTS REPLACED UNDER WARRANTY -

Only new or remanufactured parts or components furnished or approved by John Deere, will be used if John Deere elects to repair the product. If any such part or component is defective in material or workmanship when installed in the product, John Deere will repair or replace, as it elects, such defective part or component, provided the defect is reported to an authorized John Deere dealer within 90 days of installation or before expiration of the applicable Standard Warranty, Factory-Installed Undercarriage Warranty and/or StructurALL Warranty whichever is later.

H. TELEMATICS

NOTICE: Products may be equipped with telematics hardware and software ("Telematics") that transmit data to John Deere/ Dealer. Purchaser may deactivate Telematics at www.jdlink.com.

Notwithstanding Purchaser's right, title or interest in the Products, Purchaser agrees that John Deere and Dealer (their affiliates, successors and assigns), without further notice to Purchaser have the right to:

1. Access, use, collect and disclose any data generated by, collected by, or stored in, Products or any hardware or devices interfacing with Products ("Machine Data");
2. Access Machine Data directly through data reporting devices integrated within, or attached to, Products, including Telematics ("Data Reporting Systems"); and
3. Update the Data Reporting Systems software from time to time. Machine Data will only be used in accordance with John Deere's Machine Data Policy, located at www.JohnDeere.com/MachineDataPolicy.

I. OBTAINING WARRANTY SERVICE -

To obtain warranty service, the purchaser must request warranty service from a John Deere dealer authorized to sell the product to be serviced. When making such a request, the purchaser must present evidence of the product's delivery date, make the product available at the dealer's place of business, and inform the dealer in what way the purchaser believes the product to be defective. Standard Warranty, Factory-Installed Undercarriage Warranty and/or StructurALL Warranty repairs may be made in the field if the purchaser and servicing dealer so desire. However, John Deere will not be responsible for any charges (such as dealer travel time, mileage or extra labor) that would not have been incurred had the product been repaired at the dealer's place of business.

J. NO IMPLIED WARRANTY, CONDITIONS OR OTHER REPRESENTATION -

Where permitted by law, neither John Deere nor any company affiliated with it makes any warranties, representations, conditions or promises, express or implied, as to the quality, performance, or freedom from defect of its products, other than those set forth in this document and **NO IMPLIED WARRANTY OF MERCHANTABILITY, CONDITIONS OR FITNESS IS MADE.**

K. NO DEALER WARRANTY -

The selling dealer makes no warranty of its own on any item covered by this warranty and makes no warranty on other items unless the dealer delivers to the purchaser a separate written warranty certificate specifically warranting the item. **The dealer has no authority to make any representation or promise on behalf of John Deere, or to modify the terms or limitations of this warranty in any way.**

L. USED JOHN DEERE PRODUCTS ONLY -

John Deere will transfer remaining Standard Warranty, Factory-Installed Undercarriage Warranty and/or StructurALL Warranty to the purchaser of a used John Deere construction and/or forestry product that has been used for less than the full warranty period provided at the product's original retail purchase. This transfer is not effective until change of ownership is registered by a John Deere dealer. **ALL THE TERMS, INCLUDING LIMITATIONS AND EXCLUSIONS, OF THE JOHN DEERE STANDARD WARRANTY, FACTORY-INSTALLED UNDERCARRIAGE WARRANTY, AND/OR STRUCTURALL WARRANTY ORIGINALLY PROVIDED FOR THE PRODUCT REMAIN IN EFFECT AND APPLICABLE.**



COUNCIL AGENDA ITEM FORM

MEETING DATE: December 9, 2024

AGENDA ITEM #: 8.

SUBMITTED BY: Jonathan Christian, Fire Chief

ITEM DESCRIPTION:

Discussion and possible action to award a bid for the construction of Fire Station No. 2.

STAFF RECOMMENDATION/ITEM SUMMARY:

After reviewing seven (7) proposals for the construction of Fire Station No. 2 and the scoring sheet, along with a recommendation from Martinez Architects, Baird Williams Construction appears to be the best bid for our project. This bid allows us the flexibility to consider all alternatives.

Alt Bid #1 - 3rd Bay

Alt Bid #2 - Mezzanine for Storage and Equipment

Alt Bid #3A - Front Bifold Bay Doors

Alt Bid #3B - Rear Bifold Bay Doors

FISCAL IMPACT:

Amount Budgeted -\$4,235,890.00

Line Item in Budget - Bond funds

SUGGESTED MOTION:

I move to award the bid to Baird Williams Construction and authorize the City Manager to execute the construction contract.

ATTACHMENTS:

1. Architect's GC Recommendation
2. Staff Recommendations for Fire Station No. 2 Bid Proposals



December 3, 2024

Jonathan Christian
Fire Chief
City of Hewitt, Texas

RE: Recommendation of General Contractor for Fire Station No. 2

Chief Christian,

We have reviewed and scored the proposals submitted for Construction Services for the City's planned new Fire Station No. 2. Based on the attached Scoring Tabulation, Baird Williams is the highest-scoring Respondent. We therefore recommend the City enter into contract negotiations with Baird Williams for this project. This recommendation is based on the scoring of the submittals received, in accordance with the published scoring criteria established by the Request for Competitive Sealed Proposals. As the highest-scoring Respondent, Baird Williams is recognized as the Respondent able to provide the best value to the City.

Please reference the RFP for the specific criteria used to score the proposals.

Please contact me if any additional information is needed.

Sincerely,

Justin Myers, Partner
Martinez Architects

SELECTION CRITERIA - POINT TABULATION

Competitive Sealed Proposal

Fire Station No. 2 City of Hewitt, TX

Bid Date: November 19, 2024

General Contractor	Safety Experience	Fee	Construction Experience	References	Personnel	Other Factors	Total
Point Value	5	50	15	10	15	5	100
Baird/Williams Construction, LTD.	4	50.0	12	8	11	4	85.0
Barsh Company	4	41.4	7	7	8	3	66.4
Cerris Builders	5	39.0	14	10	13	5	81.0
HCS, Inc.	4	36.0	9	9	11	3	68.0
John W. Erwin General Contractor, Inc.	3	37.2	14	10	15	5	81.2
Slate Construction	4	44.9	7	10	12	3	76.9
Tegrity Contractors	4	44.7	8	8	10	5	75.7



Point Tabulation - Evaluation of Fee
(50 Points Available)



General Contractor	Base Proposal	Bid Alternate #1	Bid Alternate #2	Bid Alternate #3A	Bid Alternate #3B	Total Fee with Alternates	Points Awarded
Baird/Williams Construction, LTD.	\$ 3,746,700.00	\$ 284,000.00	\$ 34,300.00	\$ 85,445.00	\$ 85,445.00	\$ 4,235,890.00	50.00
Barsh Company	\$ 4,444,000.00	\$ 297,500.00	\$ 36,400.00	\$ 93,732.00	\$ 93,732.00	\$ 4,965,364.00	41.39
Cerris Builders	\$ 4,537,000.00	\$ 257,000.00	\$ 44,700.00	\$ 162,700.00	\$ 162,700.00	\$ 5,164,100.00	39.04
HCS, Inc.	\$ 4,625,000.00	\$ 398,750.00	\$ 65,200.00	\$ 220,600.00	\$ 110,314.00	\$ 5,419,864.00	36.02
John W. Erwin General Contractor, Inc.	\$ 4,647,661.00	\$ 302,209.00	\$ 22,500.00	\$ 175,300.00	\$ 175,300.00	\$ 5,322,970.00	37.17
Slate Construction	\$ 4,341,000.00	\$ 208,000.00	\$ 28,900.00	\$ 46,900.00	\$ 46,900.00	\$ 4,671,700.00	44.86
Tegrity Contractors	\$ 4,127,777.00	\$ 287,777.00	\$ 52,777.00	\$ 107,777.00	\$ 107,777.00	\$ 4,683,885.00	44.71

Staff Recommendations for Fire Station 2 Bid Proposals

Baird Williams is the recommended proposal. The bid includes the following.

Base Bid - \$3,746,700.00 – 2 Bay Station

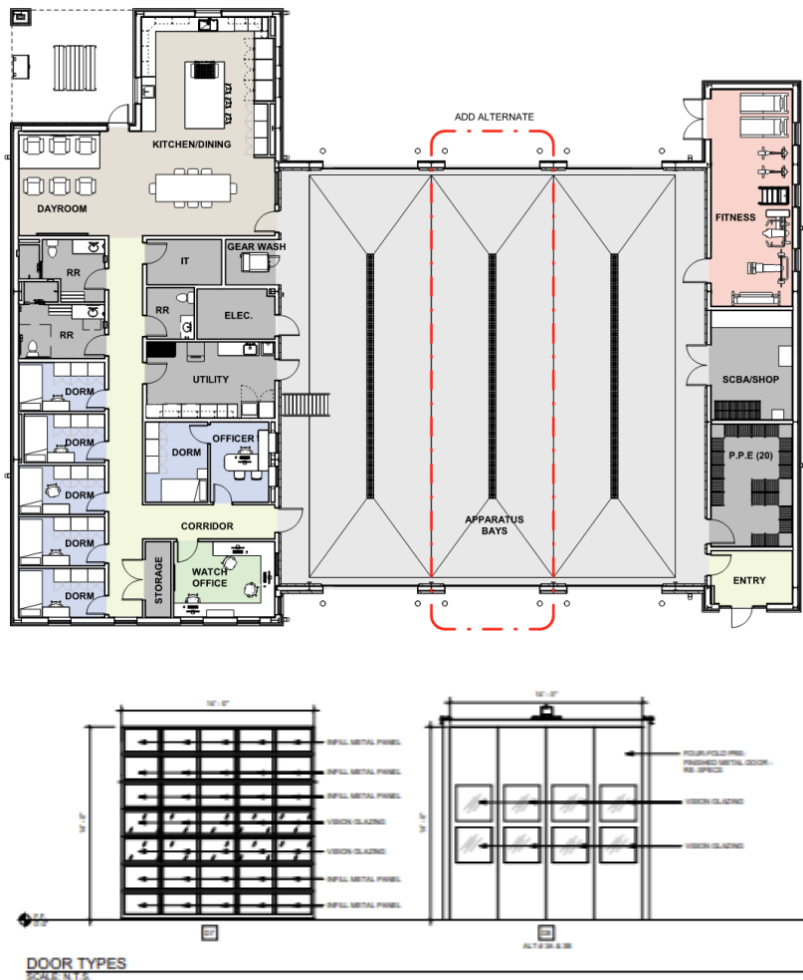
Bid Alt #1 - \$284,000.00 – 3rd Bay

Bid Alt #2 - \$34,300.00 – Mezzanine for storage and equipment.

Bid Alt #3 - \$85,445.00 – Bifold front bay doors

Bid Alt # 4 - \$85,445.00 – Bifold rear bay doors

Total with all bid Alts - \$4,235,890.00





COUNCIL AGENDA ITEM FORM

MEETING DATE: December 9, 2024

AGENDA ITEM #: 9.

SUBMITTED BY: Bo Thomas, City Manager

ITEM DESCRIPTION:

Discussion and possible action on the 2025 Interlocal Agreement for Household Hazardous Waste Collection with the City of Waco.

STAFF RECOMMENDATION/ITEM SUMMARY:

The City of Hewitt participates in Waco's annual Household Hazardous Waste event every year. Approval of this item would authorize the City Manager to execute an interlocal agreement with Waco, allowing Hewitt residents to participate in this year's event.

Additionally, approval would authorize allocating up to \$14,040 for participation. Funding is set aside in our current budget for this purpose.

The event is tentatively scheduled for Saturday, March 22, 2025, from 7 a.m. to 1 p.m.

FISCAL IMPACT:

Amount Budgeted - \$8,000

Line Item in Budget - 10 50425 61 00

SUGGESTED MOTION:

I move approval of the 2025 Interlocal Agreement for Household Hazardous Waste Collection with the City of Waco and authorize the City Manager to execute all documents and allocate funding for the cost of participation.

ATTACHMENTS:

1. 2025 Letter of Intent HHW

HEWITT TEXAS

RE: 2025 Household Hazardous Waste (HHW) Event

Dear Ms. Sellers:

The City of Waco will be hosting an HHW Event, tentatively set for March 22, 2025. The event will be held at the following location:

Waco Solid Waste Services Main Office
501 Schroeder Rd
Waco, TX 76710

The City of Hewitt wishes to participate in this Event and will enter an interlocal agreement for Waco to conduct the Event as stated above. As the event coordinator, Waco will purchase the services of a disposal firm and administer a regional household hazardous waste collection event.

The City of Hewitt agrees to pay the cost for Hewitt residents estimated at \$14,040. Given the estimate of cost per participating household of \$110 - \$130 this funding will provide for approximately 117 households to participate. The City of Hewitt also agrees to have representatives present at the HHW Event to monitor the number of citizens from its city who bring household hazardous waste to the event so that the representative can determine whether to continue receiving items once the City of Hewitt funding limit is reached.

We appreciate the opportunity to have this event, and should you need more information, please contact me or The City of Hewitt.

Respectfully,



Bo Thomas,
City Manager



COUNCIL AGENDA ITEM FORM

MEETING DATE: December 9, 2024

AGENDA ITEM #: 10.

SUBMITTED BY: Bo Thomas, City Manager

ITEM DESCRIPTION:

Discussion and possible action on **Resolution No. 2024-16**, opting into the global opioid settlement with Kroger Co., and authorizing the Mayor to execute an additional settlement agreement.

STAFF RECOMMENDATION/ITEM SUMMARY:

The State of Texas, through the Attorney General's Office, is offering cities and counties the opportunity to opt into the settlement agreement reached with Kroger Co. To participate, the City Council needs to authorize by resolution the acceptance of the allocation term sheet and execute the settlement agreements, thus avoiding any unnecessary litigation expenses.

FISCAL IMPACT:

Amount Budgeted - \$0

Line Item in Budget - FY 2024-2025 Budget

SUGGESTED MOTION:

I move to approve **Resolution No. 2024-16**, opting into the global opioid settlement with Kroger Co., agreeing to the allocation term sheet, and authorizing the Mayor to execute this additional settlement agreement.

ATTACHMENTS:

1. PSC-TX-OAG-Kroger-Texas-Statewide-Opioid-Settlement
2. 2024-16 Texas Opioid Settlement Resolution-Kroger
3. Kroger-Subdivision-Participation-Form

Kroger Texas Statewide Opioid Settlement Agreement and Release

I. Overview

This Settlement Agreement and Release (the “Texas Settlement”) entered October, 30, 2024 between and among the State of Texas, all Texas Participating Subdivisions, and Kroger (collectively, “the Parties”) to resolve opioid-related Claims against Kroger. This Agreement is not contingent on the Global Settlement taking effect.

This Texas Settlement is a separate settlement that resolves the State of Texas and Texas Subdivisions’ opioid-related Claims against Kroger. And any all provisions of the Texas Settlement should be interpreted consistent with this stated intent of the Parties.

II. Definitions

- A. “*Texas Statewide Opioid Settlement Agreement*” means this Settlement Agreement together with the exhibits thereto.
- B. “*Bar*” means either (1) a ruling by the highest court of the State setting forth the general principle that no Subdivisions or Special Districts in the State may maintain Released Claims against Released Entities, whether on the ground of the Agreement (or the release in it) or otherwise; (2) a law barring Subdivisions and Special Districts in the State from maintaining or asserting Released Claims against Released Entities (either through a direct bar or through a grant of authority to release claims and that authority is exercised in full); or (3) a Settlement Class Resolution in the State with full force and effect. For the avoidance of doubt, a law or ruling that is conditioned or predicated upon payment by a Released Entity (apart from payments by Kroger incurred under the Agreement) shall not constitute a Bar.
- C. “*Case-Specific Resolution*” means either (1) a law barring specified Subdivisions or Special Districts from maintaining Released Claims against Released Entities (either through a direct bar or through a grant of authority to release claims and that authority is exercised in full); (2) a ruling by a court of competent jurisdiction over a particular Subdivision or Special District that has the legal effect of barring the Subdivision or Special District from maintaining any Released Claims at issue against Released Entities, whether on the ground of the Agreement (or the release in it) or otherwise; or (3) in the case of a Special District, a release consistent with Section VII below. For the avoidance of doubt, a law, ruling, or release that is conditioned or predicated upon a post-Effective Date payment by a Released Entity (apart from payments by Kroger incurred under the Agreement or injunctive relief obligations incurred by it) shall not constitute a Case-Specific Resolution.
- D. “*Claim*” means any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, penalty, judgment, right, obligation, dispute, suit, contract, controversy, agreement, parens patriae claim, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under federal, state or local common law,

statute, regulation, guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including but not limited to any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative, or regulatory remedy whatsoever.

- E. “*Covered Conduct*” means any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity of any kind whatsoever from the beginning of time through the date of execution of this Agreement (and any past, present, or future consequence of any such act, failure to act, negligence, statement, error, omission, breach of duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity) relating in any way to (a) the discovery, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, recall, withdrawal, distribution, delivery, monitoring, reporting, supply, sale, prescribing, dispensing, physical security, warehousing, use or abuse of, or operating procedures relating to, any Product, or any system, plan, policy, or advocacy relating to any Product or class of Products, including but not limited to any unbranded promotion, marketing, programs, or campaigns relating to any Product or class of Products; (b) the characteristics, properties, risks, or benefits of any Product; (c) the reporting, disclosure, non-reporting, or non-disclosure to federal, state, or other regulators of orders for any Product placed with any Released Entity; (d) the selective breeding, harvesting, extracting, purifying, exporting, importing, applying for quota for, procuring quota for, handling, promoting, manufacturing, processing, packaging, supplying, distributing, converting, or selling of, or otherwise engaging in any activity relating to, precursor or component Products, including but not limited to natural, synthetic, semi- synthetic, or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, or any related intermediate Products; or (e) diversion control programs or suspicious order monitoring related to any Product.
- F. “*Consent Judgment*” means a consent decree, order, judgment, or similar action.
- G. Except with respect to the Consent Judgment, “*Court*” means the Honorable Robert Schaffer, *In Re: Texas Opioid Litigation*, MDL No. 18-0358, Master File No. 2018-63587, in the 152nd Judicial District Court, Harris County, Texas. With respect to the Consent Judgment, “*Court*” means the court to which the Consent Judgment is presented for approval and/or entry.
- H. “*Effective Date*” means the date of entry of a final Consent Judgment, which shall be filed no later than 30 days after the Initial Participation Date.
- I. “*Finality*” means:

- a. the Agreement and the Consent Judgment have been approved and entered by the Court as to Kroger, including the release of all Released Claims against Released Entities as provided in this Agreement;
 - b. for all lawsuits brought by the State against Released Entities for Released Claims, either previously filed or filed as part of the entry of the Consent Judgment, the Court has stated in the Consent Judgment or otherwise entered an order finding that all Released Claims against Released Entities asserted in the lawsuit have been resolved by agreement; and
 - c. (1) the time for appeal or to seek review of or permission to appeal from the approval and entry as described in subsection (a) hereof and entry of such order described in subsection (b) hereof has expired; or (2) in the event of an appeal, the appeal has been dismissed or denied, or the approval and entry described in (a) hereof and the order described in subsection (b) hereof have been affirmed in all material respects (to the extent challenged in the appeal) by the court of last resort to which such appeal has been taken and such dismissal or affirmance has become no longer subject to further appeal (including, without limitation, review by the United States Supreme Court).
- J. *“Initial Participation Date”* means the date by which Subdivisions must join to become initial Participating Subdivisions. The Initial Participation Date shall be 60 days after the execution of this Agreement.
- K. *“Kroger”* means The Kroger Co.
- L. *“Kroger Global Settlement”* means the Kroger Global Settlement Agreement dated as of March 22, 2024 between and among the Settling States, Participating Subdivisions, and Kroger.
- M. *“Later Litigating Special District”* means a Special District (or Special District Official asserting the right of or for the Special District to recover for alleged harms to the Special District and/or the people thereof) that is not a Litigating Special District and that files a lawsuit bringing a Released Claim against a Released Entity, or that adds such a claim to a pre-existing lawsuit, after the execution date of this Agreement. It may also include a Litigating Special District whose claims were resolved by a judicial Bar or Case-Specific Resolution which is later revoked following the execution date of this Agreement, when such Litigating Special District takes any affirmative step in its lawsuit other than seeking a stay or removal.
- N. *“Later Litigating Subdivision”* means a Subdivision (or Subdivision official asserting the right of or for the Subdivision to recover for alleged harms to the Subdivision and/or the people thereof) that is not a Litigating Subdivision and that files a lawsuit bringing a Released Claim against a Released Entity, or that adds such a claim to a pre-existing lawsuit, after the Effective Date. It may also include a Litigating Subdivision whose claims were resolved by a judicial Bar or Case-Specific Resolution which is later revoked following the Effective Date, when such Litigating Subdivision takes any affirmative step

in its lawsuit other than seeking a stay or removal.

- O. “*Litigating Special District*” means a Special District (or Special District official) that brought any Released Claims against any Released Entities on or before the execution date of this Agreement that were not separately resolved prior to that date. A list of Litigating Special Districts will be agreed to by the parties.
- P. “*Litigating Subdivision*” means a Subdivision (or Subdivision official asserting the right of or for the Subdivision to recover for alleged harms to the Subdivision and/or the people thereof) that brought any Released Claims against any Released Entities on or before the Effective Date that were not separately resolved prior to that date. A list of Litigating Subdivisions will be agreed to by the parties.
- Q. “*Non-Litigating Special District*” means a Special District that is neither a Litigating Special District nor a Later Litigating Special District.
- R. “*Non-Litigating Subdivision*” means a Subdivision that is neither a Litigating Subdivision nor a Later Litigating Subdivision.
- S. “*Non-Participating Subdivision*” means a Subdivision that is not a Participating Subdivision.
- T. “*Participating Subdivision*” means a Subdivision that signs the Election and Release Form annexed as Exhibit A and meets the requirements for becoming a Participating Subdivision under subsection VIII.A. Dallas and Bexar Counties shall execute the Election and Release Form annexed as Exhibit A and shall be Participating Subdivisions.
- U. “*Primary Subdivision*” means a Subdivision that has a population of 30,000 or more residents pursuant to the 2019 U.S. Census estimate.
- V. “*Product*” means any chemical substance, whether used for medicinal or non-medicinal purposes, and whether natural, synthetic, or semi-synthetic, or any finished pharmaceutical product made from or with such substance, that is an opioid or opiate, as well as any product containing any such substance. It also includes: 1) the following when used in combination with opioids or opiates: benzodiazepine, carisoprodol, zolpidem, or gabapentin; and 2) a combination or “cocktail” of any stimulant or other chemical substance prescribed, sold, bought, or dispensed to be used together that includes opioids or opiates. For the avoidance of doubt, “Product” does not include benzodiazepine, carisoprodol, zolpidem, or gabapentin when not used in combination with opioids or opiates. “Product” includes but is not limited to any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, naloxone, naltrexone, oxycodone, oxymorphone, tapentadol, tramadol, opium, heroin, carfentanil, any variant of these substances, or any similar substance. “Product” also includes any natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, and any related intermediate products used or created in the manufacturing process for any of the substances described in the preceding sentence.

- W. “*Qualified Settlement Fund*” means the Texas Qualified Settlement Fund established by this Agreement into which all payments by Kroger are made, unless otherwise expressly provided in this Agreement, and which shall be established under the authority and jurisdiction of the Honorable Robert Schaffer, *In Re: Texas Opioid Litigation*, MDL No. 18- 0358, Master File No. 2018-63587, in the 152nd Judicial District Court, Harris County, Texas.
- X. “*Qualified Settlement Fund Administrator*” means the Administrator appointed to administer the Texas Qualified Settlement Fund under the authority and jurisdiction of the Honorable Robert Schaffer, *In Re: Texas Opioid Litigation*, MDL No. 18-0358, Master File No. 2018- 63587, in the 152nd Judicial District Court, Harris County, Texas.
- Y. “*Released Claims*” means any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct occurring prior to the Effective Date. Without limiting the foregoing, “Released Claims” include any Claims that have been asserted against the Released Entities by the State or any of its Litigating Subdivisions or Litigating Special Districts in any federal, state or local action or proceeding (whether judicial, arbitral or administrative) based on, arising out of or relating to, in whole or in part, the Covered Conduct, or any such Claims that could be or could have been asserted now or in the future in those actions or in any comparable action or proceeding brought by the State, any of its Subdivisions or Special Districts, or any Releasor (whether or not such State, Subdivision, Special District, or Releasor has brought such action or proceeding). Released Claims also include all Claims asserted in any proceeding to be dismissed pursuant to the Agreement, whether or not such claims relate to Covered Conduct. The Parties intend that “Released Claims” be interpreted broadly. This Agreement does not release Claims by private individuals. It is the intent of the Parties that Claims by private individuals be treated in accordance with applicable law. Released Claims is also used herein to describe Claims brought by a Later Litigating Subdivision or other non-party Subdivision or Special District that would have been Released Claims if they had been brought by a Releasor against a Released Entity.
- Z. “*Released Entities*” means Kroger and (1) all of Kroger’s past and present direct or indirect parents, subsidiaries, divisions, predecessors, successors, assigns, including but not limited to all of the entities listed on Exhibit J of the Kroger Global Settlement; (2) the past and present direct or indirect subsidiaries, divisions, and joint ventures, of any of the foregoing; (3) all of Kroger’s insurers (solely in their role as insurers with respect to the Released Claims); (4) all of Kroger’s, or of any entity described in subsection (1), past and present joint ventures; and (5) the respective past and present officers, directors, members, shareholders (solely in their capacity as shareholders of the foregoing entities), partners, trustees, agents, and employees of any of the foregoing (for actions that occurred during and related to their work for, or employment with, Kroger). Any person or entity described in subsections (3)-(5) shall be a Released Entity solely in the capacity described in such clause and shall not be a Released Entity with respect to its conduct in any other capacity.
- AA. “*Releasors*” means (1) the State of Texas; (2) each Participating Subdivision, including Dallas and Bexar Counties; and (3) without limitation and to the maximum extent of the

power of the State of Texas's Attorney General, and/or each Participating Subdivision to release Claims, (a) the State of Texas's and/or Participating Subdivision's departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and attorneys, including its Attorney General, and any person in their official capacity whether elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, (b) any public entities, public instrumentalities, public educational institutions, unincorporated districts, fire districts, irrigation districts, water districts, law enforcement districts, emergency services districts, school districts, hospital districts, and other Special Districts in the State, and (c) any person or entity acting in a *parens patriae*, sovereign, quasi-sovereign, private attorney general, *qui tam*, taxpayer, or other capacity seeking relief on behalf of or generally applicable to the general public with respect to the State of Texas or Subdivisions in the State, whether or not any of them participate in the Agreement. The inclusion of a specific reference to a type of entity in this definition shall not be construed as meaning that the entity is not a Subdivision. In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide an Election and Release Form providing for a release to the fullest extent of the Participating Subdivision's authority, which shall be attached as an exhibit to the Agreement. The State of Texas's Attorney General represents that he or she has or has obtained the authority set forth in the Representation and Warranty Section.

- BB. "*Settlement Class Resolution*" means a class action resolution in a court of competent jurisdiction in the State with respect to a class of Subdivisions and Special Districts in the State that (1) conforms with the State's statutes, case law, and/or rules of procedure regarding class actions; (2) is approved and entered as an order of a court of competent jurisdiction in the State and has achieved Finality; (3) is binding on all Non-Participating Subdivisions and Special Districts in the State (other than opt outs as permitted under the next sentence); (4) provides that all such Non-Participating Subdivisions or Special Districts may not bring Released Claims against Released Entities, whether on the ground of the Agreement (or the releases herein) or otherwise; and (5) does not impose any costs or obligations on Kroger other than those provided for in the Agreement, or contain any provision inconsistent with any provision of the Agreement. If applicable State law requires that opt-out rights be afforded to members of the class, a class action resolution otherwise meeting the foregoing requirements shall qualify as a Settlement Class Resolution unless Subdivisions collectively representing 1% or more of the State's population opt out. In seeking certification of any Settlement Class, the applicable State and Participating Subdivisions shall make clear that certification is sought solely for settlement purposes and shall have no applicability beyond approval of the settlement for which certification is sought. Nothing in this Agreement constitutes an admission by any Party that class certification would be appropriate for litigation purposes in any case.
- CC. "*Special District*" means a formal and legally recognized sub-entity of the State that is authorized by State law to provide one or a limited number of designated functions, including but not limited to school districts, fire districts, healthcare & hospital districts, and emergency services districts. Special Districts do not include sub-entities of the State that provide general governance for a defined area that would qualify as a Subdivision.

DD. “*State*” means the State of Texas.

EE. “*Subdivision(s)*” means a formal and legally recognized sub-entity of the State of Texas that provides general governance for a defined area, including a county, city, town, village, or similar entity. Unless otherwise specified, “Subdivision” includes all functional counties and other functional levels of sub-entities of the State that provide general governance for a defined area. Historic, non-functioning sub-entities of the State of Texas are not Subdivisions, unless the entity has filed a lawsuit that includes a Released Claim against a Released Entity in a direct, parens patriae, or any other capacity. For purposes of this Agreement, the term Subdivision does not include Special Districts. A list of Texas Subdivisions will be agreed to prior to any Subdivision sign-on period.

III. Monetary Relief and Payments

- A. Texas Statewide opioid settlement to be distributed in the amount of \$75,315,611.99 (the “Texas Remediation Payment”) as a statewide opioid settlement pursuant to Tex. Gov’t Code Chapter 403 (comprised of \$11,297,341.79 as the State Share, \$11,297,341.79 as the Subdivision Share, and \$52,720,928.34 as the Abatement Share), \$7,282,379.52 as subdivision counsel fees; and \$472,129.30 as State Additional Restitution to be paid in year 2, for a total of \$83,070,120.81 (the “Settlement Amount”).
- B. Under no circumstances will Kroger’s financial responsibility under this Settlement, or this Settlement plus any common benefit assessment against this Settlement, exceed \$83,070,120.81, plus a maximum contribution of up to \$100,000.00 to an Opioid Education Program in Texas, as described in Section III.I.
- C. Subdivision participation forms of at least 96% of the population of litigating subdivisions will be obtained and provided to Kroger within 60 days of execution of this Agreement, including the Texas state bellwether jurisdictions (Dallas County and Bexar County). Texas will use good-faith efforts to obtain releases from non-litigating subdivisions as well. If less than 96% of the population of Litigating Subdivisions (as defined in the Global Settlement) execute participation forms within 60 days of execution of this Agreement, or if Dallas County and Bexar County do not both execute participation forms within 60 days of execution of this Agreement, Kroger retains the right to abandon this Agreement at its sole discretion within five (5) days. If Kroger chooses to abandon the settlement agreement because less than 96% of Litigating Subdivisions and/or Dallas and/or Bexar County do not execute releases within 60 days of execution, this Agreement shall be void in its entirety.
- D. If Kroger nevertheless decides at its discretion to proceed with this Agreement, then the Agreement shall become Effective. Kroger’s payments under this Agreement will be in accordance with this Agreement.

- E. This Agreement becomes effective at midnight on the 5th day after the deadline for at least 96% of the population of litigating subdivisions, and Dallas and Bexar Counties, to provide participation forms.
- F. Subdivision Counsel Fees of \$7,282,379.52 shall be allocated and distributed exclusively through the Texas MDL Court without any requirement that Texas Subdivision Counsel make application through the MDL process, through any National Fund Administrator, or submit in any manner whatsoever to the jurisdiction or enforcement of the MDL 2804 Court or Fee Panel.
- G. Counsel for Tarrant County, Texas, and MDL 2804 counsel shall not be penalized in any manner for making application to the Global Contingent Fee Fund, Global Common Benefit Fee Fund, or Global Cost Fund as a result of this Kroger Texas Statewide Opioid Settlement.
- H. Payment terms: The parties shall implement a payment schedule according to the Attached Schedule of Payments (See Exhibit E). In addition, within thirty (30) days of the effective date of this Agreement, payment for the Subdivision Counsel Fees shall be deposited into the Texas QSF, and the additional restitution shall be paid to the State as directed by the State. All funds for the State Share, Subdivision Share, and Abatement Share shall be deposited as a Statewide Opioid Settlement Amount into Chapter 403 accounts.
- I. OAG and Kroger will enter into a separate Agreement for an Opioid Education Program in Texas not to exceed to exceed \$100,000.00 in financial responsibility for Kroger, with jurisdiction to be agreed upon between Kroger and the OAG.

IV. Intra-State Allocation

Kroger's payments shall be allocated according to this Agreement and the Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet annexed hereto as Exhibit C and incorporated herein by reference (the "*Texas Intrastate Term Sheet*"), and pursuant to Tex. Gov't Code Ann. §405.505 (2019) and Opioid Abatement Trust Fund established by Tex. Gov't Code Ann. §405.506 (2019), according to the guidelines established in Tex. Gov't Code Ann. Chapter 403, Subchapter R, Statewide Opioid Settlement.

V. Injunctive Relief

The Parties agree to the injunctive relief that Kroger agreed to as part of the Kroger Global Settlement, which is attached hereto as Exhibit D.

VI. Dismissal of Claims

Upon the execution of this Agreement, while awaiting formal approval of the Agreement by the Commissioners Courts of Dallas and Bexar Counties, the Parties agree to jointly move to stay or extend all deadlines and proceedings in the Actions as to Kroger and to jointly move

for the claims against Kroger to be severed from the Actions. It is the Parties' intent that all litigation activities in the Actions relating to the State of Texas and Dallas and Bexar Counties' claims against Kroger shall immediately cease as of the date of the execution of this Agreement and that the claims against Kroger not be included in the trial of the Actions against the other defendants. Dismissals shall be filed within 21 days after Kroger's walk away right has extinguished and initial payments have been made to the Texas QSF, for the Additional Restitution, and the Chapter 403 accounts. The Consent Judgment with State shall be entered no later than 30 days after execution of settlement.

VII. Release

- A. *Scope.* As of the Effective Date, the Released Entities will be released and forever discharged from all of the Releasors' Released Claims. The State of Texas (for itself and its Releasors), Dallas and Bexar Counties (each for itself and its Releasors), and each Participating Subdivision (for itself and its Releasors) will, on or before the Effective Date, absolutely, unconditionally, and irrevocably covenant not to bring, file, or claim, or to cause, assist in bringing, or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Agreement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the State of Texas, its Attorney General, and each Releasor to release claims. The Release shall be a complete bar to any Released Claim.
- B. *Claim Over and Non-Party Settlement.*
1. *Statement of Intent.* It is the intent of the Parties that:
 - a. Released Entities should not seek contribution or indemnification (other than pursuant to an insurance contract) from other parties for their payment obligations under this Agreement;
 - b. the payments made under this Agreement shall be the sole payments made by the Released Entities to the Releasors involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity);
 - c. Claims by Releasors against non-Parties should not result in additional payments by Released Entities, whether through contribution, indemnification or any other means; and
 - d. the Settlement meets the requirements of the Uniform Contribution Among Joint Tortfeasors Act and any similar state law or doctrine that reduces or discharges a released party's liability to any other parties.
 - e. The provisions of this subsection VII.B are intended to be implemented consistent with these principles. This Agreement and the releases and dismissals provided for herein are made in good faith.

2. *Contribution/Indemnity Prohibited.* No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner, provided that a Released Entity shall be relieved of this prohibition with respect to any entity that asserts a Claim-Over against it. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.
3. *Non-Party Settlement.* To the extent that, on or after the Effective Date, any Releasor enters into a Non-Party Settlement, including in any bankruptcy case or through any plan of reorganization (whether individually or as a class of creditors), the Releasor will include (or in the case of a Non-Party Settlement made in connection with a bankruptcy case, will cause the debtor to include), unless prohibited from doing so under applicable law, in the Non-Party Settlement a prohibition on contribution or indemnity of any kind substantially equivalent to that required from Kroger in subsection VII.B.2, or a release from such Non-Released Entity in favor of the Released Entities (in a form equivalent to the releases contained in this Agreement) of any Claim-Over. The obligation to obtain the prohibition and/or release required by this subsection is a material term of this Agreement.
4. *Claim-Over.* In the event that any Releasor obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Entity that does not contain a prohibition like that in subsection VII.B.3, or any Releasor files a Non-Party Covered Conduct Claim against a non-Released Entity in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in subsection VII.B.3, and such Non-Released Entity asserts a Claim-Over against a Released Entity, that Releasor and Kroger shall take the following actions to ensure that the Released Entities do not pay more with respect to Covered Conduct to Releasors or to Non-Released Entities than the amounts owed under this Settlement Agreement by Kroger:
 - a. Kroger shall notify that Releasor of the Claim-Over within sixty (60) days of the assertion of the Claim-Over or sixty (60) days of the Effective Date of this Settlement Agreement, whichever is later;
 - b. Kroger and that Releasor shall meet and confer concerning the means to hold Released Entities harmless and ensure that it is not required to pay more with respect to Covered Conduct than the amounts owed by Kroger under this Settlement Agreement;
 - c. That Releasor and Kroger shall take steps sufficient and permissible under the law of the State of the Releasor to hold Released Entities harmless from the Claim-Over and ensure Released Entities are not required to pay more with respect to Covered Conduct than the amounts owed by Kroger under this Settlement Agreement. Such steps may

include, where permissible:

- i. Filing of motions to dismiss or such other appropriate motion by Kroger or Released Entities, and supported by Releasors, in response to any claim filed in litigation or arbitration;
 - ii. Reduction of that Releasor's Claim and any judgment it has obtained or may obtain against such Non-Released Entity by whatever amount or percentage is necessary to extinguish such Claim-Over under applicable law, up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity;
 - iii. Placement into escrow of funds paid by the Non-Released Entities such that those funds are available to satisfy the Claim-Over;
 - iv. Return of monies paid by Kroger to that Releasor under this Settlement Agreement to permit satisfaction of a judgment against or settlement with the Non-Released Entity to satisfy the Claim-Over;
 - v. Payment of monies to Kroger by that Releasor to ensure it is held harmless from such Claim-Over, up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non- Released Entity;
 - vi. Credit to Kroger under this Settlement Agreement to reduce the overall amounts to be paid under the Settlement Agreement such that it is held harmless from the Claim-Over; and
 - vii. Such other actions as that Releasor and Kroger may devise to hold Kroger harmless from the Claim-Over.
- d. The actions of that Releasor and Kroger taken pursuant to paragraph (c) must, in combination, ensure Kroger is not required to pay more with respect to Covered Conduct than the amounts owed by Kroger under this Agreement.
- e. In the event of any dispute over the sufficiency of the actions taken pursuant to paragraph (c), that Releasor and Kroger may seek review by the National Arbitration Panel, provided that, if the parties agree, such dispute may be heard by the Court where the Consent Judgment was filed. The National Arbitration Panel shall have authority to require Releasors to implement a remedy that includes one or more of the actions specified in paragraph (c) sufficient to hold Released Entities fully harmless. In the event that the panel's actions do not result in Released Entities being held fully harmless, Kroger shall have a claim for breach

of this Agreement by Releasors, with the remedy being payment of sufficient funds to hold Kroger harmless from the Claim-Over. For the avoidance of doubt, the prior sentence does not limit or eliminate any other remedy that Kroger may have. If the Global Settlement does not become effective by December 31, 2024, then disputes shall be heard by the Court where the Consent Judgment was filed.

5. To the extent that the Claim-Over is based on a contractual indemnity, the obligations under subsection VII.B.4 shall extend solely to a Non-Party Covered Conduct Claim against a pharmacy, clinic, hospital or other purchaser or dispenser of Products, a manufacturer that sold Products, a consultant, and/or a pharmacy benefit manager or other third-party payor. Kroger shall notify the Settling States, to the extent permitted by applicable law, in the event that any of these types of Non-Released Entities asserts a Claim-Over arising out of contractual indemnity against it.

- C. *General Release.* In connection with the releases provided for in the Agreement, the State of Texas (for itself and its Releasors), Dallas and Bexar Counties (each for itself and its Releasors), and each Participating Subdivision (for itself and its Releasors) will expressly waive, release, and forever discharge any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may thereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but the State (for itself and its Releasors), Dallas and Bexar Counties (each for itself and its Releasors), and each Participating Subdivision (for itself and its Releasors) will expressly waive and fully, finally, and forever settle, release and discharge, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the State's decision to enter into the Agreement or the Participating Subdivisions' decision to participate in the Agreement.

- D. *Cooperation.* Releasors (i) will not encourage any person or entity to bring or maintain any Released Claim against any Released Entity and (ii) will reasonably cooperate with and not oppose any effort by a Released Entity to secure the prompt dismissal of any and all Released Claims. The State shall use its best efforts to secure releases consistent with this Section from all Litigating or Later Litigating Subdivisions and Special

Districts.

- E. *Res Judicata*. Nothing in the Agreement shall be deemed to reduce the scope of the res judicata or claim preclusive effect that the settlement memorialized in the Agreement, and/or any Consent Judgment or other judgment entered on the Agreement, gives rise to under applicable law.
- F. *Representation and Warranty*. The signatories of this Agreement on behalf of the State of Texas and its Participating Subdivisions expressly represent and warrant that they will, on or before the Effective Date, have (or have obtained) the authority to settle and release, to the maximum extent of the state's power, all Released Claims of (1) the State of Texas, (2) all past and present executive departments, state agencies, divisions, boards, commissions and instrumentalities with the regulatory authority to enforce state and federal controlled substances acts, (3) any of the State of Texas's past and present executive departments, agencies, divisions, boards, commissions and instrumentalities that have the authority to bring Claims related to Covered Conduct seeking money (including abatement and/or remediation) or revocation of a pharmaceutical distribution license; and (4) any Participating Subdivisions. For the purposes of clause (3) above, executive departments, agencies, divisions, boards, commissions, and instrumentalities are those that are under the executive authority or direct control of the State's Governor. Also, for the purposes of clause (3), a release from the State's Governor is sufficient to demonstrate that the appropriate releases have been obtained.
- G. *Effectiveness*. The releases set forth in the Agreement shall not be impacted in any way by any dispute that exists, has existed, or may later exist between or among the Releasers. Nor shall such releases be impacted in any way by any current or future law, regulation, ordinance, or court or agency order limiting, seizing, or controlling the distribution or use of the Qualified Settlement Fund or any portion thereof, or by the enactment of future laws, or by any seizure of the Qualified Settlement Fund or any portion thereof.
- H. *Non-Released Claims*. Notwithstanding the foregoing or anything in the definition of Released Claims, the Agreement does not waive, release or limit any criminal liability, Claims for any outstanding liability under any tax or securities law, Claims against parties who are not Released Entities, Claims by private individuals and any claims arising under the Agreement for enforcement of the Agreement.

VIII. Participation by Subdivisions

- A. *Requirements for Becoming a Participating Subdivision: Litigating Subdivisions/Later Litigating Subdivisions*. A Litigating Subdivision or Later Litigating Subdivision in the State may become a Participating Subdivision by either executing an Election and Release Form and upon prompt dismissal of its legal action or by having its claims extinguished by operation of law or released by the State's Office of the Attorney General.
- B. *Notice*. In conjunction and accordance with the notice process anticipated in the

Global Settlement, the State's Office of the Attorney General shall send individual notice to all Subdivisions in the State of Texas eligible to participate in the settlement and the requirements for participation. Such notice may include publication and other standard forms of notification.

- C. *Requirements for Becoming a Participating Subdivision: Non-Litigating Subdivisions.* A Non-Litigating Subdivision may become a Participating Subdivision by either executing an Election and Release Form specifying (1) that the Subdivision agrees to the terms of this Agreement pertaining to Subdivisions, (2) that the Subdivision releases all Released Claims against all Released Entities, and (3) that the Subdivision submits to the jurisdiction of the court where the Consent Judgment is filed for purposes limited to that court's role under the Agreement or by having their claims extinguished by operation of law or released by the State's Office of the Attorney General.
- D. *Non-Participating Subdivisions.* Non-Participating Subdivisions shall not directly receive any portion of any payments paid to the Texas Qualified Settlement Fund and the State may choose that its Non-Participating Subdivisions are ineligible for benefits from the fund.
- E. *Representation With Respect to Participation Rate.* The State of Texas represents and warrants for itself that it has a good faith belief that virtually all of Texas's Litigating Subdivisions will become Participating Subdivisions. The State acknowledges the materiality of the foregoing representation and warranty. Counsel for Dallas and Bexar Counties, in good faith, believe this is a fair Settlement. Therefore, counsel for Dallas and Bexar Counties will, in their best efforts, recommend this Settlement to their subdivision clients within Texas. Further, counsel for Dallas and Bexar Counties will use their best efforts to secure participation by all Subdivisions within Texas.

IX. Attorney Fee and Cost Payments

- A. The terms for attorney fee and cost payments are as follows:
 - 1. Kroger shall pay a total of \$7,282,379.52 in attorney fees to the Texas QSF. \$2,427,459.84 in attorney fees shall be paid in Payment 1 within thirty (30) days after the Texas Settlement Effective Date, \$2,427,459.84 in attorney fees shall be paid in Payment 2, and \$2,427,459.84 in attorney fees shall be paid in Payment 3.
 - 2. An attorney or law firm representing the State of Texas or a Texas Subdivision may receive an award of attorney fees paid under this Texas Settlement only if the attorney or law firm (a) represents that the attorney or law firm has no present intent to represent or participate in the representation of any Later Litigating Subdivision or Later Litigating State with respect to any Released Claims brought against any Released Entities; (b) represents that the attorney or law firm has not engaged and will not engage in any advertising or solicitation related to Released Claims against Released Entities; (c) represents that the attorney or law firm will not charge or accept any contingent or referral fees for any Released

Claims brought against any Released Entities; and (d) represents that the attorney or law firm does not have and will not have a fee entitlement related to any Released Claims brought against any Released Entities.

3. Counsel for the Texas Subdivisions agree not to apply to the MDL Contingency Fee Fund, the MDL Common Benefit Fund, or the MDL Cost Fund under the Global Agreement in connection with any work for Texas Subdivision's Claims against Kroger, except that (1) counsel for Tarrant County may apply to the MDL Common Benefit Fund and MDL Cost Fund for work performed in Tarrant County's bellwether case against Kroger, and (2) counsel for Participating Subdivisions in the Global Agreement may apply to the MDL Contingency Fund for their representation of those Participating Subdivisions.
 4. These fees shall be divided amongst Participating Subdivisions, including Dallas and Bexar Counties, as provided in the Texas Intrastate Term Sheet. Nothing in Section IX.A.1 is intended to limit the application of Sections C.5 and C.6 of the Texas Intrastate Term Sheet.
 5. Kroger shall pay \$472,129.30 in State Additional Restitution to the State of Texas.
 6. In addition to the payment pursuant to the foregoing paragraph (IX.A.3), the Qualified Settlement Fund Administrator shall allow reimbursement for reasonable costs and expenses as allowed by the Texas Intrastate Term Sheet from the Subdivision Share and Texas Abatement Fund Share, as provided in the Texas Intrastate Term Sheet, to be available to reimburse Participating Subdivision attorney's costs and expenses upon application by eligible counsel who waive their contingency fees. These costs and expenses shall be divided under the jurisdiction and authority of the Honorable Robert Schaffer, *In Re: Texas Opioid Litigation*, MDL No. 18-0358, Master File No. 2018-63587, in the 152nd Judicial District Court, Harris County, Texas, amongst Participating Subdivisions, including Dallas and Bexar Counties, as provided in the Texas Intrastate Term Sheet. Any excess costs or expenses not allocated to reimburse Participating Subdivision attorney's costs and expenses pursuant to this Agreement under Exhibit C shall be replaced into to the Subdivision Share and Abatement Share Funds by the Qualified Settlement Fund Administrator.
 7. For the avoidance of doubt, nothing in this Section IX requires Kroger to make any payment beyond that described in Section III.A.
 8. Nothing in this agreement is intended to limit the application of the Texas Intrastate Term Sheet, which includes the calculation and process for allocation of fees and costs for Texas Political Subdivisions.
- B. An Attorney may not receive any payment from the Texas Attorney Fee Fund (which includes both the Contingency Fee Fund and the Common Benefit Fund) unless the following eligibility criteria are met and annually certified by the Attorney:

1. The Attorney must expressly waive the enforcement against the Litigating Subdivision client of all Fee Entitlements (other than under State Back-Stop Agreements) arising out of or related to any or all Qualifying Representations of any Participating Litigating Subdivision prior to applying for attorneys' fees from the Attorney Fee Fund or costs from the Cost Funds. All applications for attorneys' fees or costs under this Fee Agreement shall include an affirmation by the Attorney of such waiver and notice to the client(s) of such waiver. Such waiver shall not preclude the Attorney from submitting such Fee Entitlements to the Fee Panel as a factor for consideration in allocating payments from the Attorney Fee Fund or in connection with a State Back-Stop Agreement. For the avoidance of doubt, no Attorney may recover fees or costs under this Fee Agreement unless the Attorney expressly agrees not to enforce Fee Entitlements as to each and every Participating Litigating Subdivision represented by that Attorney, but such Attorneys may participate in and receive funds from a State Back-Stop Agreement.
2. The Attorney must represent that s/he has no present intent to represent or participate in the representation of any Later Litigating Subdivision or any Releasor with respect to Released Claims against Released Entities.
3. The Attorney must represent s/he will not charge or accept any referral fees for any Released Claims brought against Released Entities by Later Litigating Subdivisions. For the avoidance of doubt, this representation shall not prohibit Attorneys from receiving allocated shares of any future common benefit assessments arising out of settlements or judgments with Later Litigating Subdivisions represented by other Attorneys that are the result of the MDL Court's Common Benefit order.
4. The Attorney may not have and must represent that s/he does not have a Fee Entitlement related to a Later Litigating Subdivision.

X. Enforcement and Dispute Resolution

- A. The terms of the Agreement are enforceable by the Participating Subdivisions before the Honorable Robert Schaffer, *In Re: Texas Opioid Litigation*, MDL No. 18-0358, Master File No. 2018-63587, in the 152nd Judicial District Court, Harris County, Texas and by the State for the Consent Judgment applicable to the State in the court where the Consent Judgment is filed. Kroger consents to the jurisdiction of the Texas MDL Court, and to the court in which the Consent Judgment is filed, limited to resolution of disputes identified in subsection X.C for resolution in the court in which the Consent Judgment is filed.
- B. The parties to a dispute shall promptly meet and confer in good faith to resolve any dispute. If the parties cannot resolve the dispute informally, and unless otherwise agreed in writing, they shall follow the remaining provisions of this section to resolve the dispute.

- C. Disputes not resolved informally shall be resolved in the Court that entered the Consent Judgment for disputes with the Attorney General, or the Texas MDL Court for disputes with subdivisions.
- D. Terms for Release, Covered Conduct, Product definitions, and Timing of Payments are intended to reasonably mirror those in the proposed Global Settlement but shall in no way cause jurisdiction of the MDL 2804 Court, Fee Panel, or any persons or entities associated with the Global Settlement over the Texas Litigating Subdivisions who provide Texas participation forms and Texas releases.

XI. Miscellaneous

- A. Statement on Restitution and Cooperation
 - 1. The Texas Qualified Settlement Fund Administrator shall complete and file Form 1098-F with the Internal Revenue Service on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the order entering the Consent Judgment becomes binding. On the Form 1098-F, the Texas Qualified Settlement Fund Administrator or requesting entity, as applicable, shall identify such payments from Kroger as remediation/restitution amounts. The Texas Qualified Settlement Fund Administrator or State, as applicable, shall also, on or before January 31 of the year following the calendar year in which the order entering the Consent Judgment becomes binding, furnish Copy B of such Form 1098-F (or an acceptable substitute statement) to Kroger.
- B. Nothing in this Agreement shall be construed to authorize or require any action by Kroger in violation of applicable federal, state, or other laws.
- C. *Future Litigation Contracts.* The State of Texas, by and through its Attorney General, represents that, to the extent permissible by law, it will not approve any future, or renew any current, Subdivision or Special District outside counsel contracts for opioid litigation against Kroger.
- D. *Most Favored Nations.* If, after execution of this Agreement, there is a collective resolution—through settlement, bankruptcy or other mechanism—of substantially all claims against Kroger brought by states, counties, and municipalities (a “Global Resolution”) under which, but for this Agreement, the Texas allocation would be greater than the Settlement Amount on a net present value basis, Kroger shall pay the difference between the Settlement Amount and the amount that would have been allocated to Texas under the terms and in accordance with any such Global Resolution.
- E. *Modification.* This Agreement may be modified by a written agreement of the Parties or, in the case of the Consent Judgment, by court proceedings resulting in a modified judgment of the Court. For purposes of modifying this Agreement or the Consent Judgment, Kroger may contact the Texas Attorney General and Counsel for Dallas, and Bexar Counties for purposes of coordinating this process.
- F. Any failure by any party to this Agreement to insist upon the strict performance by any

other party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions of this Agreement, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Judgment.

- G. *Entire Agreement.* This Agreement represents the full and complete terms of the settlement entered into by the Parties hereto, except as provided herein. In any action undertaken by the Parties, no prior versions of this Agreement and no prior versions of any of its terms may be introduced for any purpose whatsoever.
- H. *Counterparts.* This Agreement may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect as, an original signature.
- I. *Public Statements.* The parties agree to work together and coordinate the announcement and timing of the Texas Agreement.
- J. *Notice.* All notices under this Agreement shall be in writing (including, but not limited to, electronic communications and Overnight Mail) and shall be given to the recipients indicated below:

Defendant:

Copy to Kroger's attorneys at:

Chantale Fiebig
Weil, Gotshal & Manges LLP
2001 M St. NW 20036
Washington, D.C. 20036

For the Attorney General:

Stephanie Eberhardt
Assistant Attorney General
Office of the Attorney
General PO Box 12548
Austin, Texas 78711-2548
stephanie.eberhardt@oag.texas.gov

For Texas PSC:

Jeffrey B. Simon
Simon Greenstone Panatier, P.C.
901 Main Street, Suite 5900
Dallas, Texas 75202
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Dara Hegar
The Lanier Law Firm P.C.
10940 West Sam Houston Pkwy N., Suite 100
Houston, Texas 77064
Phone: (713) 659-5200
Dara.Hegar@LanierLawFirm.com

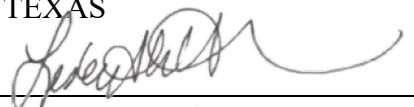
Approved:

THE KROGER CO.

By: 
Chantale Fiebig
Weil, Gotshal & Manges LLP
2001 M St. NW #600
Washington, D.C. 20036
Chantale.Fiebig@weil.com

Date: 10/30/2024

STATE OF TEXAS

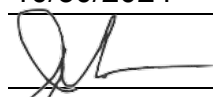
By: 

Date: 10/30/2024

TEXAS PSC NEGOTIATION COMMITTEE

By: 
Dara Hegar
The Lanier Law Firm, P.C.
10940 W. Sam Houston Pkwy N.
Ste 100
Houston, TX 77064
dara.hegar@lanierlawfirm.com

Date: 10/30/2024

By: 
Jeffrey B. Simon
Simon Greenstone Panatier, P.C.

901 Main Street, Suite 5900
Dallas, Texas 75202
jsimon@sgptrial.com

Date: 10/30/2024

Exhibit A

TEXAS SETTLEMENT SUBDIVISION PARTICIPATION AND RELEASE FORM

Political Subdivision:	Texas
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above ("Texas Political Subdivision"), in order to obtain and in consideration for the benefits provided to the Texas Political Subdivision pursuant to the Kroger Texas Settlement Agreement and Full Release of All Claims dated _____ ("Kroger Texas Settlement"), and acting through the undersigned authorized official, hereby elects to participate in the Kroger Texas Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Texas Political Subdivision above is aware of and has reviewed the Kroger Settlement Agreement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Texas Political Subdivision elects to participate in the Kroger Texas Settlement and become a Participating Texas Political Subdivision as provided therein.
2. The Texas Political Subdivision shall immediately cease any and all litigation activities as to the Released Entities and Released Claims and, within 14 days of executing this Participation and Release Form, its counsel shall work with Kroger's counsel to dismiss with prejudice any Released Claims that it has filed.
3. The Texas Political Subdivision agrees to the terms of the Kroger Texas Settlement pertaining to Texas Political Subdivisions as provided therein.
4. By agreeing to the terms of the Kroger Texas Settlement and becoming a Releasor, the Texas Political Subdivision is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date of the Release.
5. The Texas Political Subdivision agrees to use any monies it received through the Kroger Texas Settlement solely for the purposes provided therein.

6. The Texas Political Subdivision submits to the exclusive jurisdiction and authority of the Texas Consolidated Litigation Court as defined in the Kroger Texas Settlement. For the avoidance of doubt, nothing contained in this Participation and Release Form, or the Kroger Texas Settlement, constitutes consent to jurisdiction, express or implied, over the Texas Political Subdivision or its selected counsel to the jurisdiction of any other court (including without limitation MDL 2804, the MDL 2804 Fee Panel, the MDL 2804 Enforcement Committee, or the Court in which any Texas Consent Judgment is filed) for any purpose whatsoever.
7. The Texas Political Subdivision, as a Participating Texas Subdivision, has the right to enforce the Kroger Texas Settlement in the Texas Consolidated Litigation Court as provided therein.
8. The Texas Political Subdivision, as a Participating Texas Subdivision, hereby becomes a Releasor for all purposes in the Kroger Texas Settlement, including but not limited to all provisions of Section V (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Texas Political Subdivision hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entities in any forum whatsoever. The releases provided for in the Kroger Texas Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entity the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Texas Political Subdivision to release claims. The Kroger Texas Settlement shall be a complete bar to any Released Claim.
9. The Texas Political Subdivision hereby takes on all rights and obligations of a Participating Texas Subdivision as set forth in the Kroger Texas Settlement.
10. In connection with the releases provided for in the Kroger Texas Settlement, each Texas Political Subdivision expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Texas Political Subdivision hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Kroger Texas Settlement.

11. The Texas Political Subdivision acknowledges, agrees, and understands that the Maximum Texas Settlement Amount to be paid under the Kroger Texas Settlement for the benefit of the Participating Texas Political Subdivision, is less than or equal to the amount, in the aggregate, of the Alleged Harms allegedly suffered by the governmental entity, constitutes restitution and remediation for damage or harm allegedly caused by Kroger in order to restore, in whole or part, the governmental entity to the same position or condition that it would be in had it not suffered the Alleged Harms; and constitutes restitution and remediation for damage or harm allegedly caused by the potential violation of a law and/or is an amount paid to come into compliance with the law.
12. Nothing herein is intended to modify in any way the terms of the Kroger Texas Settlement Agreement, to which the Texas Political Subdivision hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Kroger Texas Settlement, the Kroger Texas Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Texas Political Subdivision.

Signature: _____
Name: _____
Title: _____
Date: _____

Exhibit B
List of Texas PSC Subdivisions

County/City	Firm Name	Population
Angelina County	Simon Greenstone Panatier, P.C.	86,715
Bailey County	Fears Nachawati	7,000
Bastrop County	Phipps Ortiz Talafuse PLLC	88,723
Bee County	Simon Greenstone Panatier, P.C.	32,565
Bexar County	Watts Guerra LLP	2,003,554
Blanco County	Simon Greenstone Panatier, P.C.	11,931
Bowie County	Simon Greenstone Panatier, P.C.	93,245
Brazos County	Fears Nachawati	229,211
Brooks County	Phipps Ortiz Talafuse PLLC	7,093
Burleson County	Watts Guerra LLP	18,443
Burnet County	Simon Greenstone Panatier, P.C.	48,155
Caldwell County	Phipps Ortiz Talafuse PLLC	43,664
Calhoun County	Phipps Ortiz Talafuse PLLC	21,290
Cameron County	Watts Guerra LLP	423,163
Camp County	Simon Greenstone Panatier, P.C.	13,094
Cass County	Simon Greenstone Panatier, P.C.	30,026
Castro County	The Coffman Law Firm	7,530
Cherokee County	Simon Greenstone Panatier, P.C.	52,646
Childress County	Haley & Olson, P.C.	7,306
Clay County	Haley & Olson, P.C.	10,471
Colorado County	The Coffman Law Firm	21,493
Cooke County	Simon Greenstone Panatier, P.C.	41,257
Coryell County	Simon Greenstone Panatier, P.C.	75,951
Dallas County	Simon Greenstone Panatier, P.C., The Lanier Law Firm, P.C.	2,635,516
Delta County	Simon Greenstone Panatier, P.C.	5,331
Dimmit County	Simon Greenstone Panatier, P.C.	10,124
Duval County	Snapka Law	11,157
Ector County	Simon Greenstone Panatier, P.C.	166,223
El Paso County	The Gallagher Law Firm, PLLC	839,238
Ellis County	Fears Nachawati	184,826
Falls County	Simon Greenstone Panatier, P.C.	17,297
Fannin County	Simon Greenstone Panatier, P.C.	35,514
Fort Bend County	The Lanier Law Firm	811,688
Franklin County	Simon Greenstone Panatier, P.C.	10,725
Freestone County	Simon Greenstone Panatier, P.C.	19,717

County/City	Firm Name	Population
Galveston County	The Gallagher Law Firm, PLLC	342,139
Grayson County	Simon Greenstone Panatier, P.C.	136,212
Guadalupe County	Phipps Ortiz Talafuse PLLC	166,847
Hardin County	Simon Greenstone Panatier, P.C.	57,602
Harris County	The Gallagher Law Firm, PLLC	4,713,325
Harrison County	Watts Guerra LLP	66,553
Haskell County	Haley & Olson, P.C.	5,658
Hays County	Phipps Ortiz Talafuse PLLC	230,191
Henderson County	Fears Nachawati	82,737
Hidalgo County	The Gallagher Law Firm, PLLC	868,707
Hopkins County	Simon Greenstone Panatier, P.C.	37,084
Houston City	The Lanier Law Firm	2,320,268
Houston County	Simon Greenstone Panatier, P.C.	22,968
Jasper County	Simon Greenstone Panatier, P.C.	35,529
Jefferson County	The Coffman Law Firm	251,565
Jim Hogg County	Snapka Law	5,200
Jim Wells County	Watts Guerra LLP	40,482
Johnson County	Fears Nachawati	175,817
Jones County	Haley & Olson, P.C.	20,083
Kaufman County	Fears Nachawati	136,154
Kendall County	Simon Greenstone Panatier, P.C.	47,431
Kerr County	Watts Guerra LLP	52,600
Kinney County	Haley & Olson, P.C.	3,667
Kleberg County	Snapka Law	30,680
La Salle County	Haley & Olson, P.C.	7,520
Lamar County	Simon Greenstone Panatier, P.C.	49,859
Leon County	Watts Guerra LLP	17,404
Leon Valley City	Phipps Ortiz Talafuse PLLC	12,306
Liberty County	The Gallagher Law Firm, PLLC	88,219
Limestone County	Simon Greenstone Panatier, P.C.	23,437
Lubbock County	Phipps Ortiz Talafuse PLLC	310,659
Madison County	The Coffman Law Firm	14,284
Marion County	Simon Greenstone Panatier, P.C.	9,854
McLennan County	Haley & Olson, P.C.	256,623
McMullen County	Simon Greenstone Panatier, P.C.	743
Milam County	Simon Greenstone Panatier, P.C.	24,823
Mitchell County	Haley & Olson, P.C.	8,545
Montgomery County	Haley & Olson, P.C.	607,391

County/City	Firm Name	Population
Morris County	Simon Greenstone Panatier, P.C.	12,388
Nacogdoches County	Simon Greenstone Panatier, P.C., The Lanier Law Firm, P.C.	65,204
Newton County	Simon Greenstone Panatier, P.C.	13,595
Nolan County	Haley & Olson, P.C.	14,714
Nueces County	The Lanier Law Firm	362,294
Orange County	Simon Greenstone Panatier, P.C.	83,396
Panola County	Simon Greenstone Panatier, P.C.	23,194
Parker County	Simon Greenstone Panatier, P.C.	142,878
Polk County	Haley & Olson, P.C.	51,353
Potter County	Simon Greenstone Panatier, P.C., The Lanier Law Firm, P.C.	117,415
Red River County	Simon Greenstone Panatier, P.C.	12,023
Roberts County	The Coffman Law Firm	854
Robertson County	Simon Greenstone Panatier, P.C.	17,074
Rockwall County	Fears Nachawati	104,915
Rusk County	Simon Greenstone Panatier, P.C.	54,406
San Patricio County	Phipps Ortiz Talafuse PLLC	66,730
San Saba County	The Coffman Law Firm	6,055
Shackelford County	The Coffman Law Firm	3,265
Shelby County	Simon Greenstone Panatier, P.C.	25,274
Smith County	Simon Greenstone Panatier, P.C.	232,751
Stephens County	Fears Nachawati	9,366
Tarrant County	The Lanier Law Firm	2,102,515
Terrell County	The Coffman Law Firm	776
Throckmorton County	Haley & Olson, P.C.	1,501
Titus County	Simon Greenstone Panatier, P.C.	32,750
Travis County	The Lanier Law Firm	1,273,954
Trinity County	Simon Greenstone Panatier, P.C.	14,651
Upshur County	Simon Greenstone Panatier, P.C.	41,753
Uvalde County	Phipps Ortiz Talafuse PLLC	26,741
Van Zandt County	Simon Greenstone Panatier, P.C.	56,590
Walker County	Park Law Firm	72,791
Waller County	The Gallagher Law Firm, PLLC	55,246
Webb County	The Cicala Law Firm	276,652
Wichita County	Haley & Olson, P.C.	132,230
Williamson County	Watts Guerra LLP	590,551
Wilson County	Phipps Ortiz Talafuse PLLC	51,070

County/City	Firm Name	Population
Wood County	Simon Greenstone Panatier, P.C.	45,539
City Of Laredo, Texas	Napoli Shkolnik	262,491
County Of Maverick	Napoli Shkolnik	58,722
City Of San Antonio, Texas	Levin Papantonio Rafferty	1,547,253
County Of Zavala	Napoli Shkolnik	11,840
City Of Eagle Pass	Napoli Shkolnik	29,684
Nueces County Hospital District	The Lanier Law Firm	6,982
Bexar County Hospital District (D/B/A UHS Health System)	Watts Guerra LLP	7,058
Dallas County Hospital District (D/B/A Parkland)	Burns Charest	12,869
Guadalupe Valley Medical Center	Burns Charest	923
Tarrant County Hospital District (D/B/A JPS Health Network)	Wick Phillips	6,694
Harris County Hospital District (D/B/A Harris Health System)	The Gallagher Law Firm, PLLC	7,403
Burleson Hospital District	Watts Guerra LLP	20
Wilson County Memorial Hospital District	Phipps Ortiz Talafuse PLLC	208
Ochiltree County Hospital District	Frazer PLC	105
Palo Pinto County Hospital District	Burns Charest	336
West Wharton County Hospital District	Frazer PLC	186
Irving Independent School District	The Coffman Law Firm	3,251
Texarkana Independent School District	The Coffman Law Firm	1,548
Socorro Independent School District	The Coffman Law Firm	6,288
Gonzales Health Care System	Frazer PLC	TBD

Exhibit C

Exhibit D

[Exhibit P of Kroger's Global Settlement]

EXHIBIT P

Pharmacy Controlled Substance Compliance Program & Anti-Diversion Injunctive Terms

I. INTRODUCTION

1. Except where these Injunctive Terms specify a different implementation period, Kroger shall implement the Injunctive Terms set forth below in Sections II through XVIII by the Injunctive Terms Implementation Date (defined below).
2. To the extent that Kroger already has in place positions, committees, departments, policies or programs that satisfy the Injunctive Terms, no re-naming or other change is required by these Injunctive Terms.
3. Overview
 - a. Kroger will implement or maintain a Controlled Substance Compliance Program (“CSCP”).
 - b. The CSCP must include written standard operating procedures and/or corporate policies (the “CSCP Policies and Procedures”) required by these Injunctive Terms.
 - c. The CSCP shall apply during the term of these Injunctive Terms, to each of Kroger’s retail pharmacy stores that dispense Schedule II Designated Controlled Substances and are registered or licensed with each Settling State.
 - d. Kroger shall provide a copy of the relevant CSCP Policies and Procedures to each Settling State within sixty (60) days of the Injunctive Terms Implementation Date. To the extent any implementation is expected to require additional time, the Parties agree to work together in good faith to establish a timeline for implementation. No later than thirty (30) days after the Injunctive Terms Implementation Date, each Settling State shall identify the person or office to whom Kroger must provide a copy of the relevant CSCP Policies and Procedures and any other State-specific reporting required under these Injunctive Terms.
 - e. Settling States shall form the States Injunctive Relief Committee to serve as a point of contact for Kroger and to perform such other roles as set forth herein. Upon the committee’s formation, Settling States shall provide notice to Kroger of the members of the committee.
4. Compliance with Laws
 - a. Kroger acknowledges and agrees that its pharmacies must comply with applicable state and federal laws, regulations, and rules, including those

regarding the dispensing of Controlled Substances. The requirements of these Injunctive Terms are in addition to, and not in lieu of, any other requirements of federal, state, or local law. Nothing in the Injunctive Terms shall be construed as relieving Kroger of the obligation of its pharmacies to comply with all federal, state and local laws, regulations or rules, nor shall any of the provisions of the Injunctive Terms be deemed as permission for Kroger to engage in any acts or practices prohibited by such laws, regulations or rules.

- b. The Injunctive Terms are not intended to and shall not be interpreted to prevent Kroger from taking or implementing any other compliance or policy steps that are more restrictive or that are necessary to conform with federal, state, or local legal requirements, unless such steps would conflict with State or local law. The Injunctive Terms are not intended to and shall not be interpreted to require Kroger to inventory any Controlled Substances or any particular Controlled Substances or to require dispensing of any Controlled Substances or of any individual, types, subsets or categories of Controlled Substances prescriptions.
- c. In the event that Kroger determines that there may be a conflict between the Injunctive Terms and the express requirements of federal, state, or local laws, or interpretations of such laws articulated by an agency responsible for enforcing such laws or a court (“Express Interpretations”), such that Kroger determines that it cannot comply with the Injunctive Terms without violating these express requirements or Express Interpretations, Kroger shall follow the express requirements of the federal, state or local law or Express Interpretation thereof and shall provide notice to the Settling State(s). Within thirty (30) days after receipt of a notification from Kroger referenced above, Kroger and the State shall meet and discuss the potential conflict, and Kroger shall comply with any reasonable requests from the Settling State as necessary to determine whether there is a conflict between the Injunctive Terms and the express requirements of federal, state, or local laws, or Express Interpretations. In the event that Kroger believes a court or administrative action brought by a governmental body in a Settling State has commenced against it or its pharmacists for actions required by the Injunctive Terms, then Kroger may notify the Attorney General of the Settling State of such pending action. If the State agrees that the court or administrative action is a result of actions required by the Injunctive Terms, the State will engage in best efforts to resolve the conflict or assist in achieving resolution of the court or administrative action. Nothing in this paragraph shall (i) limit the right of the Settling State to disagree with Kroger as to the conflict; (ii) be deemed to relieve Kroger from following any subsequently enacted law or regulation, or judicial decisions from a regulatory authority with jurisdiction over controlled substances that is more restrictive than the provisions of the Injunctive Terms, or from following the Injunctive Terms if they are more restrictive than applicable laws at issue in the administrative action if there is no conflict; (iii) be deemed to relieve Kroger from adhering to the outcome of a court or administrative action when it is determined that there is no conflict; or (iv) limit a Settling State’s ability to relieve Kroger of a duty under these Injunctive

Terms if that Settling State determines that that term is in conflict with that Settling State's express legal requirements.

- d. Kroger shall retain all records it is required to create pursuant to its obligations hereunder for a period outlined in appendix A, unless otherwise specified. Nothing in these Injunctive Terms shall prevent a Settling State from issuing a lawful subpoena or Civil Investigative Demand (CID) for records pursuant to an applicable law.
5. No Admission and No Use as Evidence. Kroger does not admit liability or wrongdoing. These Injunctive Terms shall not be considered, construed, or represented to be (1) an admission, concession, or evidence of liability, wrongdoing, or to impose the existence of any legal obligations or requirements other than the requirement to follow these Injunctive Terms, or (2) a waiver or limitation of any defense otherwise available to Kroger. These Injunctive Terms shall not be offered or received in evidence or otherwise relied on in any action or proceeding for any purpose other than in an action or proceeding to modify or enforce or monitor compliance with these Injunctive Terms.

II. TERM AND SCOPE

1. The term of these Injunctive Terms shall be from the Injunctive Terms Implementation Date until November 15, 2032, unless otherwise specified herein.
2. Except as otherwise stated herein, the Injunctive Terms shall apply to Kroger's retail pharmacy stores located in, and registered or licensed with, each Settling State that dispense Schedule II Designated Controlled Substances to Patients, including any Schedule II Designated Controlled Substances dispensed by any such retail pharmacy stores that are mailed or shipped to patients in a Settling State. Should Kroger operate an online pharmacy that is registered or licensed to dispense Schedule II Designated Controlled Substances in any Settling State while these Injunctive Terms are in effect, the Injunctive Terms shall apply to such pharmacy as well.¹
3. These Injunctive Terms may be amended by mutual agreement of a majority of the States Injunctive Relief Committee and Settling Pharmacy. Any such amendments must be in writing.

III. DEFINITIONS

1. The term "Distributor Injunctive Terms" means Exhibit P of the Settlement Agreement, dated as of July 21, 2021, between McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation and certain States and subdivisions.

¹ Kroger's specialty and mail order pharmacies are not subject to, and are not online pharmacies for purposes of, these Injunctive Terms.

2. The term “Block” means an action taken by Kroger preventing or otherwise prohibiting any Settling Pharmacy pharmacist from filling prescriptions for Controlled Substances from a specific identified Prescriber.
3. The term “Clearinghouse” means the system established by Section XVII of the Distributor Injunctive Terms.
4. The term “Controlled Substances” means those substances designated under schedules II-V pursuant to the federal Controlled Substances Act.
5. The term “Designated Controlled Substances” shall be limited to: (a) oxycodone; (b) hydrocodone; (c) hydromorphone; (d) tramadol; (e) oxymorphone; (f) morphine; (g) methadone; and (h) fentanyl.
6. The term “Injunctive Terms Implementation Date” means sixty (60) days after the Effective Date of the Settlement Agreement as defined in Section I.V of the Kroger Settlement Agreement.
7. The term “National Arbitration Panel” is defined in Section I.LL of the Kroger Settlement Agreement.
8. The term “Patient” means any individual who receives a prescription for a Designated Controlled Substance from a Prescriber, whether legally valid or not, and attempts to fill it at one of Kroger’s pharmacy stores in a Settling State.
9. The term “Prescriber” means any individual that has issued a prescription for a Designated Controlled Substance, whether legally valid or not, that is presented to Kroger in a Settling State.
10. The term “Red Flag(s)” means the enumerated Patient Red Flags, Prescription Red Flags, and Prescriber Red Flags set out in Section IX.
11. The term “Settling State(s)” means each State that is a signatory to the Kroger Settlement Agreement.
12. The term “States Injunctive Relief Committee” means a committee representing the Settling States composed of between four and eight members designated by the Settling States. The members of the States Injunctive Relief Committee shall be employees of a Settling State’s Office of Attorney General and/or employees of another agency of a Settling State.
13. The term “Kroger Settlement Agreement” means the settlement agreement dated as of March 22, 2024, between and among the Settling States, the Participating Subdivisions and Kroger.

IV. CONTROLLED SUBSTANCE COMPLIANCE PERSONNEL

1. Kroger shall designate a Controlled Substance Compliance Director, or other appropriately titled position, to be a member of the Controlled Substance Compliance Committee (described below in Section VI), and to oversee a Controlled Substance Compliance Department and Kroger's compliance with 21 C.F.R. 1306.04 and these Injunctive Terms. As used in these Injunctive Terms, the terms "Controlled Substance Compliance Committee" and "Controlled Substance Compliance Department" refer to the entity or entities, however titled, that carry out the functions required by these Injunctive Terms. Notwithstanding the preceding sentence, to the extent an existing position, committee or department carries out the functions required by these Injunctive Terms, any other functions undertaken by such position, committee or department shall not be subject to these Injunctive Terms or oversight by the Settling States pursuant to these Injunctive Terms. The position, committee and department discussed in these Terms may bear different names and need not be limited to the roles and functions set forth herein.
2. The Controlled Substance Compliance Director shall have knowledge of and experience with the laws and regulation of Controlled Substances, in particular the regulations in 21 C.F.R. § 1306.04.
3. The Controlled Substance Compliance Director shall provide at least quarterly reports to the Controlled Substance Compliance Committee (described below in Section VI) regarding Kroger's compliance with these Injunctive Terms, including the implementation of any changes to the CSCP Policies and Procedures required by these Injunctive Terms.
4. Staffing levels of Kroger's Controlled Substance Compliance Department shall be reviewed periodically, but at least on an annual basis, by Kroger's Controlled Substance Compliance Committee to assess whether such staffing levels are sufficient for the Controlled Substance Compliance Department to comply with this Agreement. This review shall include consideration of relevant developments in technology, law, and regulations.
5. Throughout the term of these Injunctive Terms, Kroger shall maintain a telephone and electronic submission hotline(s) (the "Hotline") to permit employees and/or Patients and/or members of the public to anonymously report suspected inappropriate or illegitimate dispensing, prescribing or diversion of Designated Controlled Substances, violations of the CSCP Policies and Procedures, these Injunctive Terms, or other applicable law related to Designated Controlled Substances. The Hotline may be implemented by adding a dedicated option to existing systems that includes reporting regarding Designated Controlled Substances. Kroger shall publish its Hotline contact information to its employees and Patients in the Settling States. Kroger shall maintain for a period outlined in appendix A a record of each complaint made to the Hotline regarding Designated Controlled Substances and documentation regarding any investigation or response to such complaints. Nothing herein shall require Kroger to investigate a pharmacist's professional judgment to refuse a

prescription that the pharmacist believes was prescribed or is being used for other than a legitimate medical purpose or that the pharmacist believes was not prescribed by an individual Prescriber acting in the usual course of his or her professional practice.

V. INDEPENDENCE

1. Kroger's Controlled Substance Compliance Department personnel, pharmacists and pharmacist technicians who work at Kroger's pharmacies within the Settling States, and field personnel who supervise pharmacists and pharmacist technicians (together, "CSCP Employees"), shall not be compensated in whole or in part by commissions, bonuses, incentives or any other monetary or non-pecuniary benefit that depends in material part on revenue or profitability targets or expectations to sales of Controlled Substances. Nothing in these Injunctive Terms shall be interpreted to prevent compensation of employees based on sales volume, revenue or profitability targets/expectations for enterprise-, store-, or pharmacy-wide sales that include Controlled Substances.
2. No CSCP Employees may be terminated, suspended, threatened with or face any other negative employment consequence for failing to meet any revenue or profitability targets or expectations that depends in material part on sales of Controlled Substances. Nothing in these Injunctive Terms shall be interpreted to prevent Kroger from taking employment action based on sales volume, revenue or profitability targets/expectations for enterprise-, store-, or pharmacy-wide sales that include Controlled Substances.
3. Personnel in Kroger's Controlled Substance Compliance Department shall not report to Kroger's sales, marketing, or business development departments, and sales, marketing, or business development departments shall not be authorized to make decisions regarding the promotion, compensation, demotion, admonition, discipline, commendation, periodic performance reviews, hiring, or firing of Controlled Substance Compliance Department personnel. This provision does not apply to an officer or executive to whom both the Controlled Substance Compliance Department and sales, marketing and/or business development departments report.
4. Kroger's sales, marketing and business development departments are prohibited from interfering with, obstructing, or otherwise exerting control over any Controlled Substance Compliance Department or Controlled Substance Committee decision-making. This provision does not apply to an officer or executive to whom both the Controlled Substance Compliance Department and sales, marketing and/or business development departments report.
5. To the extent necessary to comply with this section, Kroger's Controlled Substance Compliance Committee shall review, modify, and direct any changes to any compensation and non-retaliation policies specific to the sale or dispensing of Designated Controlled Substances.

VI. OVERSIGHT

1. To the extent not already established, within thirty (30) business days of the Injunctive Terms Implementation Date, Kroger shall establish a compliance committee, however titled, that includes representatives from its respective legal, compliance, pharmacy operations and asset protection departments, however named, to provide oversight over the CSCP and its compliance with the Injunctive Terms. For the purposes of reference herein, this committee, however named, shall be referred to as the “Controlled Substance Compliance Committee.” Kroger shall maintain its Controlled Substance Compliance Committee for the duration of the term of the Injunctive Terms. The Controlled Substance Compliance Director shall be a member of the Controlled Substance Compliance Committee.
2. Kroger’s Controlled Substance Compliance Committee shall have quarterly meetings during which the Controlled Substance Compliance Director shall report on, and the Controlled Substance Compliance Committee shall review, among other things, (a) the Prescription Validation Process, including the CSCP Policies and Procedures on identifying and resolving Patient, Prescriber and Prescription Red Flags; (b) the training required under the Injunctive Terms; (c) proactive due diligence and site visits; (d) the Prescriber Review Processes; (e) significant new national and regional diversion trends involving Controlled Substances; (f) Kroger’s adherence to the Injunctive Terms and applicable laws and regulations; and (g) any technology, staffing, or other resource needs for the CSCP. The Controlled Substance Compliance Committee shall have access to all CSCP reports described in the following subsection.
3. On an annual basis, Kroger’s Controlled Substance Compliance Committee shall provide a written report to the President of the Settling Pharmacy’s Retail Division, the Chief Financial Officer of the Settlement Pharmacy’s Retail Division, the Chief Legal Officer of the Settling Pharmacy’s Retail Division, and the corporate Chief Compliance Officer, outlining (a) the Settling Pharmacy’s adherence to, and any material deviations from these Injunctive Terms; (b) the allocation of resources sufficient to comply with these Injunctive Terms; and (c) any revisions to the CSCP that the Controlled Substance Compliance Committee has approved. The corporate Chief Compliance Officer shall determine if and when it is appropriate to make a report to the Board or any subcommittee thereof, but shall report at least annually.
4. Kroger, through its Controlled Substance Compliance Department and Committee, shall, at least once every year, review and oversee any enhancements to the CSCP Policies and Procedures and systems for dispensing activity that the Controlled Substance Compliance Committee deems necessary.
5. The Controlled Substance Compliance Committee shall be responsible for the approval of all material revisions to the CSCP Policies and Procedures, provided that nothing herein shall prevent Kroger from implementing changes to the CSCP Policies and Procedures pending such review and approval.

VII. MANDATORY TRAINING

1. The CSCP Policies and Procedures shall be published in a form and location readily accessible to all pharmacy and compliance personnel at each of Kroger's retail pharmacy locations in the Settling States. Online availability is sufficient, so long as pharmacy and compliance personnel have access to a computer with access to the CSCP Policies and Procedures.
2. Kroger shall launch training for all existing CSCP Employees, to the extent practical (for example, accounting for employee leave), on the CSCP Policies and Procedures required under these Injunctive Terms, including the Prescription Validation Process and corresponding responsibility. The training shall be launched within one hundred twenty (120) days of the Injunctive Terms Implementation Date. All CSCP Employee new hires, to the extent practical, shall be required to participate in such trainings within sixty (60) days of hiring or six (6) months of the Injunctive Terms Implementation Date, whichever is later. Kroger will further require that every CSCP Employee, to the extent practical, receive such training at least once every three (3) years for the term of these Injunctive Terms.
3. On an annual basis for the duration of these Injunctive Terms, Kroger shall test its CSCP Employees on their knowledge regarding the CSCP Policies and Procedures required under these Injunctive Terms, including the Prescription Validation Process and corresponding responsibility.
4. It shall be a part of the CSCP Policies and Procedures and all trainings of all CSCP Employees required under these Injunctive Terms that pharmacists shall refuse to dispense Controlled Substances that they believe were prescribed or are being used for other than a legitimate medical purpose or that they believe were not prescribed by an individual Prescriber acting in the usual course of his or her professional practice.
5. All trainings required under these Injunctive Terms shall also make clear that (i) Kroger's compensation and non-retaliation policies, including pursuant to these Injunctive Terms, prevent CSCP Employees from being compensated or penalized in any way related to revenue or profitability targets or expectations specific to sales of Controlled Substances; and ii) pharmacists will not be penalized in any way for exercising their professional judgment to refuse to fill prescriptions for Controlled Substances pursuant to their corresponding responsibility. To the extent that trainings designed and launched prior to the Effective Date of these Injunctive Terms do not reference these policies, they shall be added by the end of April 2024.

VIII. THE PRESCRIPTION VALIDATION PROCESS

1. As part of its CSCP, Kroger shall maintain a Prescription Validation Process in the CSCP Policies and Procedures, as further described and set forth in this section, that each pharmacist employed by Kroger in a Settling State must follow when dispensing a prescription for a Controlled Substance. The inclusion of an enumerated Red Flag in these Injunctive Terms shall not be considered, construed, or represented to be an

admission, concession, or evidence of any factual or legal contention related to such Red Flag. A Red Flag shall not be interpreted to mean that a prescription is, or is more likely than not, illegitimate and/or not issued in the usual course of professional practice or treatment.

2. A Red Flag will be considered “resolved” if, after further investigation as described below, and given other facts and circumstances surrounding the prescription, a pharmacist determines, in his or her professional judgment, that the facts that triggered the Red Flag do not lead him or her to believe that the prescription was written or is being submitted for an illegitimate medical purpose or outside the usual course of a Prescriber’s professional practice.
3. Kroger’s CSCP Policies and Procedures shall provide that if a pharmacist identifies any “Patient Red Flags” associated with a Controlled Substances prescription (described in Section IX(3) below), before filling the prescription the pharmacist must resolve them; and that the method of resolution falls within the judgment of the pharmacist and may include reviewing the Patient’s profile and history with the Settling Pharmacy, calling the Prescriber or Prescribers if appropriate, speaking with the Patient if appropriate, calling on the pharmacist’s pre-existing knowledge of the Patient or Prescriber, reviewing available Prescription Monitoring Program (“PMP” or “PDMP”) data, and/or reviewing other data or information available to the pharmacist.
4. Kroger’s CSCP Policies and Procedures shall provide that if forgery or fraud is suspected, or if the pharmacist identifies any other “Prescription Red Flags” associated with a Controlled Substances prescription (described in Section IX(4) below), the pharmacist must resolve the Prescription Red Flags before filling the prescription; and that the method of resolution falls within the judgment of the pharmacist and may include reviewing the Patient’s profile and history with Kroger, calling the Prescriber or Prescribers if appropriate, speaking with the Patient if appropriate, calling on the pharmacist’s pre-existing knowledge of the Patient or Prescriber, reviewing available PMP or PDMP data, and/or reviewing other data or information available to the pharmacist.
5. Kroger’s CSCP Policies and Procedures shall require that if a pharmacist identifies any “Prescriber Red Flags” associated with a Controlled Substances prescription (described in Section IX(5) below), the pharmacist must resolve them before filling the prescription; and that the method of resolution falls within the judgment of the pharmacist and may include reviewing any Kroger records regarding the Prescriber, calling the Prescriber if appropriate, speaking with the Patient if appropriate, calling on the pharmacist’s pre-existing knowledge of the Patient or Prescriber, reviewing available PMP or PDMP data, and/or reviewing other data or information available to Kroger.
6. Kroger’s CSCP Policies and Procedures related to Schedule II Designated Controlled Substances shall provide that the resolution of all Red Flags identified by the pharmacist, as well as any prescriptions that were rejected pursuant to Red Flags

identified by the pharmacist, and the reasons why they were rejected, must be documented by the pharmacist, unless (a) if based on the pharmacist's pre-existing knowledge of the Patient or Prescriber or (b) if documentation is not possible (e.g., a patient refuses to hand over a non-electronic prescription). Any such records shall be maintained for a period outlined in appendix A. To the extent that a Red Flag is resolved based upon facts or circumstances that are already reflected or documented in Kroger's records, further documentation of those facts or circumstances is not required for resolution of substantially the same Red Flag on subsequent prescriptions. For example, if a Patient lives fifty-five (55) miles from a Kroger but works near the pharmacy and that fact is reflected in pharmacy records, no documentation for the resolution of the Red Flag addressing the Patient's distance from the pharmacy is required in connection with individual prescriptions dispensed for that Patient. A lack of documentation shall not be interpreted to create a presumption that a pharmacist did not resolve any identified Red Flags. Nothing in these Injunctive Terms shall require Kroger to create a record in those instances where the pharmacist rejects a prescription when presented without an effort to resolve any red flags, including but not limited to instances where the pharmacist rejects a prescription for clinical reasons, or where the pharmacist identifies on the face of the prescription a Prescription Red Flag (defined in Section IX below) that causes the pharmacist to conclude without further inquiry that the prescription is invalid.

7. Kroger's CSCP Policies and Procedures shall provide that, even if all Red Flags are resolved, a pharmacist shall reject a prescription if, in his or her professional judgment, he or she believes that it was written or is being submitted for other than a legitimate medical purpose and/or was written outside the usual course of an individual Prescriber's professional practice.

IX. RED FLAGS

1. Upon request by the Settling States, but no more than annually, and no earlier than four months after the Injunctive Terms Implementation Date, Kroger shall provide to the Settling States a report (the "Annual Data Report") that sets forth: (1) the total number of prescriptions for Controlled Substances dispensed annually, aggregated nationally and by state; (2) the top twenty-five prescribers of Designated Controlled Substances in each Settling State; (3) the list of prescribers subject to disclosure in section X.5; (4) the specific process, system, metrics or algorithms (if any) sufficient to demonstrate the operational system's ability to identify each category of Red Flag listed in this section; and (5) the total number of Designated Controlled Substance prescriptions that pharmacists at the Settling Pharmacy refused to dispense, as reflected in the pharmacy dispensing or other electronic system. Unless otherwise required by law, if a Settling State seeks to disclose any data and/or information provided under this provision as part of a proceeding to enforce these Injunctive Terms or for other law enforcement purposes, it shall first provide ten (10) days' notice to Kroger unless doing so would conflict with applicable law.

2. A Settling State shall not otherwise disclose or provide any data provided under this provision to third parties during or after the Term of these Injunctive Terms unless required to do so by law. If a Settling State is required to disclose or provide any data under this provision to third parties during or after the Term of these Injunctive Terms, it shall first provide ten (10) days' notice to Kroger unless doing so would conflict with applicable law. All data and/or information provided under this paragraph shall be deemed confidential law enforcement material, to the extent state law permits, and shall not be subject to production unless required by law. Nothing in this paragraph shall be deemed to prevent a Settling State from sharing this material with other State or federal law enforcement agencies.
3. Within the ninety (90) days following the provision of the Annual Data Reports, either Kroger or the States Injunctive Relief Committee may propose in writing a meet and confer to discuss potential changes to the scope of one or more categories of Red Flags. At such a meeting, Kroger or the States Injunctive Relief Committee may provide additional research, information or data available to them beyond that provided in the Annual Data Reports. For example, Kroger might propose reducing the threshold for triggering a particular category of Red Flag or consolidating certain Red Flags or subcategories of Red Flags into a single metric, or the States Injunctive Relief Committee might propose increasing the threshold for triggering a particular Red Flag or expanding that Red Flag to include multiple subcategories (e.g., number of prescriptions, distance thresholds).
 - a. If Kroger and the States Injunctive Relief Committee agree on such changes to one or more Red Flags, they shall document those changes in writing and they shall become a part of these Injunctive Terms for all intents and purposes.
 - b. If Kroger and the States Injunctive Relief Committee cannot agree on the proposed changes during their meeting and confer, the Party seeking the change(s) to the Red Flag(s) may seek a 5-day mediation of the issue at its own expense. If the mediation fails to resolve the dispute between the parties, the party seeking the proposed change(s) may appeal to the National Arbitration Panel to have the National Arbitration Panel modify the Red Flags on the basis that the change(s) would be consistent both with avoiding unnecessary material costs of identifying and resolving Red Flags and materially reducing the diversion of Controlled Substances. In such a proceeding, the Party seeking the proposed change(s) may provide evidence from Annual Data Reports or from other research, data and information.
 - c. In any such proceedings, there shall be a presumption against imposition of any proposed Red Flags, or proposed modifications to pre-existing Red Flags, that have not been identified by the United States Drug Enforcement Administration (DEA) or other law enforcement agencies tasked with the regulation of Controlled Substances.
 - d. The Red Flags required by these Injunctive Terms shall at no point be too numerous or complex to be reasonably workable for pharmacists in the context

of protecting patient safety, performing corresponding responsibility, drug utilization review, and their other responsibilities. Any dispute over whether the Red Flags required by these Injunctive Terms have become too numerous or complex to be reasonably workable for pharmacists shall be submitted to the National Arbitration Panel. In the event a dispute is submitted to the National Arbitration Panel, it shall be Kroger's burden to prove that the Red Flag(s) at issue are overly burdensome and that their burdensome nature outweighs any public health benefit.

4. Kroger's CSCP Policies and Procedures shall direct its pharmacists to treat the following circumstances as "Patient Red Flags":
 - a. A Patient seeks to fill a Schedule II Designated Controlled Substance prescription more than three days prior to the contemplated exhaustion date of an earlier prescription of the same Schedule II Designated Controlled Substance (e.g., exhaustion of the days' supply assuming the prescription has been taken in accordance with the prescribers' directions on the face of the prescription), provided the previous prescription was also dispensed by the same Settling Pharmacy;
 - b. A Patient seeks to fill a Designated Controlled Substance prescription from a Prescriber after having filled Designated Controlled Substance prescriptions at the same Kroger pharmacy from more than four other Prescribers, from separate practices, in a given 6-month period;²
 - c. To the extent personally known by the dispensing pharmacist, Prescriber has been the subject of more than ten (10) documented refusals to fill a Designated Controlled Substances or any opioid product within a six-month period;
 - d. A Patient seeks to fill a Designated Controlled Substance prescription after having filled three other Designated Controlled Substance prescriptions written by multiple Prescribers with overlapping days of supply at Kroger's pharmacies within thirty (30) days;
 - e. The distance between a Patient's residence and the Kroger receiving the Designated Controlled Substance prescription is farther than 50 miles;
 - f. The Patient resides more than one hundred (100) miles from the Prescriber who issued the Designated Controlled Substances prescription, unless the dispensing pharmacist makes a good faith error in evaluating the distance, and the prescription was not issued pursuant to a telemedicine consultation;
 - g. To the extent personally known by the dispensing pharmacist, a Patient seeks to fill a Designated Controlled Substance prescription after having two other

² In Kroger's sole discretion, for administrative convenience Kroger may implement this Red Flag without regard to whether Prescribers are at separate practices, thereby resulting in more instances in which the flag occurs.

prescriptions for Designated Controlled Substances subjected to documented refusals to fill by a Kroger pharmacist within the past thirty (30) days;

- h. A patient pays in cash for a Designated Controlled Substance despite having current prescription drug insurance on file in the Settling Pharmacy's dispensing system for that medication;
 - i. To the extent personally known by any pharmacy personnel, three or more Patients come to the pharmacy together to fill prescriptions for the same Designated Controlled Substance medication;
 - j. A Patient requests a Designated Controlled Substance by its slang or street description, such as "Mallinckrodt blues," "M's" or "the blue pill"; and
 - k. A Patient presenting a prescription for a Designated Controlled Substance appears visibly altered, intoxicated, or incoherent.
- 5. Kroger's CSCP Policies and Procedures shall direct its pharmacists to treat the following circumstances as "Prescription Red Flags:"
 - a. A Controlled Substance prescription fails to meet the requirements of law. For the sake of clarity, minor deficiencies in the patient's name, address, date of birth, or contact information are not a red flag if the pharmacist, in his or her professional judgment and usual course of practice, is able to resolve these deficiencies with the patient. Similarly, minor deficiencies in the prescriber's name, address, contact information, or DEA number are not a red flag if the pharmacist is able to resolve these deficiencies with the prescriber;
 - b. A Controlled Substance prescription that appears altered, including but not limited to, a photocopied prescription or a prescription in which an altering agent, such as white out, was used;
 - c. A Controlled Substance prescription written with misspellings suggesting the prescription may not have been written by a valid Prescriber;
 - d. A Controlled Substance prescription using atypical abbreviations suggesting the prescription may not have been written by a valid Prescriber; and
 - e. A Controlled Substance prescription written with multiple colors of ink or in multiple different handwritings.
- 6. Kroger's CSCP Policies and Procedures shall direct its pharmacists to treat the following circumstances as "Prescriber Red Flags:"
 - a. A Prescriber provides a Patient with prescriptions for all three of a Schedule II Designated Controlled Substance, a benzodiazepine, and carisoprodol;

- b. A Prescriber has no office within fifty (50) miles of the retail pharmacy store where a Designated Controlled Substance prescription is submitted; and
- c. A Prescriber of Designated Controlled Substances uses prescriptions that are preprinted or stamped with drug type and amount.

X. PREScriBER REVIEW

1. Kroger shall regularly review the prescribing patterns and practices of Prescribers of Designated Controlled Substances (the “Prescriber Review Process”). The Prescriber Review Process shall employ algorithms, or other means, to review data on Kroger’s retail dispensing for potential Prescribers of concern.
2. Kroger shall initiate Prescriber Review Process in the following circumstances:
 - a. Personnel implementing the Prescriber Review Process become aware that a Prescriber of Designated Controlled Substances located in a Settling State has been the subject of a blanket refusal to fill by one or more of Kroger’s retail pharmacy stores in the Settling States;
 - b. Personnel implementing the Prescriber Review Process become aware that a Prescriber of Designated Controlled Substances located in a Settling State has been charged or indicted with a crime related to prescribing Designated Controlled Substances by the Federal Government or law enforcement in a Settling State; or
 - c. Kroger has received a Hotline complaint that has been investigated and substantiated concerning a Prescriber’s alleged illegitimate prescribing of Designated Controlled Substances.
3. Based on the professional judgment of the employees operating the Prescriber Review Process, Kroger may also initiate the Prescriber Review Process when:
 - a. Personnel implementing the Prescriber Review Process are notified in writing by law enforcement that a Prescriber of Designated Controlled Substances located in a Settling State is the target of an investigation regarding the prescribing of Controlled Substances;
 - b. A Prescriber of Designated Controlled Substances was flagged for review by a Kroger pharmacist in a Settling State (other than through a refusal to fill or blanket refusal to fill) or by field personnel who supervise Kroger’s pharmacies in a Settling State; or
 - c. A Prescriber of Designated Controlled Substances located in a Settling State was identified through the running of algorithms on Kroger’s retail dispensing.
4. Once Kroger identifies a Prescriber of Designated Controlled Substances for further investigation, Kroger shall review pertinent and available data or information

pertaining to the Prescriber, which may include interviews or other information gathered in the discretion of the employees operating the Prescriber Review Process. All data and information collected or created as part of the Prescriber Review Process shall be maintained by Kroger for a period outlined in appendix A. When permitted by law, nothing contained in this Section prevents Kroger from taking immediate action to Block a Prescriber.

5. If after the Prescriber Review Process, those making the decision have not resolved the circumstances that caused Kroger to further investigate the Prescriber, from the perspective of those making the decisions, then the Prescriber shall be Blocked from having Controlled Substance prescriptions filled at Kroger's retail pharmacies in the Settling States, when permitted by law. A Prescriber may have an opportunity at the discretion of Kroger to seek future reinstatement by providing information to Kroger that may resolve its concerns. Nothing in this Section shall limit the right or ability of Kroger pharmacists to either refuse to fill a given prescription or refuse to fill all prescriptions for Controlled Substances from a given Prescriber independent of any decision by Kroger to Block or not Block a given Prescriber. On written demand, on an annual basis, Kroger shall provide to each Settling State the names of and DEA registration or NPI numbers of Prescribers of Designated Controlled Substances within that Settling State that it has Blocked. Each Settling State shall provide contact information in order to receive such information. For each of the Settling States, on an annual basis, Kroger shall provide to the Injunctive Relief Committee the number, names and DEA registration or NPI numbers of Prescribers who were: (a) blocked, and (b) the number of prescribers who were reviewed but not blocked.

XI. PROACTIVE DUE DILIGENCE AND SITE VISITS

1. During the term of these Injunctive Terms, Kroger shall conduct periodic proactive compliance reviews of its retail pharmacy stores in the Settling States to assist with the identification of potential compliance issues related to the dispensing of Designated Controlled Substances at its retail pharmacy stores in the Settling States. This may be satisfied by the use of algorithms, or other electronic means, to analyze data associated with each pharmacy's dispensing of Designated Controlled Substances to identify particular pharmacies for review as required under this Section XI. Documentation of any resulting reviews shall be maintained by Kroger and made accessible to all Controlled Substance Compliance Department personnel upon request for a period outlined in appendix A.
2. During the term of these Injunctive Terms, Kroger personnel or qualified third-party compliance consultants shall conduct site visits to each pharmacy in XI.1. in a calendar year. These site visits shall at a minimum consist of a review of Controlled Substance dispensing documentation and recordkeeping; and a review of physical surroundings and other circumstances for any indications of potential non-compliance with these Injunctive Terms or the CSCP Policies and Procedures, or any violations of other applicable laws and regulations related to the dispensing of Controlled Substances.

3. During site visits, Kroger's personnel or qualified third-party compliance consultants shall interview relevant pharmacy employees, if appropriate, about any potential areas or issues of concern, including potential violations of laws related to the dispensing of Controlled Substances, the CSCP Policies and Procedures, and these Injunctive Terms.
4. Kroger's personnel or qualified third-party compliance consultants who conduct site visits shall complete a report reflecting the findings of any site visit pursuant to this section. This report shall document areas or issues of concern, including potential violations of law related to the dispensing of Controlled Substances, the CSCP Policies and Procedures, and these Injunctive Terms.
5. The site visit reports described above shall be maintained by Kroger and made accessible to all Controlled Substance Compliance Department personnel for a period outlined in appendix A. Upon its request, the States Injunctive Relief Committee shall be provided sample reports or a report for a particular store.

XII. THEFT AND LOSS PREVENTION

1. In addition to complying with all theft and loss procedures, policies and precautions required by state and federal law, Kroger shall maintain information regarding the receipt and disposition of inventory of all Designated Controlled Substances at each retail pharmacy store for a period outlined in appendix A, if the information is an electronic record. If the information is not an electronic record, Kroger shall only be required to maintain those records for a period outlined in appendix A.
2. In addition to any other reporting obligations under state and federal law, Kroger must provide to each Settling State on a quarterly basis any reports it has made to the DEA regarding the theft or significant loss of Designated Controlled Substances in that Settling State pursuant to 21 C.F.R. §1301.76(b). There shall be no obligation to provide these reports to Settling States that receive contemporaneous reporting of thefts or significant losses of Designated Controlled Substances to a Settling State's board of pharmacy or other relevant state agency requiring such reports. Each Settling State shall provide contact information in order to receive such reports.

XIII. REPORTING TO LAW ENFORCEMENT

1. The Settling States shall inform Kroger to what extent their law enforcement authorities would like to receive reports, other than those already required by law or regulation, of any confirmed forged prescriptions. To the extent not already in place, Kroger shall implement standard operating procedures directing its employees to report any confirmed forged prescriptions for Designated Controlled Substances to those Settling States who have indicated that they want to accept it, within five (5) business days of completing any review of such prescription or conduct. The Settling States shall provide contact information in order to receive such reports.

2. Kroger shall document and for a period outlined in appendix A maintain records of any such reports that are made to Settling States regarding confirmed fraudulent or forged prescriptions, which are maintained centrally.

XIV. ENFORCEMENT OF INJUNCTIVE TERMS

1. Notice of Potential Violations and Opportunity to Cure.
 - a. A “Potential Violation” occurs when the Settling State determines, after appropriate investigation and due diligence, that Kroger is not in substantial compliance with a material aspect of the Injunctive Terms. A Potential Violation may be for a single retail pharmacy. A violation of this Agreement is not presumed to occur when a pharmacist, pharmacist technician, or other field personnel who supervise pharmacists and/or pharmacist technicians employed by Kroger violates Kroger’s CSCP Policies and Procedures.
 - b. Potential Violation Discovered by Settling State.
 - i. In the event of a Potential Violation identified by a Settling State, the Settling State shall notify Kroger in writing (the “State’s Notice”).
 - ii. Within thirty (30) days of receipt of the State’s Notice, Kroger shall provide a written response to the Settling State. The response shall include Kroger’s position as to the act(s) of non-compliance, including, possibly, a statement setting forth why Kroger believes it is in substantial compliance with the relevant provision(s) or a statement explaining how the Potential Violation has been addressed.
 - iii. If the Settling State wishes to meet with Kroger, Kroger shall promptly make itself available for such a meeting.
 - c. If, after review of a written response and any meeting, the Settling State believes that a Potential Violation is ongoing or has not been substantially addressed, it will provide written notice to Kroger and work in conjunction with Kroger to devise, within thirty (30) days, a corrective action plan (“Corrective Action Plan”) to remedy such Potential Violation, including a reasonable period for implementation of such plan.
 - d. Within sixty (60) and one hundred twenty (120) days after implementing the Corrective Action Plan, Kroger will provide a written compliance update to the Settling State and make itself available to meet with the Settling State if requested. If after reviewing the compliance update and any meeting, the Settling State believes a Potential Violation remains ongoing or has not been substantially addressed, the Settling State may commence a 30-day mediation period. If mediation fails to resolve the dispute between the parties, the Settling State may take whatever action it deems necessary, including but not limited to bringing an action to enforce these Injunctive Terms, filing a new action (administrative or civil action) for violation of the Injunctive Terms as allowed

by state law, conducting further investigation, or attempting to negotiate an updated Corrective Action Plan with Kroger. But the Settling State may not seek to reinstate claims that have been released as part of the Settlement Agreement.

- e. If Kroger fails or refuses to provide a written response, to devise or implement a Corrective Action Plan or to provide a compliance update as required by subsections 1(b), 1(c) and/or 1(d), a Settling State may bring an action to enforce these Injunctive Terms, filing a new action (administrative or civil action) for violation of the Injunctive Terms as allowed by state law, conduct further investigation, or attempt to negotiate an updated Corrective Action Plan with Kroger. But the Settling State may not seek to reinstate claims that have been released as part of the Settlement Agreement.
 - f. If, after review of a written response and any meeting, pursuant to subsections 1b. or 1c., above, the Settling State concludes that a Potential Violation is not ongoing or has been substantially addressed, the Settling State will provide written notice of this conclusion to the Settling Pharmacy within thirty (30) days of reaching its conclusion.
2. Enforcement Action. Each Settling State agrees that prior to taking any court or administrative action, other than an action that the Settling State concludes is necessary to address an immediate threat to the health, safety, or welfare of the citizens of the Settling State, or that a public emergency requiring immediate action exists, it will follow the process outlined above. If the Settling State concludes that action is necessary to address an immediate threat to the health, safety, or welfare of the citizens of the Settling State or that a public emergency requiring immediate action exists, it will make best efforts to provide reasonable notice to a Settling Pharmacy prior to initiating any such action.

XV. COMPLIANCE CERTIFICATION

- 1. Kroger's Controlled Substance Compliance Director, or the most senior ranking member of the Controlled Substance Compliance Committee shall, after diligent inquiry, complete an annual compliance certification on behalf of Kroger as set out in Section XV(4).
- 2. The certification shall be filed annually for the duration of these Injunctive Terms with a Settling State's appropriate licensing and/or regulatory agency and its Attorney General.
- 3. The certification shall state:

"I understand the compliance requirements and responsibilities as they relate to [insert name of department], an area under my supervision. My job responsibilities include attempting to achieve compliance with regard to the [insert name of department] with all applicable statutory requirements, obligations of the Injunctive

Terms, and applicable policies, and I have taken steps to promote such compliance. To the best of my personal knowledge, the [insert name of department] is in compliance with the obligations of these Injunctive Terms. I understand that this certification is being provided to and relied upon by the State of [Settling State].”

4. If the Controlled Substance Compliance Director is unable to provide such a certification, the Controlled Substance Compliance Director shall provide a written explanation of the reasons why he or she is unable to provide the certification outlined above.

XVI. DATA SHARING

1. Kroger shall consent to the provision by its distributors of Kroger’s unblinded “867 Data” (data sent from the distributor to the manufacturer concerning the sale of its products to Kroger) to opioid manufacturers on any particular Designated Controlled Substances manufactured by them as soon as commercially reasonable and at no cost to the manufacturers, provided that, pursuant to a prior written agreement with Kroger, the opioid manufacturers agree (a) to ensure the confidentiality of the 867 Data, except as required by law; (b) to implement safeguards and procedures to limit access to and use of the 867 Data, except as required by law; (c) that the 867 Data shall be used solely for compliance purposes as part of their Suspicious Order Monitoring programs; and (d) that the 867 Data shall be shared only with specified personnel and shall not be shared with business or sales personnel.
2. To the extent that Kroger provides McKesson Corporation, Cardinal Health, Inc., or AmerisourceBergen Corporation (the “Settling Distributors”) with Pharmacy Customer Data (as defined in the Distributor Injunctive Terms) for use in their Controlled Substance Monitoring Programs, Kroger agrees that the Settling Distributor(s) may share such Pharmacy Customer Data with the Monitor appointed pursuant to the Distributor Injunctive Terms, provided that the Monitor agrees, pursuant to a prior written agreement with Kroger, (a) to ensure the confidentiality of the Pharmacy Customer Data; (b) to implement safeguards and procedures to limit access to and use of the Pharmacy Customer Data; (c) that the Pharmacy Customer Data is used solely for the purpose of ensuring the Settling Distributors’ compliance with the Distributor Injunctive Terms; and (d) that the Pharmacy Customer Data shall be shared only with specified personnel.

XVII. CLEARINGHOUSE

1. Kroger will confer with any Settling Distributor that distributes Designated Controlled Substances to its retail pharmacies and the States Injunctive Relief Committee for a period not to exceed six (6) months from the Injunctive Terms Implementation Date to determine: what additional deidentified information, if any, is needed from Kroger for a Settling Distributor to perform suspicious order monitoring; if additional deidentified information is needed, how the Settling Pharmacy shall provide it to a Settling Distributor; and what information provided by

Kroger to a Settling Distributor may be deposited by the Settling Distributor into the Clearinghouse. For the avoidance of doubt “deidentified” does not refer to Prescribers. If agreements are not reached, the matters in dispute shall be submitted to arbitration. Due to patient privacy and legal restrictions and other confidentiality and commercial concerns, in connection with any meet and confer described above, Kroger may not be compelled to provide individual patient-level or prescription-level data, de-identified or otherwise, to the Settling Distributors.

2. Kroger and Settling Distributors will also determine whether and in what amount each Settling Pharmacy will contribute to the cost of the operation of the Clearinghouse. When Kroger contributes to the costs of the Clearinghouse, Settling Pharmacy, Settling Distributors and all other participants in the Clearinghouse shall determine an equitable amount of Kroger’s contribution. If agreements are not reached, the matters in dispute shall be submitted to arbitration.
3. Any data provided by Kroger to a Settling Distributor and/or the Clearinghouse pursuant to these Injunctive Terms shall be treated in compliance with state and federal law, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and all applicable state and federal privacy laws.
4. No Settling Distributor or other participant in the Clearinghouse shall receive from the Clearinghouse information specific to Kroger.

XVIII. FUTURE ACQUISITIONS

1. Kroger agrees to use reasonable best efforts to bring acquired pharmacies into compliance with these injunctive relief provisions in an expeditious manner. In the event that Kroger consummates its acquisition of Albertsons, then the parties shall discuss and agree within thirty (30) days of the transaction closing on a specific time period for bringing Albertsons into compliance with the terms of the injunctive relief provisions herein.

APPENDIX A: INJUNCTIVE RELIEF RECORD RETENTION SCHEDULE

Record Description	Record Retention Period	Controlling Injunctive Relief Provision
Injunctive Relief Records	At least three (3) years, unless otherwise specified below	I.4.d.
Telephone and Electronic Hotline Complaints and Investigation Documentation	Until November 15, 2032	IV.5.
Documentation and Records Related to Resolution of all Red Flags, Prescriptions Rejected Pursuant to Red Flags, and Reasons for Their Rejection	Until November 15, 2032	VIII.6.
Prescriber Review Process Data, Information, and Documentation	Until November 15, 2032	X.4.
Retail Pharmacy Compliance Review Documentation	Until November 15, 2032	XI.1.
Site Visit Review Documentation and Reports	Until November 15, 2032	XI.1-5.
Documentation Regarding the Inventory of Designated Controlled Substances	At least three (3) years, if the information is an electronic record; at least two (2) years, if the information is not an electronic record	XII.1.
Reports to Settling States Regarding Fraudulent or Forged Prescriptions	At least two (2) years	XIII.2.

Exhibit E

Payment No.	Date of Payment	Payment Amount
1	Within 30 days of reaching required participation thresholds	\$5,000,000
2	3/31/2025	\$5,000,000
3	3/31/2026	\$5,000,000
4	3/31/2027	\$5,000,000
5	3/31/2028	\$5,000,000
6	3/31/2029	\$9,695,020.13
7	3/31/2030	\$9,695,020.13
8	3/31/2031	\$9,695,020.13
9	3/31/2032	\$9,695,020.13
10	3/31/2033	\$9,695,020.13
11	3/31/2034	\$9,695,020.16
TOTAL		\$83,170,120.81

RESOLUTION NO. 2024-16

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
HEWITT, TX, OPTING INTO THE GLOBAL OPIOID
SETTLEMENT WITH THE KROGER CO.; AUTHORIZING THE
MAYOR TO EXECUTE SETTLEMENT PARTICIPATION FORMS
ON BEHALF OF THE CITY OF HEWITT, TX**

WHEREAS, the city of Hewitt learned that certain drug companies and their corporate affiliates have engaged in fraudulent or reckless marketing and/or distribution of opioids that have resulted in addictions, overdoses, and

WHEREAS, these actions, conduct, and misconduct have resulted in significant financial costs to the city of Hewitt and

WHEREAS, on December 6, 2021, by **Resolution No. 2021-13**, the Council adopted the Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet (the “Texas Term Sheet”) and approved participation in the State of Texas’ settlements with opioid distributors Johnson & Johnson and Pharmaceutical Distributors AmerisourceBergen, Cardinal Health and McKesson, and

WHEREAS, the State of Texas has reached final agreements with the following companies to resolve legal claims against them for their role in the opioid crises and

WHEREAS, the settlement is governed by the Texas Intrastate Term Sheet and requires Kroger to pay \$83 million (the “Settlement Amount”) to Texas and its political subdivisions. The Texas Statewide opioid settlement will be distributed in the amount of \$75,315,611.99 (the “Texas Remediation Payment”) as a statewide opioid settlement under Tex. Gov’t Code Chapter 403 (comprised of \$11,297,341.79 as the State Share, \$11,297,341.79 as the Subdivision Share, and \$52,720,928.34 as the Abatement Share), \$7,282,379.52 as subdivision counsel fees; and \$472,129.30 as State Additional Restitution to be paid in year 2, for a total of \$83,070,120.81 (the “Settlement Amount”) and

WHEREAS, the settlement agreement will allow the city of Hewitt to participate in the settlement distributions and

WHEREAS, the city of Hewitt desires to participate in settlement resolutions and avoid costly bankruptcy litigation and the need to file claims.

NOW, THEREFORE, BE RESOLVED BY THE CITY COUNCIL OF THE CITY OF HEWITT:

The City Council of the City of Hewitt, Texas, hereby approves the terms of the settlement agreement dated October 20, 2024, a copy of which is attached.

That the Mayor is hereby authorized to execute all necessary documents on behalf of the City of Hewitt.

That this resolution shall be in full force and effect from and after its adoption.

PASSED AND APPROVED this 9th day of December, 2022.

CITY OF HEWITT, TEXAS

Steve Fortenberry, Mayor

ATTEST:

Lydia Lopez, City Secretary

APPROVED AS TO FORM & LEGALITY:

Michael W. Dixon, City Attorney

Exhibit A

TEXAS SETTLEMENT SUBDIVISION PARTICIPATION AND RELEASE FORM

Political Subdivision:	Texas
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“Texas Political Subdivision”), in order to obtain and in consideration for the benefits provided to the Texas Political Subdivision pursuant to the Kroger Texas Settlement Agreement and Full Release of All Claims dated October 30, 2024 (“Kroger Texas Settlement”), and acting through the undersigned authorized official, hereby elects to participate in the Kroger Texas Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Texas Political Subdivision above is aware of and has reviewed the Kroger Settlement Agreement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Texas Political Subdivision elects to participate in the Kroger Texas Settlement and become a Participating Texas Political Subdivision as provided therein.
2. The Texas Political Subdivision shall immediately cease any and all litigation activities as to the Released Entities and Released Claims and, within 14 days of executing this Participation and Release Form, its counsel shall work with Kroger’s counsel to dismiss with prejudice any Released Claims that it has filed.
3. The Texas Political Subdivision agrees to the terms of the Kroger Texas Settlement pertaining to Texas Political Subdivisions as provided therein.
4. By agreeing to the terms of the Kroger Texas Settlement and becoming a Releasor, the Texas Political Subdivision is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date of the Release.
5. The Texas Political Subdivision agrees to use any monies it received through the Kroger Texas Settlement solely for the purposes provided therein.

6. The Texas Political Subdivision submits to the exclusive jurisdiction and authority of the Texas Consolidated Litigation Court as defined in the Kroger Texas Settlement. For the avoidance of doubt, nothing contained in this Participation and Release Form, or the Kroger Texas Settlement, constitutes consent to jurisdiction, express or implied, over the Texas Political Subdivision or its selected counsel to the jurisdiction of any other court (including without limitation MDL 2804, the MDL 2804 Fee Panel, the MDL 2804 Enforcement Committee, or the Court in which any Texas Consent Judgment is filed) for any purpose whatsoever.
7. The Texas Political Subdivision, as a Participating Texas Subdivision, has the right to enforce the Kroger Texas Settlement in the Texas Consolidated Litigation Court as provided therein.
8. The Texas Political Subdivision, as a Participating Texas Subdivision, hereby becomes a Releasor for all purposes in the Kroger Texas Settlement, including but not limited to all provisions of Section V (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Texas Political Subdivision hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entities in any forum whatsoever. The releases provided for in the Kroger Texas Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entity the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Texas Political Subdivision to release claims. The Kroger Texas Settlement shall be a complete bar to any Released Claim.
9. The Texas Political Subdivision hereby takes on all rights and obligations of a Participating Texas Subdivision as set forth in the Kroger Texas Settlement.
10. In connection with the releases provided for in the Kroger Texas Settlement, each Texas Political Subdivision expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Texas Political Subdivision hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Kroger Texas Settlement.

11. The Texas Political Subdivision acknowledges, agrees, and understands that the Maximum Texas Settlement Amount to be paid under the Kroger Texas Settlement for the benefit of the Participating Texas Political Subdivision, is less than or equal to the amount, in the aggregate, of the Alleged Harms allegedly suffered by the governmental entity, constitutes restitution and remediation for damage or harm allegedly caused by Kroger in order to restore, in whole or part, the governmental entity to the same position or condition that it would be in had it not suffered the Alleged Harms; and constitutes restitution and remediation for damage or harm allegedly caused by the potential violation of a law and/or is an amount paid to come into compliance with the law.
12. Nothing herein is intended to modify in any way the terms of the Kroger Texas Settlement Agreement, to which the Texas Political Subdivision hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Kroger Texas Settlement, the Kroger Texas Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Texas Political Subdivision.

Signature: _____
Name: _____
Title: _____
Date: _____



COUNCIL AGENDA ITEM FORM

MEETING DATE: December 9, 2024

AGENDA ITEM #: 11.

SUBMITTED BY: Bo Thomas, City Manager

ITEM DESCRIPTION:

Discussion and possible action on **Resolution No. 2024-17**, authorizing the City Manager to renew an agreement with the Greater Hewitt Chamber of Commerce for the marketing and promotion of Hewitt.

STAFF RECOMMENDATION/ITEM SUMMARY:

The City of Hewitt has had a long-standing relationship with the Greater Hewitt Chamber of Commerce for advertising, promoting, and assisting with special events. This agreement would maintain that relationship at the annual cost of \$36,996, which is \$3,996 greater than it has been for the past two years.

FISCAL IMPACT:

Amount Budgeted - Hotel/Motel Fund
Line Item in Budget - Fund 40

SUGGESTED MOTION:

I move to approve **Resolution No. 2024-17**, authorizing the City Manager to renew the agreement with the Greater Hewitt Chamber of Commerce for the marketing and promotion of Hewitt.

ATTACHMENTS:

1. 2024-17 Agt -Greater Hewitt Chamber of Commerce Resolution
2. Publicity and Tourism Agreement _draft 7.30.24
3. 2025 2026 att a summary
4. 2025 2026 CAPS COH DRAFT W DISCOUNT

RESOLUTION NO. 2024-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS, AUTHORIZING THE RENEWAL OF AN AGREEMENT BETWEEN THE CITY OF HEWITT, TEXAS, AND THE GREATER HEWITT CHAMBER OF COMMERCE, AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Hewitt desires to promote the community as a great place to live, work, and play; and

WHEREAS, the Publicity and Tourism Agreement provides for the marketing and promotion of the community;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS:

SECTION 1. The City Manager is authorized to execute the necessary documents.

SECTION 2. This resolution is hereby officially found and determined that the meeting at which this resolution is passed is open to the public. That public notice of the meeting's time, place, and purpose was given as required by law.

PASSED AND APPROVED this 9th day of December, 2024.

CITY OF HEWITT, TEXAS

Steve Fortenberry, Mayor

ATTEST:

Lydia Lopez, City Secretary

APPROVED AS TO FORM & LEGALITY:

Michael W. Dixon, City Attorney



**Publicity and Tourism Agreement Between the City of Hewitt, Texas
and The Greater Hewitt Chamber of Commerce**

This Agreement is made and effective on the 1st Day of January 2023 2025 by and between the City of Hewitt, Texas ("City") and the Greater Hewitt Chamber of Commerce ("Chamber").

I.

The City of Hewitt, Texas, by authority of powers granted to it under the state statutes and its Home-Rule Charter has heretofore enacted a local hotel occupancy tax on occupants of hotels within the City of Hewitt.

II.

The revenue generated by the hotel occupancy tax within the city generally may be expended on endeavors that promote tourism and the convention and hotel industry (See: Texas Tax Code, Chapter 351 et. Seq.). In furtherance of these statutory requirements and the City's obligations concerning use of municipal hotel occupancy tax funds for attracting and promoting tourism and the convention and hotel industry and in consideration for the Chamber advertising and promoting tourism for the visitor market from which the City derives direct tourist income benefit, the City hereby agrees to pay the Chamber \$2,750 \$3,083 per month, payable the first of each month during the term of this agreement. The term of this Agreement is effective January 1, 2023 2025 thru December 31, 2024 2026. The Chamber agrees that any local hotel occupancy tax funds paid into it by the City shall be used for purposes prescribed by State Statute which generally includes expenditures on items which promote tourism and the convention and hotel industry and are tied to the following:

- Convention center facilities and visitor information centers.
- Furnishing of facilities, personnel and materials for the registration of convention delegates.
- Advertising, conducting solicitations, and promotional activities which attract tourists and convention delegates.
- Advertising, conducting solicitations, and promotion of the arts; historical restoration and preservation projects or museums.
- Related administrative costs

The Chamber agrees to conduct a continuing program of advertising and promotion for the purpose of attracting visitors, tourists, and conventions to the local area and to the City of Hewitt by publishing and distributing brochures, community information packets, maps, by advertising in various tourists publications and general media publications which are appropriate, by representing the City at promotional events, by participating with state and regional agencies in tourist and visitor development programs to benefit the local area and to the City of Hewitt, and by using all appropriate means to increase the traveling public's awareness of the resort and recreational advantages of the local area and the City of Hewitt.

The Chamber of Commerce further agrees that it will seek to achieve economic benefit for the City of Hewitt through all of such activities, that it will provide tourist-related information about the City of

Hewitt upon request, and that it will serve as an advisory body to the City, on request, in matters related to expanding tourist and visitor derived economy.

The foregoing services as additionally described in Section IV and Attachment A serve a public purpose of the City as required by law. Also required by law is that a public purpose service contract contain a provision allowing for the recovery of government funding if the public purpose is not served. Therefore, if it is determined by the City Council, after notice to the Chamber and opportunity to be heard, that funds under this Agreement have been used for other than the City's public purpose, the Chamber must repay the amount of such funds found to be improperly used within 10 days of receipt of a written demand from the City. If the Chamber fails to timely repay to the City the demanded amount, the City may suspend further payments to the Chamber under this Agreement. If the default continues for more than 60 days after the written demand for repayment, the City may terminate this Agreement.

The foregoing is added for purposes of legal compliance and should not be viewed as any slight or concern regarding the Chamber, with which the City has had a productive relationship.

III.

It is expressly understood and agreed by and between the parties that the Chamber is engaged as an independent contractor and is not an officer, agent, or employee of the City.

IV.

The Chamber hereby agrees that it shall utilize all hotel occupancy tax funding in accordance with the General Promotional Program attached as Attachment "A" incorporated and herein made part of this agreement. The City agrees that the expenditures made by the Chamber pursuant to the General Promotional Program attached as Attachment "A" comply with the applicable Texas Tax Code provisions regarding the use of hotel occupancy tax funds.

The Chamber agrees to conduct activities in accordance with this agreement and applicable State Statute and shall maintain and make available to the City complete and accurate financial records of each expenditure of hotel occupancy tax. The Texas Tax Code authorizes the expenditure of hotel occupancy tax proceeds for the following administrative costs: day-to-day operations, supplies, salaries, office rental, travel expenses, and "other administrative costs only if" costs are incurred directly in the promotion and servicing of expenditures authorized under section 351.101 (a) of the Texas Tax Code.

V.

In furtherance of these purposes the City hereby authorizes the Chamber to utilize the Historic Hewitt Depot ("Depot") building and associated real property, located at 101 Third Street, Hewitt, Texas 76643.

The Chamber of Commerce shall secure sufficient numbers of employees to accomplish this Agreement. The Chamber of Commerce shall generally operate and be open to the public on a full-time basis during normal business hours during the term of this agreement.

The Chamber will operate Hewitt's Historic Depot Building as a Visitor Information Center, Chamber office, and public museum on a regular full-time basis and will generally operate during accepted business hours.

VI.

The Chamber shall not pay rent or any fee for use of the Depot. The Chamber will pay for operation and routine maintenance and lawn care of the Depot and grounds.

Chamber shall pay all charges for water, sewer, telephone and other services and utilities used by Chamber at the Depot during the term of this agreement unless otherwise expressly agreed in writing by City. Chamber shall pay such amounts within fifteen (15) days of invoice. The City will pay electricity costs. The City agrees that the expenditures made by the Chamber pursuant to this paragraph comply with the applicable Texas Tax Code provisions regarding the use of hotel occupancy tax funds. Chamber acknowledges that the Depot is designed to provide standard office use electrical facilities and standard office lighting. Chamber shall not use any equipment or devices that utilize excessive electrical energy or which may, in City's reasonable opinion, overload the wiring. City shall have the right to enter upon the Depot Premises at reasonable hours to inspect and maintain the same, provided City shall not thereby unreasonably interfere with Chamber's business in the Depot. Chamber shall have the right to reorganize and place office furniture into the Depot. The current decorations and railroad memorabilia shall not be removed from the Depot without the written consent of City. Decorations and memorabilia that are affixed to any wall shall not be moved without the written consent of City. Chamber shall not have the right to remodel or make additions to the Depot without the written consent of City. Chamber shall be responsible for the repair of any damages caused by any alterations that it makes to the Depot.

To the extent not covered by any policy of insurance maintained by City upon the Depot, the Chamber shall be liable for repair of any damages caused by the Chamber to Depot during the term of this agreement. During the term of this agreement, and to the extent not covered by any policy of insurance maintained by City upon the Depot, Chamber shall provide and make, at Chamber's expense, all necessary maintenance and repairs to the Depot and the Depot premises. Chamber shall keep and maintain such items as floors, walls, ceilings, toilets, sinks, landscaping and other parts of the Depot and Depot premises damaged or worn through normal occupancy, except major mechanical, electrical, plumbing systems or the roof, subject to the obligations of the parties otherwise set forth in this agreement.

The Chamber shall not have the right to assign this agreement to a corporation with which Chamber may merge or consolidate, to any subsidiary of Chamber, to any corporation under common control with Chamber, or to a purchaser of substantially all of Chamber's assets. Chamber shall not sublease all or any part of the Depot or property or assign this agreement in whole or in part.

Use of the Depot by the Chamber is on a year to year basis and is contingent upon an approved Publicity and Tourism Agreement between the City and the Chamber. Termination of this Agreement results in termination of the Chamber's right to use the Depot.

VII.

To the extent not covered by any policy of insurance maintained by City upon the Depot, should the Depot premises or any other part of the Depot is damaged by fire or other casualty that prevents Chamber from using the Depot, City shall have no responsibility to provide compensation for Chamber property or for another facility for the Chamber office.

If the Depot premises are damaged by fire or other casualty resulting from any act or negligence of Chamber or any of Chamber's agents, employees or invitees Chamber shall be responsible for the costs of repair not covered by insurance.

City shall maintain fire and extended coverage insurance on the Depot and the Depot premises in such amount as City shall deem appropriate. Chamber shall be responsible, at its expense, for fire and extended coverage insurance on all of its personal property located in the Depot. City shall not provide insurance coverage for any of the Chamber's personal property.

Chamber shall secure and carry at its own expense a general liability policy insuring Chamber and City against any claims based on bodily injury (including death) or property damage arising from the condition of the Depot premises or their use by Chamber, such policy to insure Chamber and City against any claim up to \$500,000 for bodily injury, property damage or combination thereof. This insurance shall be primary to and not contributory with any insurance carried by City, whose insurance shall be considered excess. City shall be included in such policy as additional insured. Chamber shall provide City with current Certificates of Insurance evidencing Chamber's compliance with this Paragraph within fifteen (15) days of the effective date of this agreement. Chamber shall obtain the agreement of Chamber's insurers to notify City that a policy is due to expire at least ten (10) days prior to such expiration.

VIII.

Any notice required or permitted under this agreement shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

If to City to:

City of Hewitt
Attn: City Manager
200 Patriot Court
Hewitt, TX 76643

If to Chamber to:

Greater Hewitt Chamber of Commerce
Attn: Executive Director
P.O. Box 661
Hewitt, TX 76643

City and Chamber shall each have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party.

IX.

No waiver of any default of City or Chamber hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by City or Chamber shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

The provisions of this agreement shall extend to and be binding upon City and Chamber and their respective legal representatives, successors and assigns.

City shall not unreasonably withhold or delay its consent with respect to any matter for which City consent is required or desirable under this agreement.

This agreement terminates supersedes all prior understanding or agreements on the subject matter hereof.

This agreement may be modified only by a further writing that is duly executed by both parties.

Chamber shall not have the right to renew this agreement for any term without the written consent of City. City may extend the term of this agreement for an additional twelve (12) month period with the written consent of Chamber. Attachment "A" is subject to change provided that any such change is agreed upon in writing by Chamber and City. Chamber's inability to provide services under this agreement for reasons outside of its control; including but not limited to termination of an event due to bad weather conditions, acts of God, or prospective financial loss, shall not void the agreement. Rather, Chamber shall replace City's promotion by alternate method agreeable to Chamber and City. The next review of this Agreement shall take place by the 1st day of October 2024 2026 and renewal of this Agreement shall take place by the 1st day of January 2025 2027.

This agreement shall be governed, construed and interpreted by, through and under the Laws of the

State of Texas.

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

For the City

For the Chamber

Bo Thomas, City Manager

Alissa Cady, Executive Director

Date

Date

City of Hewitt & Greater Hewitt Chamber of Commerce Attachment “A”

General Promotional & Program Agreement Summary

The municipal hotel occupancy tax funds are intended for purposes prescribed by State Statute which includes expenditures on items promoting tourism and the convention and hotel industry. Within these guidelines the following is a description of the mutually agreed promotions.

GHCOG Membership, Website, E-bulletin & E-blasts

- Annual Membership + Benefits (see benefits brochure)
- Homepage Sponsorship for each Hewitt Hotel, City of Hewitt and Map
- Resident Resources Page with links: Exclusive Library Page with City links & Hewitt Services
- Community, Business Resources & Government Page Links
- COH e-Blasts as requested (10/year)
- Exclusive Hero Day, National Night Out, Christmas Webpages with links
- Sponsorship/Tourism Banner on all weekly e-mails linked to websites w/ contact info
- City/Hotel PR: e-Bulletin, City Events/Initiatives/ Development Progressions

Print Publications

- Annual Community Guide & Business Directory: 10 pages/year city content
- Quarterly Hewitt Express Magazine: 2.5 pages/quarter city content
- Logo on Welcome Bags: Distributed to new residents/staff in the Hewitt area
- Attractions Brochure: Highlights Hewitt amenities, Hotels and Events
- Hewitt-specific map inclusion (Directory)

Programs, Depot Operations, Visitors & Listings

- Logo: Monthly art & member orientation with speaking opportunities (12+/Year)
- Two seats to each regular monthly functions (12+/Year)
- Membership Orientation Spotlights
- Fire Safety Awareness Month – Program with Hewitt Fire Chief
- Listings: Amphitheater, Hewitt Public Library and City of Hewitt with Priority Banners
- Service to visitors, businesses, residents, relocation and Hewitt History

Signature Event Sponsorships

- State of the City Luncheon
- Student of the Year: Supporting Sponsor and associated benefits
- Easter Egg Hunt: Supporting Sponsor and benefits/Complimentary Hewitt Park use
- Nacho Daddy Car Show & Concert - Car Show Sponsor and benefits + Park uses
- Express Classic Title Sponsor and associated benefits
- Annual Banquet: Two tables of 8 + speaking opportunity
- ~~Spring Concert in the Park Sponsorship + Park uses benefiting Small Business Grants~~
- Creekside Spooktacular: Presenting Sponsor and benefits + Park uses
- Small Business Saturday: Presenting Sponsor and benefits

Additional Support for City of Hewitt

- Hewitt's Employee Health Fair: Meetings and Vendor Recruiting (2024, 2025?)
- HPL's Hero Day: Meetings, Promotions, Sponsor Recruiting, Vendors, Volunteers
- ~~HPL's Running for Readers: Meetings, Promotions, Vendors, Volunteers~~
- HPD's National Night Out: Meetings, Promotions, Sponsor Recruiting
- Christmas Tree Lighting: Meetings, Promotions, Sponsor Recruiting, Vendors, Volunteers
- 2023-2024 Sponsorship dollars raised for COH: \$3,600
- GHCOG Staff Hours dedicated to City of Hewitt: Approx. 150
- Ribbon Cuttings & Groundbreakings

Annual Publicity & Support

- Hewitt Express Magazine Print Distribution: 10,000 (also available online)
- GHCOG Community Guide & Membership Print Directory: 3,000 (also available online)
- Attractions Brochure: 4,000 Distribution

Traffic

- Publicity Reach: Approx. 2,700,000 Print/Digital/Billboards/Events/Mailouts/TV/Radio
- Depot Visitors + Event Traffic: Approx. 17,000+
- Welcome Bag Distribution: 1,200

Pending Agreement Revisions

- *Reduce Express Magazine print distribution from 12,000 to 10,000*
- *Reduce Attractions Brochure distribution from 5,000 to 4,000*
- *Restructure Operation Thank You*
- *Increasing Digital Media Promotions*
- *Add: Small Business Grants – City logo on promotions*
- *Add: Dog Days of Summer – City logo on promotions (added 2023/included COH on promos)*

2025-2026 Proposed Agreement & Renewal Request: \$37,000/Year

(*Includes 8% loyalty discount)

GREATER HEWITT CHAMBER ANNUAL INVESTMENT CONTRACT

PRINT: HEWITT EXPRESS MAGAZINE • 2500 QUARTERLY DISTRIBUTION	25 Rate/QTR	Qty	Tot
Business Card sponsorship	\$ 248.00		\$ -
Banner Ads	\$ 368.00		\$ -
1/4 Pg sponsorship	\$ 457.00		\$ -
1/2 page sponsorship	\$ 512.00		\$ -
Full page sponsorship	\$ 688.00	10	\$ 6,880.00
Inside Front Cover	\$ 750.00		\$ -
Inside Back Cover	\$ 750.00		\$ -
Back cover sponsorship	\$ 880.00		\$ -
Cover Exposure + Article	\$ 1,300.00		
Center Spread	\$ 1,650.00		\$ -

PRINT: COMMUNITY GUIDE & DIRECTORY • 3000 ANNUAL DISTRIBUTION	25 Rate/QTR	Qty	Tot
Business card sponsorship	\$ 357.00		\$ -
Banner Ads	\$ 484.00		\$ -
1/4 Pg sponsorship	\$ 517.00		
1/2 Pg sponsorship	\$ 572.00		\$ -
Full pg sponsorship w/ bleed	\$ 880.00	10	\$ 8,800.00
Inside Front Cover	\$ 1,072.00		\$ -
Inside Back Cover	\$ 1,072.00		\$ -
Outside Back Cover	\$ 1,485.00		\$ -
Center Spread	\$ 1,900.00		\$ -

CHAMBER DIGITAL ADVERTISING	25 Rate	Qty	Tot
Webinars (<i>monthly rate</i>)	\$ 70.00		\$ -
E-Bulletin • 6.5x1.5 Banner linked to member website (<i>weekly rate</i>)	\$ 55.00	51	\$ 2,805.00
Membership Anniversary Recognition Sponsor (annual price)	\$ 660.00		\$ -
Membership Birthday Recognition Sponsor (annual price/monthly rec)	\$ 660.00		\$ -
Volunteer Shoutout Recognition (annual price/monthly rec)	\$ 660.00		\$ -
Chamber Website Home Page Ad (<i>monthly rate</i>)	\$ 95.00	36	\$ 3,420.00
Top Priority Online Member Directory Banner (annual)	\$ 220.00		\$ -
e-Blast • Exclusive e-mail (<i>2,000+ subscribers, rate each e-mail</i>)	\$ 110.00	10	\$ 1,100.00

CHAMBER EVENT: ANNUAL BANQUET • JANUARY/FEBRUARY	25 Rate	Qty	Tot
Presenting Sponsor - 16 tickets	\$ 4,000.00		\$ -
Beverage Sponsor - 10 tickets	\$ 3,000.00		\$ -
Diamond - 8 tickets	\$ 2,100.00		\$ -
Entertainment - 6 tickets	\$ 1,000.00		\$ -
Gold - 6 tickets	\$ 1,000.00		\$ -
Scholarship Recipients - 4 tickets	\$ 800.00		\$ -
Business Awards - 4 Tickets	\$ 800.00		\$ -
Entertainment - 3 tickets	\$ 600.00		\$ -
Silver - 3 tickets	\$ 450.00		\$ -
Bronze - 2 tickets	\$ 350.00		\$ -
Tables of 8	\$ 650.00	2	\$ 1,300.00
Member Ticket/Each	\$ 90.00		\$ -
Member Vendor Space - 10% donation from sales	\$ -		\$ -

CHAMBER EVENT: STUDENT OF THE YEAR • FEBRUARY	25 Rate	Qty	Tot
Presenter	\$ 1,000.00		\$ -
Prizes Sponsor	\$ 550.00		\$ -
Supporting Sponsor	\$ 220.00	1	\$ 220.00

SPRING CONCERT IN THE PARK • APRIL	25 Rate	Qty	Tot
Presenting Sponsor	\$ 3,500.00		\$ -
Entertainment Sponsor	\$ 2,000.00		\$ -
Media: TV/News/Commercial	\$ 2,000.00		\$ -

Media: Cable/Internet	\$	2,000.00		\$	-
Media: Radio	\$	2,000.00		\$	-
Media: Digital	\$	2,000.00		\$	-
Food Court Sponsor	\$	1,500.00		\$	-
Koozie Sponsor	\$	750.00		\$	-
Cart Sponsorship	\$	650.00		\$	-
Sanitizer	\$	600.00		\$	-
Dunk Tank Sponsor	\$	600.00		\$	-
Photobooth Sponsor	\$	500.00		\$	-
Parking Sponsor	\$	400.00		\$	-
Event Schedule & Vendor Map Sponsor	\$	400.00		\$	-
Kids Zone	\$	300.00		\$	-
First Aid Station	\$	200.00		\$	-
Entry Sign & Member Vendor Spot	\$	200.00		\$	-
Member Vendor Space	\$	60.00		\$	-

Food Trucks: Members 10% donation / sales (first right of refusal) Non-members 20% donation / sales

CHAMBER EVENT: NACHO DADDY CAR/BIKE SHOW & CONCERT • MAY		25 Rate	Qty	Tot
Presenting Sponsor	\$	5,500.00		\$ -
Premium Cap	\$	3,600.00		\$ -
Entertainment Sponsor	\$	2,500.00		\$ -
Media: TV/News/Commercial	\$	2,500.00		\$ -
Media: Cable/Internet	\$	2,500.00		\$ -
Media: Radio	\$	2,500.00		\$ -
Media: Digital	\$	2,500.00		\$ -
Car Show Sponsor	\$	2,000.00	1	\$ 2,000.00
Water Bottle	\$	1,700.00		\$ -
Awards	\$	1,600.00		\$ -
Tote Bag Sponsor	\$	1,600.00		\$ -
Volunteer T-Shirt Sponsor (exclusive)	\$	1,000.00		\$ -
Koozie Sponsor	\$	750.00		\$ -
Car Show Participant T Shirt Sponsor (6 available)	\$	700.00		\$ -
Cart Sponsorship	\$	600.00		\$ -
Tire Pressure Gauge	\$	600.00		\$ -
Dunk Tank Sponsor	\$	600.00		\$ -
Photobooth Sponsor	\$	450.00		\$ -
Registration Software	\$	400.00		\$ -
Parking Sponsor	\$	400.00		\$ -
Event Schedule & Vendor Map Sponsor	\$	400.00		\$ -
Car Show Dash Card	\$	375.00		\$ -
Kids Zone	\$	275.00		\$ -
First Aid Station	\$	275.00		\$ -
Entry Sign & Member Vendor Spot	\$	250.00		\$ -
Member Vendor Space	\$	60.00		\$ -

Food Trucks: Members 10% donation / sales (first right of refusal) Non-members 20% donation / sales

CITY EVENT: HERO DAY • JUNE		25 Rate	Qty	Tot
Presenting	\$	3,200.00		\$ -
Media Sponsor TV/News	\$	1,500.00		\$ -
Media: Cable/Internet	\$	1,500.00		\$ -
Media: Radio	\$	1,500.00		\$ -
Media: Digital	\$	1,500.00		\$ -
Meal Sponsor	\$	600.00		\$ -
Dunking Booth Sponsor	\$	500.00		\$ -
Touch-a-Truck Sponsor	\$	275.00		\$ -
Supporting Sponsor	\$	100.00		\$ -

CITY EVENT: NATIONAL NIGHT OUT • FALL		25 Rate	Qty	Tot
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Entertainment Sponsor	\$	1,000.00		\$	-
Koozie Sponsor	\$	500.00		\$	-
Golf Cart	\$	400.00		\$	-
Meal Sponsor	\$	200.00		\$	-
CHAMBER EVENT: HEWITT EXPRESS GOLF CLASSIC • SEPTEMBER		25 Rate	Qty	Tot	
Presenting Sponsor	\$	7,000.00	1	\$	7,000.00
Golf Cap	\$	5,000.00		\$	-
Golf Balls	\$	5,000.00		\$	-
Golf Cooler	\$	5,000.00		\$	-
1/4 Zip Performance Shirts	\$	4,200.00		\$	-
Power Bank Charger	\$	4,000.00		\$	-
Media Sponsor TV/News/Digital	\$	3,400.00		\$	-
Media Sponsor Cable/Internet	\$	2,800.00		\$	-
Media Radio	\$	2,800.00		\$	-
Umbrella	\$	3,000.00		\$	-
Golf Ball Marker Tool Kit	\$	2,000.00		\$	-
Mag-safe Card Holder	\$	2,000.00		\$	-
Stainless Steel Tumbler	\$	2,000.00		\$	-
Accessories Mini Duffle	\$	1,800.00		\$	-
Tote bag for sponsored goodies	\$	1,800.00		\$	-
Contest Prizes AM	\$	1,500.00		\$	-
Contest Prizes PM	\$	1,500.00		\$	-
Golf Towel	\$	1,500.00		\$	-
Cooling Towel	\$	1,500.00		\$	-
Million Dollar Shoot Out Contest	\$	1,100.00		\$	-
Golf Tees	\$	1,100.00		\$	-
Closest to the Pin Contest all day	\$	775.00		\$	-
Event Staff T-Shirt	\$	775.00		\$	-
Koozie	\$	700.00		\$	-
Cart Sponsorship	\$	650.00		\$	-
Breakfast Sponsor	\$	650.00		\$	-
Afternoon Snack Sponsor	\$	650.00		\$	-
Hole-In-One - Vehicle Contest (*plus insurance)	\$	625.00		\$	-
Interactive Hole Sponsorship	\$	625.00		\$	-
Longest Drive Contest	\$	375.00		\$	-
Hospitality Sponsor - one flight	\$	375.00		\$	-
Hospitality Sponsor - two flights	\$	600.00		\$	-
Hole Sponsorship	\$	375.00		\$	-
Tournament Winners 1st	\$	400.00		\$	-
Tournament Winners 9th	\$	300.00		\$	-
Tournament Winners 13th	\$	200.00		\$	-
Tournament Winners 17th	\$	100.00		\$	-
Member Team Bundle: Team, carts, super pass, mulligans, 6 raffle tickets	\$	780.00		\$	-
Member Team of 4 plus super pass	\$	690.00		\$	-
Member Team of 4	\$	550.00		\$	-
Player	\$	140.00		\$	-
Raffle Prize Supporter	\$	100.00		\$	-
CHAMBER EVENT: DOG DAYS • FALL		25 Rate	Qty	Tot	
Presenting Sponsor	\$	3,000.00		\$	-
Media Sponsor TV/News	\$	2,000.00		\$	-
Entertainment	\$	1,000.00			
Media Sponsor Cable/Internet	\$	1,000.00		\$	-
Media Radio	\$	1,000.00		\$	-
Media Sponsor Digital	\$	1,000.00		\$	-
Weenie Dog Race	\$	800.00		\$	-

Dunk Tank Sponsor	\$	600.00		\$	-
Volunteer T-Shirt Sponsor	\$	600.00		\$	-
Leash	\$	500.00		\$	-
DJ	\$	500.00		\$	-
Glam Fur Photo	\$	350.00		\$	-
Splash Zone	\$	275.00		\$	-
Service Dog	\$	225.00		\$	-
Supporting Sponsor	\$	125.00		\$	-
Member Vendor	\$	75.00		\$	-
CHAMBER EVENT: CREEKSIDE SPOOKTACULAR • OCTOBER		25 Rate	Qty	Tot	
Presenting Sponsor	\$	3,200.00	1	\$	3,200.00
Media Sponsor News/Commercial	\$	2,500.00		\$	-
Media Sponsor Cable/Internet	\$	2,500.00		\$	-
Media Sponsor Radio	\$	2,500.00		\$	-
Media Sponsor Web & Digital	\$	2,500.00		\$	-
Tote Sponsor	\$	1,400.00		\$	-
Flashlight Sponsor	\$	1,400.00		\$	-
Prize Sponsor	\$	1,200.00		\$	-
Candy Sponsor	\$	700.00		\$	-
Goblin Sponsor	\$	700.00		\$	-
Trinket Give a way	\$	700.00		\$	-
Scarecrow Sponsor	\$	350.00		\$	-
Frankenstein Sponsor	\$	225.00		\$	-
Member Booths	\$	60.00		\$	-
Food Trucks: Members 10% donation / sales (first right of refusal) Non-members 15% donation / sales					
CHAMBER PROMOTION: SMALL BUSINESS SATURDAY • NOVEMBER		25 Rate	Qty	Tot	
Presenting Sponsor	\$	500.00	1	\$	500.00
Gold Sponsor	\$	250.00		\$	-
Bronze Sponsor	\$	125.00		\$	-
CITY EVENT: CHRISTMAS TREELIGHTING • DECEMBER		25 Rate	Qty	Tot	
Presenting Sponsor	\$	1,500.00		\$	-
Media Sponsor TV/News	\$	1,000.00		\$	-
Media Sponsor Cable/Internet	\$	1,000.00		\$	-
Media Sponsor Radio	\$	1,000.00		\$	-
Media Sponsor Web & Digital	\$	1,000.00		\$	-
Crafts Sponsor	\$	600.00		\$	-
Milk and Cookies	\$	600.00		\$	-
Carts	\$	600.00		\$	-
Photobooth Sponsor	\$	500.00		\$	-
Frosty Sponsor	\$	200.00		\$	-
Elf Sponsor	\$	100.00		\$	-
CHAMBER EVENT: VOLUNTEER CHRISTMAS PARTY / REWARDS • DECEMBER		25 Rate	Qty	Tot	
Presenting Sponsor	\$	700.00		\$	-
Beverage Sponsor	\$	500.00		\$	-
Entertainment	\$	450.00		\$	-
Hewitt Dollars Rewards Sponsor	\$	300.00		\$	-
Decorations Sponsor	\$	150.00		\$	-
BUSINESS DEVELOPMENT SPONSORSHIP OPPORTUNITIES		25 Rate	Qty	Tot	
All Access Monthly Meeting Pass	\$	225.00		\$	-
Ambassador Kickoff & Training	\$	250.00		\$	-
Attractions Brochure	\$	650.00	1	\$	650.00
Board Meeting Sponsor	\$	350.00		\$	-
Board's Strategic Planning (Fall)	\$	500.00		\$	-
Business After Hours (Contact staff for availability)	\$	550.00		\$	-

Coffee With The President (annual)	\$	250.00		\$	-
Director & Ambassador Mixer	\$	500.00		\$	-
Happy Hour With The President	\$	250.00		\$	-
Member Orientation Sponsor	\$	300.00	3	\$	900.00
New Resident/Staff Welcome Bag logo (1200 dist./year) - annual rate	\$	400.00	1	\$	400.00
Monthly Presenting Program Sponsor: Exclusive (1 available)	\$	1,650.00		\$	-
Monthly Program Sponsor: Supporting	\$	90.00	12	\$	1,080.00
Shredding Events (quarterly)	\$	125.00		\$	-

First right of refusal deadline 10.1.24

PAYMENT OPTIONS (Please select one)

_____ *Jan. PIF (5% disc., \$2000+) _____ Monthly (\$1000+) _____ Quarterly (\$1000+)

ANNUAL SPONSORSHIP INVESTMENT VALUE:	\$	40,255.00
8% Loyalty Discount	\$	3,220.40
TOTAL INVESTMENT DUE	\$	37,034.60