

RESOLUTION NO. 2008- 193 R

A resolution authorizing the City Manager and other persons acting on his behalf, including any entity administering the City's health plan (the "plan"), to execute all necessary documents to exclude the City of Victoria from the optional provisions of the Health Insurance Portability and Accountability Act ("HIPAA"); and declaring an effective date.

The U.S. Health Insurance Portability and Accountability Act of 1996 (HIPAA) was enacted on August 21, 1996, to require employers providing health insurance to cover pre-existing conditions in their health insurance plan, and regulations issued at 45 CFR § 146.180 et seq., pursuant to 42 U.S.C. § 300gg-21, specify procedures to be used by a governmental health plan to opt out of many of the provisions of HIPAA.

To opt out of the optional HIPAA provisions, a governmental entity must make the election to opt out and notify plan members and the Health Care Financing Administration of the Department of Health and Human Services (HCFA) prior to the date of the beginning of the Plan Year, which will next be on January 1, 2009 for the City of Victoria (City).

THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF VICTORIA, TEXAS:

1.

The City of Victoria hereby elects to be excluded from all excludable requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and regulations promulgated hereunder. Without limiting the scope of the exclusion of this resolution, the City opts out of the following requirements promulgated pursuant to HIPAA:

- (i) Limitations on preexisting condition exclusion periods described in 45 CFR § 146.111.
 - (ii) Special enrollment periods for individuals and dependents described in 45 CFR § 146.117.
 - (iii) Prohibitions against discriminating against individual participants and beneficiaries based on health status described in 45 CFR § 146.121.
 - (iv) Standards relating to benefits for mothers and newborns described in 45 CFR § 146.130.
 - (v) Parity in the application of certain limits to mental health benefits described in 45 CFR § 146.136.
 - (vi) Required coverage for reconstructive surgery and certain other services following a mastectomy under section 2706 of the PHS Act (as referred to in 45 CFR § 146.180).
- See 45 CFR § 146.180(a)

2.

The City Manager and other persons acting on his behalf, including any entity administering the City's health plan (the "Plan") is authorized to elect exclusion from the requirements of HIPAA and any regulations promulgated thereunder.

3.

The City Manager and other persons acting on his behalf, including any entity administering the City's health plan is authorized to prepare, send, certify, and file any necessary documents and notices to the Health Care Financing Administration (HCFA), plan members, and any other appropriate persons of the City's election to exclude itself from all possible requirements of HIPAA.

4.

This election is intended to provide the maximum possible exclusion of the City of Victoria from the requirements of HIPAA and regulations promulgated pursuant thereto, and any representations required by federal laws and/or regulations for such maximum possible exclusion are hereby deemed made. This exclusion shall cover the entire Plan year for 2009, which includes the term from January 1, 2009 through December 31, 2009, plus all other excludable periods to which this election may apply.

5.

The City's Director of Human Resources is authorized and directed to:

- (1) ensure that HCFA is notified of the City's election to exclude itself from the requirements of HIPAA and regulations promulgated thereunder no later than the day preceding the beginning date of the plan year, and
- (2) ensure that participants in the City's health plan are notified of the City's election to exclude itself from HIPAA and regulations promulgated thereunder and explain the consequences of this election to the health plan's participants.

6.

The name and address of the City's health plan administrator is the City Manager, Charles E. Windwehen, at the following address:

City of Victoria Health Plan
Attn: Director of Human Resources
105 W. Juan Linn Street
P.O. Box 1758
Victoria, Texas 77902

The phone number for the plan administrator is (361) 485-3030. The City administration is further authorized to send the notice described in 45 CFR § 146.180(f), the **Notice to Plan Participants**, a copy of which is attached hereto and incorporated herein. At this time, the City's health plan is self-funded and does not include health insurance coverage.

7.

This resolution shall become effective immediately upon adoption.

PASSED, this the 2nd day of December, 2008.

AYES: 7

NAYS: 0

ABSTENTIONS: 0

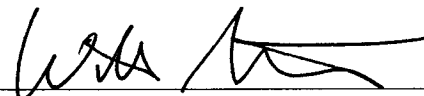
APPROVED AND ADOPTED, this the 2nd day of December, 2008.

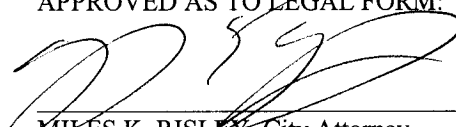


ATTEST:


SCARLET SWOBODA, City Secretary

Distribution: Legal Department
Human Resources Department


WILL ARMSTRONG, Mayor of the
City of Victoria, Texas

APPROVED AS TO LEGAL FORM:

MILES K. RISLEY, City Attorney

Copies Sent: DECEMBER 3, 2008

**NOTICE TO PLAN PARTICIPANTS
REGARDING THE CITY OF VICTORIA
EMPLOYEE HEALTH BENEFIT PLAN
ELECTION UNDER 42 U.S.C. §300GG-21**

This is to notify you that federal law imposes upon group health plans certain limitations of preexisting condition exclusions periods, special enrollment periods for individuals (and dependents) losing other coverage, prohibitions against discriminations against individual participants and beneficiaries based on health status, standards relating to benefits for mothers and newborns, and parity in the application of certain limits to mental health benefits. Federal law allows a non-federal governmental plan (such as the City of Victoria Employee Health Benefit Plan) to exempt its plan in whole or in part from these requirements. The City of Victoria Employee Health Benefit Plan has elected to be exempt from the following requirements: limitations on preexisting condition exclusion periods, special enrollment periods for individuals (and dependents) losing other coverage, prohibitions against discriminating against individual participants and beneficiaries based on health status, standards relating to benefits for mothers and newborns, parity in the application of certain limits to mental health benefits and required coverage for reconstructive surgery following mastectomies. Because of this election, employees and dependents may be subject to benefit limits even if they had 12 or 18 months of coverage under another plan within the last 63 days. The duration of a hospital confinement for a mother and newborn following the birth of a child will be determined based on medical necessity. Some mental health benefits have an annual and lifetime maximum which is less than those maximums for other medical conditions.

The entire plan is subject to this exemption.