

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF KILLEEN AND  
THE NATIONAL MOUNTED WARFARE FOUNDATION**

This Memorandum of Understanding (“MOU”) is entered into by the CITY OF KILLEEN (a municipal corporation with a business address of P.O. Box 1329 Killeen, Texas 76540 (here in after referred to as the “CITY”) and the NATIONAL MOUNTED WARFARE FOUNDATION, a 501 (c)(3) non-profit organization with a business address as 207 S 3rd St Ste 100, Copperas Cove, TX 76522 (herein referred to as the “FOUNDATION”) on the following terms and conditions.

**I. Definitions**

The Fiscal Year (abbreviated herein as “FY”) runs from October 1 through September 30 of each calendar year.

The 1st Quarter of the Fiscal Year consists of the months of October, November and December.

The 2nd Quarter of the Fiscal Year consists of the months of January, February and March.

The 3rd Quarter of the Fiscal Year consists of the months of April, May and June.

The 4<sup>th</sup> Quarter of the Fiscal Year consists of the months of July, August and September.

**II. City’s Responsibilities.**

Based upon the representations, inducements, and commitments by the FOUNDATION, as set forth in this MOU, and for the purposes of directly enhancing and promoting tourism and the convention and hotel industry in Killeen, the CITY covenants and agrees that:

- A. The CITY will reimburse the FOUNDATION for allowable expenses (as established in Section III.A below) in an amount equal to the amount of the Hotel Occupancy Tax receipts received from Bell County, Texas for the previous Fiscal Year, not to exceed eighty thousand dollars (\$80,000) per year, beginning with FY 2025 and continuing through FY 2029.
- B. All Reimbursements will be made within thirty (30) days after expenditures have been verified.
- C. The Parties agree that unspent balances may not be carried over from Fiscal Year to Fiscal Year.

**III. Foundation’s Responsibilities.**

In consideration for the funding to be provided by the CITY, the FOUNDATION covenants and agrees that:

- A. Funding provided under this MOU will be used solely to pay for advertising, solicitations, and promotions that attract tourists and convention delegates to the City of Killeen, Texas or the National Mounted Warrior Museum (herein after referred to as the “Museum”), or for funding the establishment, improvement, or maintenance of a visitor information center at the Museum.

- B. The FOUNDATION will provide to the CITY:
1. A copy of the Museum Master Plan and any subsequent changes to the Master Plan that it adopts over the term of this MOU; and
  2. An annual proposed scope of work that outlines the specific expenses related to the advertising, solicitations and promotions that will attract tourists to the Museum, as well as amendments to the plan as they occur throughout the year. This annual scope of work shall be submitted to the CITY by April 15<sup>th</sup> of each year, for the upcoming FY, and shall be approved by the CITY. If the City does not disapprove the scope of work by April 30<sup>th</sup>; of each year the proposed scope of work shall be deemed approved.
- C. Beginning with the 1<sup>st</sup> Quarter of FY 2025, the FOUNDATION will provide to the CITY a written report each Quarter that includes an itemized list of expenditures of the funds provided under the MOU. The list of expenditures should include details such as, but not limited to, the number and locations of billboard spaces purchased, number of marketing materials developed, and identify advertisement outlets and the length of time of said advertisement. The quarterly reports shall also include visitor data including, but not limited to, the number of visitors during the quarter, any demographic information collected, home location and zip code. The report shall be due by the 15<sup>th</sup> day of the month following the end of each Quarter and shall itemize the expenditures from the previous Quarter.
- D. To receive reimbursement, the FOUNDATION must provide a monthly invoice or letter requesting reimbursement and a copy of the paid invoice(s) or other documentation supporting the reimbursement request. Documentation must be sufficient to determine that the expenditure is compliant this MOU.
- E. During the CITY'S 4th Quarter Community Partners budget meeting, the FOUNDATION will provide a brief presentation to City Council of its usage of the funds provided under this MOU in the then-current FY, and its plans for its usage of funds provided under this MOU in the upcoming FY;
- F. During the 1<sup>st</sup> Quarter of each Fiscal Year, the FOUNDATION will give a verbal report to the CITY at a City Council meeting regarding its progress in creating the National Mounted Warrior Museum, and its usage of funds provided under this MOU in the previous FY.
- G. The FOUNDATION will hire a qualified firm to perform a Financial Review or an Audit, whichever the CITY deems appropriate, of the FOUNDATION's records at least annually after its first year of operations. A copy of each Financial Review or Audit, whichever is performed, will be provided to the CITY upon its completion so long while this MOU is in effect. The cost of this Financial Review or Audit will be paid for by the FOUNDATION, and the funds provided under this MOU shall not be used for the Financial Review of Audit.

#### **IV. Access to Records.**

Documents pertaining to funds provided by the CITY to the FOUNDATION under this MOU are subject to the Texas Public Information Act, and shall be promptly provided to the CITY upon request.

**V. Default.**

Failure by the FOUNDATION to execute any of its responsibilities as set forth herein this MOU shall be a default. The FOUNDATION shall have forty-five (45) days to cure the default to the CITY's satisfaction after receiving notice of the default from the CITY.

The penalty for failure to cure a default shall be the suspension of all future Reimbursements to the FOUNDATION, and the repayment by the FOUNDATION to the CITY of any funds expended in violation of this MOU and state law.

**VI. Notice to the Parties.**

All notices by or from the CITY to the FOUNDATION shall be provided by email and US Postal Service. Notices shall be directed to:

President & CEO  
207 South 3<sup>rd</sup> Street, Suite 100  
Copperas Cove, Texas 76522  
Phone: 254-213-5014  
Email: admin@nmwfoundation.org

All notices by or from the FOUNDATION to the CITY shall be provided by email and US Postal Service. Notices shall be directed to:

City Manager  
P.O. Box 1329  
Killeen, TX 76540  
Phone: 254-501-7700  
Email: KCagle@killeentexas.gov

All requests to update the notice information shall also be sent in compliance with this MOU.

**VII. Parties Bound and Assignment.**

This MOU shall be binding upon and shall inure to the benefit of the Parties hereto, their successors and assigns. Neither Party may assign this MOU or any of its rights hereunder without the prior written consent of the other Party which consent shall not be unreasonably withheld. This MOU does not create any rights, title, or interest for any entity other than the CITY or the FOUNDATION.

**VIII. Authorization.**

The Parties acknowledge and represent to each other that the persons who executed this MOU were duly authorized to do so on behalf of each Party and all necessary authorizations and approvals were properly obtained.

**IX. Successor Interests.**

This MOU is binding upon the heirs, legal representatives, successors and permitted assigns of each Party.

**X. Headings.**

The section headings in this MOU are for convenience only, are not deemed part of its substantive provisions, and are not to be considered in its construction or interpretation.

**XI. Counterparts.**

This MOU may be executed in multiple counterparts, each of which will be deemed an original. All such counterparts together will constitute one instrument. Electronic signatures shall be deemed originals, if an original is provided within five (5) days of the electronic signature.

**XII. Entire MOU; Modifications: Survival**

This MOU constitutes the entire understanding and agreement between the Parties, and supersedes all previous understandings, commitments or representations concerning the subject matter of this MOU. Except as provided in this MOU, this MOU may not be amended or modified, and none of its provisions may be waived, except by a writing signed by an authorized officer of the Party against whom the amendment, modification or waiver is sought to be enforced. If any portion of this MOU is held to be unenforceable, then the remainder of the MOU will survive and will be construed to reflect the intent of the Parties.

**XIII. Governing Law: -Exclusive Venue**

This MOU shall be construed in accordance with and governed by the laws of the State of Texas. Jurisdiction for any claim, dispute, or lawsuit shall be exclusively in Bell County, Texas.

**XIV. Effective Date, Term and Termination.**

This MOU becomes effective on the October 1, 2024, and remains in effect through the end of Fiscal Year 2029. Any Party may terminate this MOU upon thirty (30) days' prior written notice to the other Party.

**XV. Indemnity.**


To the extent allowed by law, the FOUNDATION shall indemnify, defend, and hold the CITY harmless from any and all costs, expenses, liability, losses, claims, suits, and proceedings of any nature brought against the CITY as a result of the FOUNDATION'S violation of this MOU and/or inappropriate expenditure of funds provided to the FOUNDATION by the CITY under this MOU.

Executed at and performable in Killeen, Bell County, Texas.

The Parties have signed this MOU on the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

ACKNOWLEDGEMENTS TO FOLLOW

MOUNTED WARFARE FOUNDATION

BY:   
\_\_\_\_\_  
PAUL E. FUNK, EdD

TITLE: \_\_\_\_\_

CITY OF KILLEEN

BY: \_\_\_\_\_  
KENT CAGLE

TITLE: \_\_\_\_\_