

RESOLUTION NO. 2013-10-___ (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING THE BYLAWS OF THE MCKINNEY ARMED SERVICES MEMORIAL CORPORATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council, by this resolution, desires to amend the Bylaws of the McKinney Armed Services Memorial Corporation.

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

Section 1. The City Council of the City of McKinney, Texas hereby amends the Bylaws of the McKinney Armed Services Memorial Corporation attached hereto as Exhibit A; and

Section 2. This Resolution shall be in full force and effect from and after its passage and adoption.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 1st DAY OF OCTOBER, 2013.

CITY OF MCKINNEY, TEXAS

BRIAN LOUGHMILLER
Mayor

ATTEST:

SANDY HART, TRMC, MMC
City Secretary
BLANCA I. GARCIA
Assistant City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney

EXHIBIT A

AMENDED BYLAWS

of

MCKINNEY ARMED SERVICES MEMORIAL, INC.

(A Non-Profit Corporation)

PURPOSES

The purposes for which the corporation is organized are: (i) to provide memorial space commemorating the service of past and present citizens of McKinney and Collin County, Texas in the Armed Services of the United States of America; (ii) to solicit donations through advertising, publications and distribution of descriptive material and such other means as may be necessary or expedient to construct, maintain and remodel the aforementioned memorial space for charitable and educational purposes; (iii) to organize the annual Veterans Day Event in the City of McKinney, Texas; (iv) to advise the City on improvements to any memorial space; (v) to make determinations on inductees on the Wall of Honor for Collin County residents who died in the service of the United States; and (vi) to generally do all those things necessary or appropriate to carry out such purposes and thereby relieve the burdens of government.

CORPORATE STATUS

1. McKinney Armed Services Memorial, Inc. ("Corporation") shall act as an independent contractor under these Bylaws to the highest professional standards consistent with the level of care and skill ordinarily exercised by members of charitable organizations, including reasonable, informed judgments and prompt timely action.
2. Corporation shall at all time be an independent contractor and these Bylaws do not create an employee/employer relationship between Corporation and the City of McKinney, a Texas municipal corporation ("City") including, but not limited to, the application of the Fair Labor Standards Act, the Federal Insurance Contribution Act, the Social Security Act, and the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the Texas Workers' Compensation Act, and Texas Unemployment law.

ARTICLE I.

DIRECTORS

1. **Tenure and Number.** The number of voting Directors of the Corporation shall be seven (7) members. Each Director shall serve terms consistent with the City Council Policy on Board and Commission Member Appointment and Eligibility.
2. **Appointment and Qualification.** Appointment of Directors shall be in accordance with these Bylaws. The McKinney City Council shall endeavor to appoint persons who are representative of one or more of the following groups, organizations, or interests as voting members of the Board; however no Director shall be a member of the McKinney City Council or an employee of the City of McKinney:
 - A resident of Collin County, Texas; or
 - A person employed within Collin County, Texas; or
 - A Veteran of the United States Armed Forces; or
 - A spouse of a Veteran of the United States Armed Forces.

3. **Meetings.**

- a. Annual Meeting. The Annual Meeting of the Board shall be held during the Month of August, at a place and time designated by the Chair. At least ten (10) days notice of the Annual Meeting shall be given to each member of the Board by written notice mailed to each Director's address as it appears on the records of the Corporation.
- b. Regular Meetings. The Board of Directors shall, by resolution, provide regular meetings, no less than semi-annually, at such specific dates or regular intervals as the Board may in its discretion deem appropriate. The Chair may cancel any meeting, but may not cancel two (2) consecutive regular meetings which would result in the Board not meeting for at least one (1) year. All regular meetings shall be held in Collin County, Texas.
- c. Special Meetings. Special meetings of the Board may be held at any time or place upon proper notice. Special meetings may be called by the Chair or by a majority of the Directors. Special meeting notices shall include the name(s) of the Chair and/or the individual Director who request the special meeting. All special meetings shall be held in Collin County, Texas.
- d. Notice of Meetings. Notice of the time, place, and matters to be consulted and action taken for each meeting of the Board of Directors shall be posted as required by V.T.C.A Government Code §551.001 et seq (Texas Open Meetings Act), and written or electronic notice shall be provided to individual Board members.

4. **Quorum and Action.** A majority of the duly appointed members of the Board of Directors shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the Board present in person at a meeting at which a quorum is present shall be the act of the Board of Directors, unless a greater number is required by law, by the Articles of Incorporation, or by these Bylaws. In the event that a quorum is not present at any meeting, the Directors present may adjourn the meeting without further notice until a quorum can be properly assembled.

5. **Voting.** Each Director is entitled to one (1) vote. Directors may not vote by proxy.

6. **Attendance.** It shall be the responsibility of each Director to meet attendance requirements stipulated in the City Council Policy on Board and Commission Appointment and Eligibility.

7. **Compensation.** Board members shall not receive any salary or compensation for their services, except that they may be reimbursed for their actual and reasonable expenses incurred in the performance of their duties.

8. **Vacancies.** Any vacancy on the Board, including vacancies created by an increase in the number of members of the Board of Directors, shall be filled by appointment for the remaining term by a vote of the majority of the City Council.

9. **Removal.** Any Director may be removed by action of the City Council for any reason or no reason, it being understood that all of the Directors serve at the pleasure of the City Council.

10. **Resignation.** Any Director or officer may resign at any time. Such resignations shall be made in writing and shall take effect at the time specified therein; or, if no time be specified, at the time of its receipt by the City Council. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation. Each Director shall serve terms consistent with the City Council Policy on Board and Commission Appointment and Eligibility or until his or her successor is appointed by the Council; provided, however, upon the death, resignation or removal of a Director, the Council shall appoint a replacement Director to serve for the unexpired term of office of the replaced Director. Any restriction as to term is governed by the Council.

11. **Powers and Budget.**

- a. The Board shall be responsible for establishing operating policies for the Corporation and for evaluating the progress of the Corporation in the attainment of its goals. The Board shall have full and complete power to (i) oversee all business and affairs of the Corporation; (ii) to elect officers; and (iii) to authorize the sale, conveyance, transfer, assignment trade, exchange, lease, mortgage, otherwise encumber or pledge any property, real or personal, of the Corporation.
- b. The Board of Directors may elect committees as provided in Article V. The election of any committee shall not relieve the Board or any Director of any responsibility imposed on the Board of Directors by law.
- c. On or before July 25th of each year, the Board shall adopt a proposed budget of expected revenues and proposed expenditures of the next ensuing fiscal year. The budget shall not be effective nor shall expenditures occur until the same has been approved by the Council.

ARTICLE II.

OFFICERS

1. **Title and Term of Office.**

- a. The officers of the Board shall be a Chair, a Vice-Chair, Secretary and a Treasurer, and such other officers as the Board may from time elect or appoint. One person may hold more than one office, except that the Chair shall not hold the office of Vice-Chair or Secretary. Terms of office shall be one (1) year, ending September 30, with the right of an officer to be reelected.
- b. All officers shall be elected by and be subject to removal from office at any time, by a vote of a majority of the entire board.
- c. A vacancy in the office of any officer shall be filled for the remaining term by a vote of a majority of the entire Board.

2. **Chair.** The Chair shall be the presiding officer of the Board with the following authority:

- a. Shall preside over all meetings of the Board.
- b. Shall vote on all matters coming before the board.
- c. Shall have the authority, upon notice to the members of the Board, to call a Special Meeting of the Board when in his or her judgment such a meeting is required.
- d. Shall have the authority to appoint, with Board approval, standing committees to aid the Board in its business undertakings or other matters incidental to the operation and functions of the Board.
- e. Shall have the authority to appoint, with Board approval, ad hoc committees which may address issues of a temporary nature of concern or which have a temporary effect on the business of the Board.

In addition to the above mentioned duties, the Chair shall sign any deed, mortgage, bond, contract, or other instrument which the Board has approved, unless the execution of said document has been expressly delegated to some other officer or agent of the Corporation by appropriate Board resolution, by a specific provision of these Bylaws, or by statute. In general, the Chair shall perform all duties incident to the office, and such duties may be prescribed from time to time by the Board.

3. **Vice Chair.** The Vice Chair shall have such powers and duties as may be prescribed by the Board and shall exercise the powers of the Chair during that

officer's absence or inability to act. Any action taken by the Vice Chair in the performance of the duties of the Chair shall be presumptive evidence of the Chair's absence or inability to act at the time such action was taken.

4. **Treasurer.** The City's Finance Department shall have the responsibility to the disbursement, custody and security of all funds and securities of the Corporation in accordance with these Bylaws and statutes governing the Corporation formed under the Act. The Treasurer shall maintain the financial reports provided by the City's Finance Department.
5. **Secretary.** The Secretary may sign with the President upon the approval of the Board in the name of the Corporation, and/or attest to the signature thereto, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation, shall have charge of the corporate books, records, documents and instruments, except the papers as the Board may direct, all of which shall at all reasonable time be open to public inspection upon application at the office of the Corporation during business hours, and shall in general perform all duties incident to the office of Secretary subject to the control of the Board.
6. **Delegation of Powers.** Whenever these Bylaws specify a duty to be performed by an officer, director, board or committee, the duty may be performed by a delegate of that person, board or committee, except where specifically prohibited by law, the Articles of Incorporation or these Bylaws.
7. **Bonds of Officers.** The Board may secure the fidelity of any or all officers by bond or otherwise, in such term and with such surety or sureties or conditions as shall be required by the Board.

ARTICLE III.

MISCELLANEOUS PROVISIONS

1. **Conflict of Interest.** It shall be considered a conflict of interest for any Board member or any member of a Board member's family related within the second degree by affinity or consanguinity to be a member of any nonprofit organization requesting funding from the Board. A Board member with such conflict is prohibited from participating in any manner on any Board consideration, discussion, or action regarding the funding request.
2. **Records.** All financial records and minutes of meetings of the Board, along with other valuable papers of the Corporation shall become permanent records of the Corporation.
3. **Fiscal Year.** The fiscal year of the Corporation shall be the same as that of the City (October 1 to September 30).
4. **Amendment of Bylaws.** These Bylaws may be altered, amended or repealed by a majority vote of a quorum of the Board of Directors of the Corporation at any annual, regular or special meeting of the Board. In the event the Board purposes to alter, amend or repeal these Bylaws, such proposal must first be submitted to the City Council for review and consideration for approval. If such proposal is approved by the City Council, the Board may then adopt and effect the alteration, amendment or repeal of these Bylaws. At least ten (10) days notice of the meeting at which the proposed changes are to be considered shall be given to each Director by written notice mailed to the Director's address as it appears in the Corporation records, and the proposed change(s) to the Bylaws shall be mailed to each Director with the notice.

ARTICLE IV.
COMMITTEES

1. **Finance Committee.** Annually the Chair shall recommend and the Board shall elect the members of the Finance Committee. Each member of the Finance Committee shall be a member of the Board. The Treasurer shall be a standing member of the Finance Committee. The Finance Committee shall have three (3) members, as determined by the Board. Members of the Finance Committee shall be comprised of voting members of the Board. The Finance Committee shall oversee the annual audit of the Corporation's financial statements prepared by an independent certified public accountant or accounting firm and prepared in accordance with generally accepted accounting principles. Also, the Finance Committee shall oversee the preparation of the annual budget and shall review the Corporation's financial position and make recommendations and reports regarding these matters to the Board. The final approval of the annual budget shall remain with the Board, with further final approval required by the City Council.
2. **Other Committees.** The Board may designate by a resolution adopted by a majority of the Directors in office any other committees deemed necessary or prudent. Each such committee shall consist of two (2) or more Board members and such other persons as selected by the Board. Committees designated by this section shall not have or exercise the authority of the Board in the management of the Corporation.

ARTICLE V.
MEMBERS

The Corporation shall have one (1) class of members, consisting of the officers and members the Board selected pursuant to Article II. Members shall have voting rights only in their capacities as members of the Board. The Corporation reserves the right to create additional classes of members and to provide for the terms, rights and privileges thereof by amendment of these Bylaws.

ARTICLE VI.
DISSOLUTION

1. **Procedure.** The Board shall adopt a resolution recommending that the Corporation be dissolved. Upon adoption of the resolution by the Board and approval thereof by the City Council, notice of dissolution shall be mailed to each known creditor of and claimant against the Corporation.
2. **Distribution of Assets.** The assets of the Corporation shall be applied as follows: (i) all liabilities and obligations of the Corporation shall be paid, satisfied and discharged; and (ii) assets held by the Corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirements. The remaining assets, if any, shall be distributed to the City, and all financial records and other documents and information held by the Corporation shall be transferred to the City.

ARTICLE VII.
INDEMNIFICATION

The Corporation shall indemnify each and every member of the Board against any and all liability or expense, including attorney's fees, incurred by any Board member by reason of any actions or omissions within the course and scope of official duties that may arise out of the functions and activities of the Corporation.

ARTICLE VIII.

SERVICES OF CITY STAFF AND OFFICERS

Subject to the approval of the Board's annual budget by the City Council, the Board may contract for services of City personnel for implementing board directives, both routine and non-routine in nature. The Board shall pay negotiated compensation to the City for such services or use of any City personnel.

ARTICLE IX.

ADOPTION

These Bylaws shall become effective as adopted this _____ day of _____ 2013.

Signature: _____

Printed Name:

Chair of the Board of Directors
McKinney Armed Services Memorial, Inc.

Date: _____