

AGENDA ITEM REQUEST FORM

Commission meetings: First and third Tuesdays of each month – 2:00 p.m.

Committee meetings: Second and last Tuesdays of each month – 1:00 p.m.

Commission/Committee: (Please check one and insert meeting date)

<input type="checkbox"/> Commission	Date of Meeting _____
<input type="checkbox"/> Public Safety Committee	Date of Meeting _____
<input checked="" type="checkbox"/> Public Services Committee	Date of Meeting <u>07/09/24</u>
<input type="checkbox"/> Administrative Services Committee	Date of Meeting _____
<input type="checkbox"/> Engineering Services Committee	Date of Meeting _____
<input type="checkbox"/> Finance Committee	Date of Meeting _____

Contact Information for Individual/Presenter Making the Request:

Name: Estrella Febus
Address: 3088 Lumpkin Dr.
Telephone Number: 706-402-4245
Fax Number: _____
E-Mail Address: estrella.jf6210@gmail.com

Caption/Topic of Discussion to be placed on the Agenda:

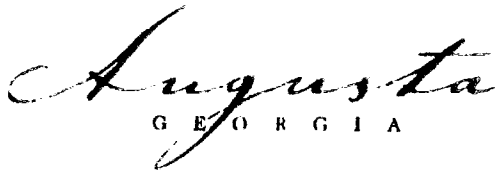
ACHA the Hispanic American Cultural Association
of the CSRA regarding request to waive rental
and staffing fees as an in-kind donation for
the 29th Hispanic Festival to be held at The
Augusta Commons on September 13 and 14

Please send this request form to the following address:

Ms. Lena J. Bonner
Clerk of Commission
Suite 220 Municipal Building
535 Telfair Street
Augusta, GA 30901

Telephone Number: 706-821-1820
Fax Number: 706-821-1838
E-Mail Address: nmorawski@augustaga.gov

Requests may be faxed, e-mailed or delivered in person and must be received in the Clerk's Office no later than 9:00 a.m. on the Thursday preceding the Commission and Committee meetings of the following week. A five-minute time limit will be allowed for presentations.



Office of the Administrator

Takiyah A. Douse
Interim Administrator

August 1, 2023

Mr. Maurice McDowell, Director
Recreation & Parks
2027 Lumpkin Road
Augusta, GA 30906

Dear Director McDowell:

At the regular meeting held Tuesday, August 1, 2023, the Augusta, Georgia Commission took action on the following:

5. Approved waiving the rental and staffing fees as an in-kind donation for the 28th Hispanic Festival to be held at the Augusta Common on September 29-30, with an increase of \$5,000 for security costs, and the MOU to dictate that the City Logo be added where appropriate (e.g. marketing material).

Addendum 3.

Approved Change Order one (1) for Horizon Construction in the amount of \$594,985.00 for construction of lighting at Jamestown Park as part of the Jamestown Park Improvement Project 22REC117 (ITB 21-275).

If you have any questions, please contact me.

In Service,

A handwritten signature in black ink, appearing to read "C. M. Jackson".

Charles M. Jackson, Deputy Administrator

CJ/nd

ASOCIACIÓN CULTURAL HISPANOAMERICANA

AND

AUGUSTA, GEORGIA

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (herein referred to as "MOU") is made and entered into this 1st day of August 2023 (the "Effective Date") between the Asociación Cultural Hispanoamericana ("ACHA"), a local 501 C3 non-profit corporation organized under the laws of the State of Georgia located at PO Box 3203, Augusta, GA 30914, and Augusta, Georgia ("Augusta"), a political subdivision of the State of Georgia, known collectively as the "Parties," for the distribution of five thousand dollars (\$5,000.00).

WHEREAS, on May 2, 2023, the Augusta, Georgia Commission approved that five thousand dollars (\$5,000.00) be distributed to ACHA for the purpose of conducting the 28th Hispanic Festival in Augusta;

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES DESCRIBED IN THIS MOU, THE ADEQUACY AND SUFFICIENCY OF WHICH EACH PARTY ACKNOWLEDGES, EACH OF THE PARTIES AGREE AS FOLLOWS:

1. **SCOPE.** Augusta will provide funds to ACHA for the purpose of conducting the 28th Hispanic Festival in Augusta.
 - a. Augusta shall provide five thousand dollars (\$5,000.00) to ACHA, in a manner and at a time of Augusta's discretion.
 - b. The funds shall only be utilized towards payment of security expenditures incurred during the festival.

2. **Responsibilities of ACHA.**

ACHA will utilize the allocated funds to:

- a. Fund, in part, the 28th Hispanic Festival in Augusta.
 - b. Provide an accurate accounting of all expenditures associated with the five thousand dollars (\$5,000) provided by Augusta, Georgia no later than 14 days after the event date, to include receipts and/or other written documentation verifying such expenditures
3. **USE OF LOGO.** Augusta grants ACHA permission to use Augusta's name and/or logo in any marketing materials for the promotion of the event. ACHA agrees to include Augusta's name and logo in the sponsor section of any marketing materials for the promotion of the event. At a minimum, reference shall be made in any marketing materials to Augusta's sponsorship of the event with name and logo and shall read "Sponsored by Augusta, Georgia".
 - 4.
 5. **Term and Termination.** The term of this MOU commences on the Effective Date hereof and terminates absolutely and without further obligation on the part of Augusta,

Georgia on December 31, 2023, unless terminated earlier in accordance with the termination provisions of the MOU.

- a. Termination for Convenience. This MOU may be terminated, in whole or in part, by Augusta, Georgia, for its own convenience, by providing at least seven (7) days' written notice to ACHA.
 - b. Termination for Default. Failure of ACHA to perform or otherwise comply with a material condition of this MOU shall constitute a default, unless such failure has been waived, in writing, by Augusta, Georgia. In the event of a default, Augusta, Georgia shall provide written notice to ACHA declaring such default. Thereafter, ACHA shall have thirty (30) days, from receipt of the notice, to cure the default. If the default has not been cured within thirty (30) days, this Agreement shall automatically terminate without requiring further action on the part of Augusta, Georgia.
 - c. Regardless of any termination provision in this MOU, the responsibilities of the ACHA to account for the expenditure of funds shall survive the termination of this MOU, until the complete and full expenditure of the entirety of the funds appropriated under this MOU. Documentation of expenditures shall be retained in conformity with the Records Retention Schedule of the State of Georgia.
6. **Notices.** Notices shall be in writing and dated, via postmark to the addresses as specified below:

Address for Notices to ACHA

Asociación Cultural Hispanoamericana
Attn: Estrella Febus
P.O. Box 3203
Augusta, GA 30914

Address for Notices to AUGUSTA

Augusta, Georgia
535 Telfair Street, Suite 200
Augusta, Ga 30901

With copies to:

Augusta Law Department
Attn: General Counsel
535 Telfair Street, Bldg. 3000
Augusta, Ga 30901

Office of the Administrator 535
Telfair Street, Suite 910
Augusta, Ga 30901

7. **Indemnification.** Nothing in this MOU shall constitute a waiver of Augusta's sovereign immunity, by contract or otherwise. Except as otherwise provided in this MOU, ACHA shall indemnify and hold harmless Augusta, its officers, employees from and against all liabilities, damages, losses, and expenses, including attorneys' fees (if recoverable under applicable law).
8. **Choice of Law, Venue, and Jurisdiction.** The laws of the State of Georgia shall govern the MOU between Augusta and ACHA with regard to its interpretation, performance, and any other claims related to this MOU. All claims, disputes, and other matters in question between Augusta and ACHA arising out of or relating to the MOU, or the breach thereof, shall be decided in the Superior Court of Richmond County, Georgia. ACHA, by executing this MOU, specifically consents to jurisdiction and venue in Richmond County and waives any right to contest the jurisdiction and venue in the Superior Court of Richmond County, Georgia.
9. **Georgia Open Records Act.** ACHA warrants that it has reviewed O.C.G.A. § 50-18- 71 et seq. and acknowledges that Augusta is an "agency" pursuant to O.C.G.A. § 50-18- 70(b) (1). ACHA acknowledges and understands that any work generated under this MOU may be contained in a "public record" as defined by O.C.G.A. § 50-18-70(b)(2). ACHA releases and holds harmless Augusta and its officers, employees, and agents from and against all liabilities, claims, suits, demands, damages, losses and expenses, including attorneys' fees, arising out of or resulting from the disclosure of information in this article due to the failure of ACHA to provide an affidavit as described in O.C.G.A. § 50-18-72(a)(34).
10. **Assignment.** Neither Augusta nor ACHA shall assign, sublet, or transfer their interest in this MOU without the written consent of the other. Nothing contained in this MOU shall create a contractual relationship with, or a cause of action in favor of, a third party against either Augusta or the ACHA.
11. **Georgia Prompt Pay Act.** The terms of this MOU superseded any and all provisions of the Georgia Prompt Pay Act.
12. **Modification.** ACHA acknowledges that this contract and any changes to it by amendment, modification, change order or other similar document may have required or may require the legislative authorization of the Board of Commissioners and approval of the Mayor. Under Georgia law, ACHA is deemed to possess knowledge concerning Augusta, Georgia's ability to assume contractual obligations and the consequences of ACHA's provision of goods or services to Augusta, Georgia under an unauthorized contract, amendment, modification, change order or other similar document, including the possibility that ACHA may be precluded from recovering payment for such unauthorized goods or services. Accordingly, ACHA agrees that if it provides goods or services to Augusta, Georgia under a contract that has not received proper legislative authorization or if ACHA provides goods or services to Augusta, Georgia in excess of the contractually authorized goods or services, as required by Augusta, Georgia's Charter and Code, Augusta, Georgia may withhold payment for any unauthorized goods or services provided by ACHA. ACHA assumes all risk of non-payment for the provision of any unauthorized goods or services to Augusta, Georgia, and it waives all claims to payment or to other remedies for the provision of any unauthorized goods or services to Augusta, Georgia, however characterized, including, without limitation, all remedies at law or equity. Augusta, Georgia may unilaterally, upon written notice, demand that a temporary and immediate stopping of the work

under this MOU be done.

13. **Force Majeure.** "Force Majeure Event" means any act or event that (a) prevents a party (the "Nonperforming Party") from performing its obligations or satisfying a condition to the other party's (the "Performing Party") obligations under this MOU, (b) is beyond the reasonable control of and not the fault of the Nonperforming Party, and (c) the Nonperforming Party has not, through commercially reasonable efforts, been able to avoid or overcome. If a Force Majeure Event occurs, the Nonperforming Party is excused from the performance thereby prevented and from satisfying any conditions precedent to the other party's performance that cannot be satisfied, in each case to the extent limited or prevented by the Force Majeure Event. When the Nonperforming Party is able to resume its performance or satisfy the conditions precedent to the other party's obligations, the Nonperforming Party shall immediately resume performance under this MOU. The relief offered by this paragraph is the exclusive remedy available to the Performing Party with respect to a Force Majeure Event. A Force Majeure Event includes, but is not limited to: epidemics, pandemics, declared national, state, local states of emergency, hurricanes, tornadoes, floods, severe and unexpected acts of nature, or the availability of funds in the budget of Augusta.
14. **Prohibition on Contingent Fees.** ACHA warrants that no person or selling agency has been employed or retained to solicit or secure this MOU upon an MOU or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by ACHA for the purpose of securing business and that ACHA has not received any non-Augusta fee related to this MOU without the prior written consent of Augusta. For breach or violation of this warranty, Augusta shall have the right to annul this MOU without liability or at its discretion to deduct from the MOU Price of consideration the full amount of such commission, percentage, brokerage or contingent fee.
15. **SAVE/E-VERIFY.** All contractors and subcontractors entering into contracts with Augusta, Georgia for the physical performance of services shall be required to execute an Affidavit verifying its compliance with O.C.G.A § 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with Augusta, Georgia has registered with and is participating in a federal work authorization program. All contractors and subcontractors must provide their E-Verify number and must be in compliance with the electronic verification of work authorized programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603, in accordance with the applicability provisions and deadlines established in O.C.G.A § 13-10-91 and shall continue to use the federal authorization program throughout the contract term. All contractors shall further agree that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to its contract with Augusta, Georgia the contractor will secure from such subcontractor(s) each subcontractor's E-Verify number as evidence of verification of compliance with O.C.G.A § 13-10-91 on the subcontractor affidavit provided in Rule 300-10-01-.08 or a substantially similar form. All contractors shall further agree to maintain records of such compliance and provide a copy of each such verification to Augusta, Georgia at the time the subcontractor(s) is retained to perform such physical

services.

16. **Right to Inspect.** Augusta, Georgia, may at reasonable times, inspect the place of business, or work site of ACHA or any subcontractor of ACHA or subunit thereof which is pertinent to the performance of any contract awarded or to be awarded by Augusta, Georgia.
17. **Entire MOU.** This MOU constitutes the final MOU between the parties. It is the complete and exclusive expression of the parties' MOU on the matters contained in this MOU. All prior and contemporaneous negotiations and MOUs between the parties on the matters contained in this MOU are expressly merged into and superseded by this MOU. The provisions of this MOU cannot be explained, supplemented or qualified through evidence of trade usage or a prior course of dealings. In entering into this MOU, neither party has relied upon any statement, representation, warranty or MOU of any other party except for those expressly contained in this MOU. There are no conditions precedent to the effectiveness of this MOU, other than any that are expressly stated in this MOU. This MOU may be amended only by written instrument signed both by Augusta and ACHA.
18. **Severability.** If any term or provision of this MOU is held invalid or unenforceable, the remainder of this MOU will be considered valid and enforceable to the fullest extent permitted by law.

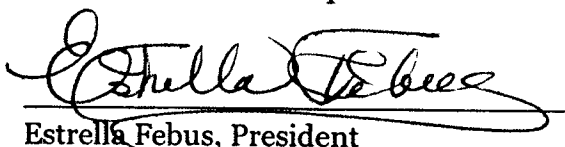
IN WITNESS WHEREOF, the Parties state and affirm that they are duly authorized to bind the respected entities designated below as of the day and year indicated.

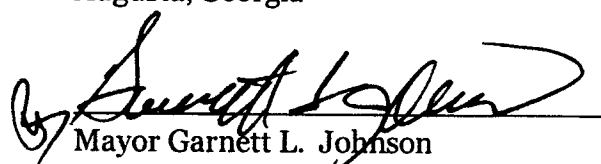
[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this MOU as of the date(s) set forth below.

Asociación Cultural Hispanoamericana

Augusta, Georgia


Estrella Febus, President


Mayor Garnett L. Johnson

Date 09/13/2023

Date _____

Attest: *Lena Bonner*

Lena Bonner, Clerk of Commission

