



Public Services Committee Meeting

Meeting Date: November 14, 2023

Motion to enter a memorandum of understanding with the ACVB

Department:	Parks & Recreation Department
Presenter:	Maurice McDowell
Caption:	Motion to enter a memorandum of understanding with the Augusta Conventions and Visitors Bureau, Inc. for the implementation of an outdoor urban zipline adventure center on the 5 th Street Bridge along the Augusta Riverwalk.
Background:	Augusta approved \$1,750,000.00 in SPLOST VIII funding for the design and development of an outdoor urban zipline adventure center, a valuable addition to Augusta's engagement in outdoor and tourism activities
Analysis:	The implementation of this project is anticipated to stimulate economic growth in Augusta by promoting benefits of Augusta for tourism, meetings, leisure, and families.
Financial Impact:	The cost for the implementation is budgeted with \$1,750,000. Those funds are available in SPLOST 8 as the 5 th Street Bridge Project.
Alternatives:	<ol style="list-style-type: none">1. Move to enter the memorandum.2. Move to no action
Recommendation:	<ol style="list-style-type: none">1. Move to enter the memorandum.
Funds are available in the following accounts:	GL 330-06-1110, 5 th Street Bridge Project
<u>REVIEWED AND APPROVED BY:</u>	N/A

MEMORANDUM OF UNDERSTANDING

BETWEEN

**AUGUSTA, GEORGIA
535 TELFAIR STREET
AUGUSTA, GA 30901
(HEREINAFTER "AUGUSTA")**

AND

**THE AUGUSTA CONVENTION AND VISITORS BUREAU, INC.
1010 BROAD STREET
AUGUSTA, GA 30901
(HEREINAFTER "THE ACVB")**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into effective the ____ day of _____, 2023, by and between AUGUSTA, GEORGIA, a political subdivision of the State of Georgia ("Augusta") and the AUGUSTA CONVENTION AND VISITORS BUREAU, INC., A Georgia non-profit corporation ("ACVB"), each a "Party" and collectively, the "Parties".

WHEREAS, Augusta desires to stimulate economic growth in Augusta, Georgia and the surrounding area by developing and promoting the benefits and advantages of Augusta, Georgia for conventions, business meetings, trade shows, festivals, film and digital entertainment industry, sporting events, family reunions, large and small gatherings, leisure visitors, and tourism related activities;

WHEREAS, the ACVB is the official destination marketing and management organization for Augusta, tasked with attracting leisure and meeting visitors and fostering visitor product development to enhance the economic growth of the region;

WHEREAS, Augusta approved \$1,750,000.00 in SPLOST VIII funding for the design and development of an outdoor urban zipline adventure center (the "Adventure Center"), a valuable addition to Augusta's engagement in outdoor and tourism activities; and

WHEREAS, Augusta and the ACVB desire to enter into this Memorandum of Understanding in which the Parties will work together to design and develop the Adventure Center.

NOW, THEREFORE, for and in consideration of the mutual promises and the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

the same terms and conditions as the Initial Term, unless positive action is taken by Augusta to terminate this MOU pursuant to the provisions of Section IV(d), hereinbelow.

c. AGGREGATE TERM. The aggregate term of this MOU includes the Initial Term and any Additional Term (the "Term"). The aggregate term of this MOU shall terminate each and every December 31st, unless terminated earlier in accordance with the provisions of Section IV.

IV. SUSPENSION AND/OR TERMINATION.

a. SUSPENSION. To the extent that it does not alter the scope of this MOU, Augusta may unilaterally order a temporary halt of the performance by ACVB under this MOU upon written notice.

b. BUDGETARY TERMINATION. Augusta may unilaterally terminate this MOU, without notice, if, upon the passing of any particular financial year's budget by Augusta, no funds have been specifically allocated to the Adventure Center.

c. TERMINATION WITHOUT CAUSE. Notwithstanding paragraph (a) or (b) of this Section, either party may terminate this MOU at any time without cause by giving at least sixty (60) days prior written notice to the other party.

d. CANCELLATION OF RENEWAL. Either party may elect to cause the contract to be terminated on the last day of its effective date of that particular year with notice to the other party of non-renewal. This non-renewal notice shall require at least ten (10) days' written notice to the other party.

V. MISCELLANEOUS.

a. GOVERNING LAW/VENUE. The laws of the State of Georgia shall govern this MOU with regard to its interpretation and performance, and any other claims related to this MOU. All claims, disputes and other matters in question between Augusta and ACVB arising out of or relating to the MOU, or the breach thereof, shall be decided in the Superior Court of Richmond County, Georgia. ACVB, 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.

b. LEGISLATIVE AUTHORIZATION. ACVB acknowledges that this MOU 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 Augusta-Richmond County Commission and approval of the Mayor. Under Georgia law, ACVB is deemed to possess knowledge concerning Augusta's ability to assume contractual obligations and the consequences of ACVB's provision of goods or services to Augusta under an unauthorized contract, amendment, modification, change order or other similar document, including the possibility that ACVB may be precluded from recovering payment for such unauthorized goods or services. Accordingly, ACVB agrees that if it provides goods or services to Augusta under a contract that has not received proper

If intended for Augusta:

Office of Mayor
Attn: Garnett L. Johnson
535 Telfair St. Suite 200
Augusta, GA 30901

Copy:

Augusta Law Department
General Counsel
535 Telfair Street, Building 3000
Augusta, GA 30901

Augusta Parks & Recreation Department
Attn: Director Maurice McDowell
2027 Lumpkin Road
Augusta, GA 30906

g. 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.

h. NO THIRD PARTY BENEFICIARIES. This relationship is intended solely for the mutual benefit of the parties hereto, and there is no intention, express or otherwise, to create any rights or interests for any party or person other than ACVB and Augusta; without limiting the generality of the foregoing, no rights are intended to be created for any student, parent or guardian of any student, spouse, next of kin, employer, prospective employer, or any other third party.

i. INDEPENDENT CONTRACTOR. ACVB is not a political subdivision, agency or instrumentality of Augusta or the State of Georgia, and the relationship of ACVB to Augusta is that of independent contractor for all Services performed pursuant to this MOU. ACVB shall have exclusive control of its operations hereunder, and the persons performing same, and shall be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors, and subcontractors. Neither ACVB nor its employees are considered to be employees of Augusta for any purpose, nor shall ACVB or its employees be entitled to any benefits from Augusta. ACVB shall be solely responsible for all matters relating to the payment of its employees, compliance with withholding taxes, and all other regulations governing such matters. Nothing in this MOU shall be interpreted as a waiver of Augusta, Georgia's sovereign immunity.

j. NO ASSIGNMENT. Except as otherwise provided in this MOU, ACVB may not transfer, sell, or otherwise contract with any other person or organization its obligations or responsibilities in this MOU without prior approval of Augusta.

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

ACVB

Augusta, Georgia

By: _____

By: _____

Name: _____

Name: Garnett L. Johnson

Title: _____

Title: Mayor

Date: _____

Date: _____

