

RESOLUTION NO. 2019 - 306

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND REQUIREMENTS OF A CONTRACT BETWEEN ST. JOHNS COUNTY AND JAXUSA PARTNERSHIP FOR THE PURPOSE OF WORKING COOPERATIVELY TO ENCOURAGE CAPITAL INVESTMENT AND JOB GROWTH WITHIN ST. JOHNS COUNTY, FROM BOTH THE EXPANSION OF EXISTING BUSINESSES AND THE RECRUITMENT OF NEW BUSINESSES FOR THE BENEFIT OF ECONOMIC DEVELOPMENT OF THE COUNTY AND ITS RESIDENTS AND BUSINESSES; AUTHORIZING THE COUNTY ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT ON BEHALF OF THE COUNTY; PROVIDING FOR THE EFFECT OF RECITALS; PROVIDING FOR THE CORRECTION OF ERRORS; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, St. Johns County, Florida (County) and JAXUSA Partnership (JAXUSA) have a strong history of working together to achieve beneficial outcomes related to job creation and commercial tax based enhancement through new business development and existing business expansion; and

WHEREAS, JAXUSA engages in economic development for the seven-county Northeast Florida region, including St. Johns County, for the purpose of marketing the region nationally and internationally to attract new businesses and talent to the region; and

WHEREAS, the County desires to contract with JAXUSA for the purpose of working cooperatively to encourage capital investment and job growth within St. Johns County, from both the expansion of existing businesses and the recruitment of new businesses for the benefit of economic development of the County and its residents and businesses; and

WHEREAS, the County has determined that approving a contract for a three-year term to expire on September 30, 2022, will serve the interests of the County.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:

SECTION 1. Incorporation of Recitals.

The Recitals expressed above are incorporated by reference into the body of this Resolution, and such Recitals are hereby adopted as findings of fact.

SECTION 2. Authority to Execute.

The Board of County Commissioners authorizes the County Administrator, or his designee, to execute a contract with JAXUSA substantially in the same form as attached hereto for purposes of promoting economic development within the County.

SECTION 3. Correction of Errors.

To the extent that there are typographical or administrative errors or omissions that do not change the tone, tenor, or context of this Resolution, this Resolution may be revised without subsequent approval of the Board of County Commissioners.

SECTION 4. Effective Date.

This Resolution shall be effective upon execution by the Chair of the Board of County Commissioners.

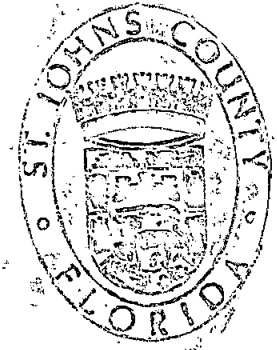
PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida this 17th day of September, 2019.

BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA

By: Paul M. Waldron
Paul M. Waldron, Chair

ATTEST: Hunter S. Conrad, Clerk RE rendition DATE 9/23/19

By: Pam Halterman
Deputy Clerk



**CONTRACT BETWEEN
ST. JOHNS COUNTY, FLORIDA
AND
JAXUSA PARTNERSHIP**

THIS CONTRACT is entered into between St. Johns County (the County), a political subdivision of the State of Florida, whose address is 500 San Sebastian View, St. Augustine, Florida 32084, and JAXUSA Partnership (JAXUSA), a private, non-profit division of the JAX Chamber, a corporation organized and existing under the laws of the State of Florida, whose address is 3 Independent Drive, Jacksonville, Florida 32202.

RECITALS:

WHEREAS, a vigorous, diversified and competitive business economy is essential to the long-term fiscal health of the County, the prosperity of the County's residents and businesses; and

WHEREAS, the County and JAXUSA have a strong history of working together to achieve beneficial outcomes related to job creation and commercial tax based enhancement through new business development and existing business expansion; and

WHEREAS, the County has created an Economic Development Office within County government dedicated to working in conjunction with local, regional, state and national organizations to enhance economic development opportunities for the County; and

WHEREAS, JAXUSA engages in economic development for the seven-county Northeast Florida region, including St. Johns County, for the purpose of marketing the region nationally and internationally to attract new businesses and talent to the region; and

WHEREAS, the County desires to contract with JAXUSA for the purpose of working cooperatively to encourage capital investment and job growth within St. Johns County, from both the expansion of existing businesses and the recruitment of new businesses for the benefit of economic development of the County and its residents and businesses (collectively, "the Services"); and

WHEREAS, the scope of this contract will align the specific tasks the County requests be performed by JAXUSA with JAXUSA's stated economic development focus on targeted marketing to benefit business recruitment; and

WHEREAS, JAXUSA represents and warrants that it has the necessary staff and experience to provide such services, and JAXUSA has agreed to perform under the terms and conditions in this Contract; and

WHEREAS, the County has determined that the provision of said Services for the participation in the above described plan is a proper public purpose and is in the best interests of the citizens of the County.

NOW, THEREFORE, the County and JAXUSA, in consideration of the provisions set forth below, the sufficiency of which is mutually acknowledged, agree as follows:

Section 1. Effect of Recitals.

The above Recitals are incorporated into the body of this Contract, and said Recitals are adopted as findings of fact.

Section 2. Headings.

All Sections and descriptive headings of Sections noted in this Contract are inserted for the convenience of the parties only and shall not affect and/or control interpretation of this Contract.

Section 3. Severability.

If any part of this Contract, or any application thereof to any person or circumstance, is declared void, unconstitutional, or invalid for any reason, then such part, or the proscribed application thereof, shall be severable, and the remainder of this Contract, and all applications thereof, not having been declared void, unconstitutional, or invalid shall remain in full force and effect.

Section 4. Compliance with Local, State, and Federal Rules, Regulations, and Laws.

Both the County and JAXUSA shall abide by, and comply with, all applicable laws, rules, regulations, orders, and policies of the County, State, and Federal governments.

Section 5. Governing Law and Venue.

This Contract shall be construed according to the laws of the State of Florida. Venue for any administrative and/or legal action arising under the Contract shall be in St. Johns County, Florida.

Section 6. Contract Term.

The term of this Contract shall begin on October 1, 2019 and shall terminate on September 30, 2022

Section 7. Extension of Contract Term.

Either the County or JAXUSA may request a single three-year extension of the term of this Contract by submitting a written request to the other party no later than June 1 of the last year of the Contract Term or of any Extension Term. Pursuant to such written request, the non-requesting party will approve or deny the extension of the Contract Term prior to September 30 of the year the extension request is made. Such extended term shall begin on October 1 and continue through September 30 (Extension Term).

It is expressly noted that extension of the Contract Term shall be upon mutual consent of the parties hereto, and that neither the County nor JAXUSA shall be obligated to extend the Contract Term.

Section 8. Independent Contractor Relationship.

JAXUSA shall be an independent contractor with respect to its performance of the Services provided under this Contract and not an employee, agent, or official of the County. As such, neither

JAXUSA nor its employees, agents, officials, or subcontractors are eligible for any benefits afforded County employees or officials. JAXUSA shall exercise control and discretion over the means and manner in which it performs the work that is set forth in this Contract. Except as specifically provided in this Contract, JAXUSA is not authorized to act on behalf of the County or to bind the County in any manner whatsoever to any promise, agreement, or representation. The County is not authorized to act on behalf of JAXUSA or to bind JAXUSA in any manner whatsoever to any promise, agreement, or representation.

Section 9. Amendment of Contract.

Both the County and JAXUSA acknowledge that this Contract constitutes the complete agreement and understanding of both parties. Any modification, revision, or amendment to this Contract shall be in writing and executed by duly authorized representatives of both the County and JAXUSA.

Section 10. Assignment of Contract.

In light of the scope and rationale for this Contract, neither the County nor JAXUSA may assign, transfer, or sell any of the rights noted in this Contract without the express written approval of the other party. Notwithstanding any other provision contained herein, should either the County or JAXUSA assign, transfer, or sell any of the rights noted in this Contract without such prior expressed written approval of the other party, then such action shall result in the automatic termination of this Contract, without further notice or action required on the part of the other party.

Section 11. Termination of Contract.

This Contract may be terminated without cause upon either the County or JAXUSA providing at least ninety (90) days advance written notice to the other party of such notice of termination without cause. Such written notification shall indicate that either the County or JAXUSA intends to terminate this Contract within 90 days of the date of notification or as of the date provided in the notification, whichever is later. Consistent with other provisions of this Contract, JAXUSA shall be compensated for any services and expenses that are both authorized under this Contract and that are performed or accrue up to the termination date of this Contract.

This Contract may be terminated with cause upon either the County or JAXUSA providing at least fifteen (15) days advance written notice to the other party of such notice of termination for cause. Such written notification shall indicate the exact cause for termination and the effective date of termination, unless, prior to the termination date, the party seeking termination for cause provides an opportunity to cure/correct the condition as specifically provided in the written notice described in this Section.

Cause for termination of this Contract may include, but is not limited to, one of the following conditions:

- a) Substandard performance in one or more evaluative areas, as noted in a Periodic Evaluation conducted by the County, or duly authorized agent or representative of the County; provided that the County issue notice to JAXUSA of said substandard performance and allow an opportunity to cure/correct;

- b) Assignment of this Contract by either party without the prior written approval/consent of the other party;
- c) Material failure by either party to comply with one or more terms, provisions, conditions, requirements, and/or obligations noted in this Contract;
- d) Failure by the County to pay, for a period exceeding one hundred twenty (120) days, any amounts due and owing for authorized services performed by JAXUSA;
- e) Failure by the County to budget for the services and expenses noted in this Contract;
- f) An exhaustion of funds for the services and expenses noted in this Contract without approval of a subsequent increase in the amount of funds budgeted for services and expenses noted in this Contract; or
- g) A subsequent change to State law that would prohibit the County and JAXUSA from entering into or continuing this Contract.

Section 12. Scope of Services.

JAXUSA shall use all reasonable efforts to perform the services in cooperation with the County's Office of Economic Development, and deliver the reports and other items, specified in the Scope of Services, Attachment A, attached hereto and incorporated herein (collectively, the Services).

JAXUSA shall provide an annual written report to the County regarding the activities and Economic Development Performance Measures associated with the Scope of Services, along with a list of prospect inquiry referrals. The County reserves the right to request additional information relevant to the Scope of Services as needed.

JAXUSA shall submit an Annual Report to the Board of County Commissioners through the County's Economic Development Office within 90 days of the end of the Contract Term or any Extension Term for submission by the County to the Florida Office of Economic and Demographic Research in compliance with Section 125.045, Florida Statutes. The Annual Report shall detail how County funds were spent by JAXUSA during the previous year and the results of JAXUSA's economic development efforts.

Section 13. Periodic Evaluations.

Annually, the County Administrator, or designee, shall evaluate JAXUSA's performance under this Contract, specifically as it relates to the Scope of Services and compliance with the terms of this Contract. Such evaluation shall be provided to JAXUSA through verbal or written means and shall describe JAXUSA's compliance/non-compliance and degree of effectiveness in completing the Scope of Services and performing under the terms and conditions of this Contract.

If, after any Annual Evaluation, the County Administrator, or designee, determines that JAXUSA's performance under this Contract is substandard, incomplete, or unacceptable or that JAXUSA has failed to comply with one or more provisions of this Contract, then the County Administrator, or designee, shall provide written notice thereof to JAXUSA. The County Administrator, or designee, shall further provide JAXUSA a timeframe in which to cure or correct the substandard, incomplete, or unacceptable performance, or any non-compliance with the provisions of this Contract.

In the event that JAXUSA fails to cure or correct the substandard, incomplete, or unacceptable performance, or non-compliance with the provisions of this Contract within the timeframe provided by the County, the County may exercise any of its administrative or legal options, including termination of this Contract as provided herein.

Section 14. Compensation.

The maximum amount available as compensation to JAXUSA per Contract term is \$50,000 (fifty thousand dollars), or such amount as may be appropriated for performance of this Contract by the Board of County Commissioners in the applicable County Fiscal Year. In conjunction with the County, St. Johns County Chamber of Commerce's participation in JAXUSA is included in this annual compensation.

It is strictly understood by the parties that JAXUSA is not entitled to the above-noted amount of compensation as a matter of right. Rather, compensation is based upon JAXUSA's satisfactory performance of the Services in accordance with the provisions of this Contract. If JAXUSA is not in compliance with any provision of this Contract, and upon written notice to JAXUSA of such noncompliance, the County may withhold payment of compensation until JAXUSA comes into compliance with this Contract.

In consideration for this annual compensation, JAXUSA will recognize the County as a President's Circle Member in all electronic and print publications that list other President's Circle Members. JAXUSA will provide the County with a complimentary seat to all of the Quarterly JAXUSA luncheons, and other relevant economic development-related meetings. It is expressly noted that the County will compensate JAXUSA only from those tax-revenue funds that are appropriated for performance of this Contract and available for use in accordance with application local, state and federal law. Pursuant to the provisions of Section 129.07, Florida Statutes, the maximum payment that the County is obligated to make under this Contract from the budget of any fiscal year shall not exceed the amount appropriated for that purpose during that fiscal year. Nothing in this Contract shall create any obligation on the part of the Board of County Commissioners to appropriate funds for the Services during any given fiscal year.

Section 15. Billing/Invoicing Schedule and Payment.

To the extent that (1) JAXUSA is not in violation of any material aspect of this Contract; (2) its performance under this contract has not been deemed substandard as noted in a Periodic Evaluation; or (3) this Contract has not been terminated, then JAXUSA may bill the County each Contract term as follows:

<u>Date</u>	<u>Amount</u>
January 1	\$25,000
June 1	\$25,000

Although there is no billing form or format pre-approved by either the County or JAXUSA, bills/invoices submitted by JAXUSA shall include a detailed report of the work performed in connection with the Scope of Services and shall include the Economic Development Performance Measures contained in Attachment B. The County may return a bill/invoice from JAXUSA and

request additional documentation/information. Under such circumstances, the timeframe for payment will be extended by the time necessary for the County to receive a verified bill/invoice.

Unless otherwise notified, bills/invoices should be delivered to:

Director of Economic Development
500 San Sebastian View
St. Augustine, Florida 32084

With a copy to:

County Administrator
500 San Sebastian View
St. Augustine, Florida 32084

The County's Director of Economic Development shall certify that JAXUSA is in compliance with the terms of this Contract prior to any bill/invoice being processed for payment by the County. Upon receipt of JAXUSA's bill/invoice and certification by the Director of Economic Development, the County shall process the bill/invoice and forward payment to JAXUSA within thirty (30) days of certification.

Section 16. Insurance.

JAXUSA shall secure and maintain for the duration of this Contract (including any Extension Term), any and all insurance coverage (including automobile liability insurance, if vehicles are used in connection with completing the Scope of Services, and workers' compensation and professional liability insurance), as required by State law or County policy in no less than the minimum amounts required by the County. Failure to maintain any and/or all required insurance shall result in the automatic termination of this Contract, without the necessity of providing any further written notification of termination.

Section 17. Indemnification.

JAXUSA shall indemnify, defend, and hold the County, its officials, agents, and employees harmless from and against all claims, losses, costs, suits, administrative actions, arbitration, or mediation originating from, or associated with, JAXUSA's performance under this Contract. This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by JAXUSA pursuant to this Contract or otherwise.

Section 18. Confidential Information and Public Records.

A. It is expressly understood that, from time to time, either party may be privy to certain confidential information, as defined by Florida law, regarding expansion of existing businesses; relocation of new businesses; hiring/increasing/adding personnel/employees to new or existing businesses located within the County; or development of retail, industrial, professional or manufacturing opportunities designed to attract financial investment or jobs. Third parties may

provide such information either to the County, or to JAXUSA, or to both parties in conjunction with the Scope of Services and the activities described herein. All such information shall be held in confidence as specifically requested by any third party, subject to applicable local, state and federal law. To the extent that JAXUSA has information related to the Scope of Services and activities described herein that is not confidential as defined, then JAXUSA will promptly provide such information to the County upon request.

B. It is further understood that the access to, disclosure, non-disclosure, cost of reproduction and exemption of records, data, documents, and/or materials, associated with this Contract may be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable local, state or federal law. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party or an unaffiliated party.

C. In accordance with Florida law, to the extent that JAXUSA's performance under this Contract constitutes an act on behalf of the County, JAXUSA shall comply with all requirements of Florida's public records law. Specifically, if JAXUSA is expressly authorized, and acts on behalf of the County under this Agreement, JAXUSA shall:

- (1) Keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the Services;
- (2) Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost as provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- (3) Ensure that public records related to this Agreement that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by applicable law for the duration of this Agreement and following completion of this Agreement if JAXUSA does not transfer the records to the County; and
- (4) Upon completion of this Agreement, transfer, at no cost, to the County all public records in possession of JAXUSA or keep and maintain public records required by the County to perform the Services.

If JAXUSA transfers all public records to the County upon completion of this Agreement, JAXUSA shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If JAXUSA keeps and maintains public records upon completion of this Agreement, JAXUSA shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the County's information technology systems.

Failure by JAXUSA to comply with the requirements of this section shall be grounds for immediate, unilateral termination of this Agreement by the County.

IF JAXUSA HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

500 San Sebastian View

St. Augustine, FL 32084

(904) 209-0805

publicrecords@sjcfl.us

D. This section shall not be interpreted to subject JAXUSA to the requirements of Florida's Public Records Law if such requirements would not otherwise apply to JAXUSA under Florida law.

Section 19. Review of Records.

As a condition of entering into this Contract, and to ensure compliance, especially as it relates to any applicable law, rule, regulation, or policy, JAXUSA authorizes the County to examine, review, inspect, and audit the books and records of JAXUSA in order to determine whether compliance has been achieved with respect to the terms of this Contract. It is specifically noted that JAXUSA is under no duty to provide access to documentation that is not related to this Contract or that is otherwise protected by applicable County, State, or Federal law.

Section 20. Discrimination.

JAXUSA shall conform to the following Equal Employment Opportunity Statement:

No person shall, on the grounds of race, creed, color, handicap, national origin, sex, age, political affiliation or beliefs be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole, or in part, with funds made available by the County.

Section 21. Providing Notice of Alleged Violation.

With respect to JAXUSA, for any alleged breach or violation of this Contract which may give rise in the future to either an administrative or judicial action, or both, against the County, JAXUSA must provide written or electronic notice to the County Administrator within seventy-two (72) hours of the alleged breach or violation occurring. It is acknowledged that this provision provides a different means of notice than noted elsewhere in this Contract. For purposes of this Section, the method of notice set forth in this Section, should be followed by JAXUSA.

Section 22. Waiver.

The failure of either the County or JAXUSA to object or to take affirmative action with respect to any conduct of the party which is in breach or violation of the terms of this Contract shall not be construed as a waiver of such violation or breach, or waiver of any future violation, breach, wrongful conduct, or omission.

Section 23. Notices.

All Official Notices to the County shall be delivered either by hand (receipt of delivery required), or by certified mail to:

County Administrator
500 San Sebastian View
St. Augustine, Florida 32084

With a copy to:

Director of Economic Development
500 San Sebastian View
St. Augustine, Florida 32084

County Attorney
500 San Sebastian View
St. Augustine, Florida 32084

All Official Notices to JAXUSA shall be delivered either by hand (receipt of delivery required), or by certified mail to:

President-JAXUSA
3 Independent Drive
Jacksonville, Florida 32202

An Official Notice is any notice provided pursuant to Section 7, 11, 13, or 21 of this Contract. All other correspondence not classified as Official Notices may be delivered, disseminated, and/or submitted by any means acceptable to both parties, specifically including faxing or e-mailing.

Section 24. Authority to Execute.

Each party covenants to the other party that it has lawful authority to enter into this Contract and has authorized the execution of this Contract by the party's authorized representative.

Section 25. Survival.

It is expressly noted that the following provisions of this Contract, to the extent necessary, shall survive any expiration, suspension, termination, cancellation, revocation, and/or non-renewal of

this Contract, and therefore, shall be both applicable and enforceable beyond any expiration, suspension, termination, cancellation, revocation, and/or non-renewal of this Contract: (a) Section 4 (Compliance with Local, State, and Federal Rules, Regulations, and Laws); b) Section 5 (Governing Law and Venue); c) Section 10 (Assignment of Contract); d) Section 15 (Billing/Invoicing Schedule and Payment); e) Section 17 (Indemnification); f) Section 18 (Confidential Information and Public Records); g) Section 19 (Review of Records); and h) Section 23 (Notices).

IN WITNESS WHEREOF, the parties have executed this Contract on the date and year below written:

COUNTY

JAXUSA

By: _____
County Administrator
Date: _____

By: _____
Position: _____
Date: _____

Legal Review as to Sufficiency:

WITNESS: _____
Print Name: _____

By: _____
Assistant County Attorney
Date: _____

WITNESS: _____
Print Name: _____

ATTEST: Hunter S. Conrad, Clerk

By: _____
Deputy Clerk

Attachment A
Scope of Services

JAXUSA engages in economic development for the seven-county Northeast Florida region, including St. Johns County, for the purpose of marketing the region nationally and internationally to attract new businesses and talent to the region.

Under this contract, JAXUSA will work cooperatively with the County's Office of Economic Development to encourage capital investment and job growth within St. Johns County as part of the region, from both the expansion of existing businesses and the recruitment of new businesses.

More specifically, the scope of this contract will align the specific tasks the County requests be performed by JAXUSA with JAXUSA's stated economic development focus on targeted marketing to benefit business recruitment within the region.

While it is acknowledged that JAXUSA provides value-added services in a variety of areas that benefit economic development for the region, performance for this contract shall be measured in activities performed and results related to St. Johns County that have occurred in the areas of:

- Targeted Marketing and Business Recruitment

Specific tasks associated with these program areas shall include representation of St. Johns County in:

- Website and Digital Assets
- Content Marketing and Public Relations
- Digital Advertising
- Creative Brand Development
- Prospect Inquiry Referrals

Other considerations to support these program areas shall include:

- Invite County Economic Development and Chamber staff to participate in industry visits that JAXUSA conducts with St. Johns County businesses, as well as other relevant business/consultant visits.
- Support County Economic Development and Chamber staff with research and data tools needs associated with business prospect meetings and other relevant projects.

JAXUSA shall submit annual reports to the County as provided in Section 12 of this Contract. JAXUSA shall also make an annual presentation to the Board of County Commissioners highlighting their accomplishments contained within the Annual Report. JAXUSA shall also provide any other pertinent information requested by the County in a timely manner.

JAXUSA shall use all reasonable efforts to perform the services in cooperation with the County, and deliver the reports and other items specified in the Scope of Services.