

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (“Agreement”) is made and entered into as of this _____ day of _____, 2016 by and between the City of St. Petersburg, Florida (“City of St. Petersburg”) and Pinellas County, Florida (“Pinellas”), City of Tampa, Florida (“Tampa”), and Hillsborough County, Florida (“Hillsborough”). For purposes of this Agreement, Pinellas, Tampa and Hillsborough shall be referred to collectively as the “Participating Governmental Agencies” and the “Parties” to this Agreement shall be the City of St. Petersburg and the Participating Governmental Agencies.

RECITALS

WHEREAS, passenger ferries represent one of the most cost-effective options for providing transportation capacity and service between communities and destinations located around Tampa Bay; and

WHEREAS, passenger ferries represent a regional transportation capacity option that can be implemented faster than other options; and

WHEREAS, passenger ferries can provide an elegant and iconic connection to and between major cities and destinations around Tampa Bay and have significant potential to boost urban and environmental tourism in Tampa, St. Petersburg, Pinellas County and Hillsborough County by providing greater participation and attendance at major sporting events, museums, restaurants and special events in these areas; and

WHEREAS, the City of St. Petersburg issued a request for qualifications seeking entities qualified in establishing a pilot passenger ferry service; and

WHEREAS, HMS Ferries, Inc. (“HMS”) submitted a response to the request for qualifications and, after reviewing HMS’s response, the City of St. Petersburg determined that HMS was qualified to establish and operate a pilot passenger ferry service; and

WHEREAS, the City of St. Petersburg and HMS intend to enter into a license and operating agreement for HMS to manage and operate a pilot passenger ferry service between St. Petersburg and Tampa (“Pilot Ferry Service”); and

WHEREAS, the City of St. Petersburg is requesting funding from the Participating Governmental Agencies for the Pilot Ferry Service.

NOW, THEREFORE, for and in consideration of the foregoing recitals (all of which are hereby adopted as an integral part of this Agreement), the mutual promises, covenants, and conditions herein contained and other good and valuable consideration, the receipt and adequacy of

which are hereby acknowledged, the City of St. Petersburg and the Participating Governmental Agencies hereby agree as follows:

1. PURPOSE

The City of St. Petersburg and the Participating Governmental Agencies desire to enter into this Agreement for the Participating Governmental Agencies to provide funding for the Pilot Ferry Service.

2. DESCRIPTION OF PILOT PROJECT

A. The Pilot Ferry Service is a ~~six-month~~ pilot project to (i) determine if a ferry service can be sustained in the future for the Tampa Bay region and (ii) measure demand for commuter and non-commuter service, pricing feasibility, revenue generation, consumer preferences, marketing effectiveness and impact on vehicle use. HMS will manage and operate the Pilot Ferry Service pursuant to and in accordance with the License and Operating Agreement between the City of St. Petersburg and HMS ("License and Operating Agreement"), which License and Operating Agreement shall be consistent with the primary business points set forth in Exhibit A of this Agreement; provided, however, that the duration of the Pilot Ferry Service shall be as set forth in the License and Operating Agreement.

B. Tampa will negotiate in good faith with HMS to allow HMS to obtain necessary dockage for the Pilot Ferry Service.

3. NEGOTIATION OF LICENSE AND OPERATING AGREEMENT

The City of St. Petersburg shall be responsible for negotiating the terms and conditions of the License and Operating Agreement, provided that the City of St. Petersburg shall ensure the License and Operating Agreement requires the Participating Governmental Agencies to be named as additional insureds on all insurance policies in which the City of St. Petersburg is a named insured or an additional insured.

4. FUNDING AND WAIVER OF FEES

A. ~~Within thirty (30) days after receiving notice from the City of St. Petersburg that the License and Operating Agreement has been fully executed~~On or before August 30, 2016, each of the Participating Governmental Agencies shall pay the City of St. Petersburg three hundred fifty thousand dollars (\$350,000) for the Pilot Ferry Service. ~~For purposes of this subsection, the City of St. Petersburg may send notice via email that the License and Operating Agreement has been fully executed.~~The Participating Governmental Agencies shall not be responsible for contributing any additional funds to the Pilot Ferry Service.

B. If the Pilot Ferry Service does not commence due to the fault of HMS, the City of St. Petersburg shall reimburse the Participating Governmental Entities the full amount of their funding contribution.

C. If the Pilot Ferry Service does not commence because the City of St. Petersburg does not obtain any required permits and approvals from all any applicable environmental and/or regulatory agencies ~~does not issue any required permits~~ or due to a force majeure event, any of the funds paid to the City of St. Petersburg for the Pilot Ferry Service that are not expended pursuant to the License and Operating Agreement shall be reimbursed to the Participating Governmental Agencies in equal shares.

D. Once the Pilot Ferry Service commences, if any of the funds paid to the City of St. Petersburg for the Pilot Ferry Service are not expended pursuant to the License and Operating Agreement (e.g., early termination of the License and Operating Agreement or excess funds available at the end of the term of the License and Operating Agreement), the City of St. Petersburg shall reimburse the Participating Governmental Agencies equal shares of such unexpended funds.

E. Tampa shall waive all docking fees for the Pilot Ferry Service.

5. REVENUE SHARING

Pursuant to the License and Operating Agreement, the City of St. Petersburg shall receive all gross revenues, excluding third party costs, fees and selling commissions and sales taxes, generated from the Pilot Ferry Service above one hundred twenty-five thousand dollars (\$125,000) ("Revenues"). In the event that the City of St. Petersburg receives any Revenues from the Pilot Ferry Service, the Parties shall equally share such Revenues. Any Revenues due to the Participating Governmental Agencies shall be paid by the City of St. Petersburg to the Participating Governmental Agencies within thirty (30) days after the City of St. Petersburg's receipt of Revenues.

6. TERM OF AGREEMENT

This Agreement shall be effective on August 11, 2016, ~~as of the date the License and Operating Agreement is fully executed~~ and shall remain in effect during the term of the License and Operating Agreement.

7. AMENDMENTS

This Agreement may be modified or amended only by a document in writing executed by the Parties with the same formality of this Agreement.

8. GOVERNING LAW

The laws of the State of Florida shall govern this Agreement.

9. SEVERABILITY

The terms and conditions of this Agreement shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Agreement shall continue in full force and effect, unless the particular clause, term or condition held to be illegal or void renders the balance of the Agreement impossible to perform.

10. NOTICES

Unless and to the extent otherwise provided in this Agreement, all notices, demands, requests for approvals and other communications which are required to be given by one party to another shall be in writing and shall be deemed given and delivered on the date delivered in person, upon the expiration of five (5) days following the date mailed by registered or certified mail, postage prepaid, return receipt requested to the address provided below, or upon the date delivered by overnight courier (signature required) to the address provided below.

CITY OF ST. PETERSBURG

City of St. Petersburg
175 Fifth Street North
St. Petersburg, FL 33701
Attn: Rick Kriseman, Mayor

PINELLAS COUNTY

Pinellas County
315 Court Street
Clearwater, Florida 33756
Attn: Mark S. Woodard,
County Administrator

CITY OF TAMPA

City of Tampa
306 E. Jackson Street, 2N
Tampa, Florida 33602
Attn: Bob McDonough,
Administrator of Economic Opportunity

HILLSBOROUGH COUNTY

Hillsborough County
601 E. Kennedy Blvd., 26th Floor
Tampa, Florida 33602
Attn: Michael S. Merrill,
County Administrator

11. ENTIRE AGREEMENT

This Agreement reflects the full and complete agreement between the Parties regarding the subject matter contained herein and supersedes all prior or contemporaneous agreements (whether oral or written) between them regarding the subject matter contained herein.

12. EXECUTION

This Agreement may be signed in counterparts by the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first written above.

CITY OF ST. PETERSBURG, FLORIDA

ATTEST

By: _____
Rick Kriseman, as its Mayor

City Clerk

(SEAL)

Approved as to Form and Content

City Attorney (Designee)
279097-280479

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first written above.

PINELLAS COUNTY, FLORIDA

ATTEST

By: _____
Chairman, Pinellas County Board of County Commissioners

APPROVED AS TO FORM:

Office of the County Attorney

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first written above.

HILLSBOROUGH COUNTY, FLORIDA

ATTEST

By: _____
Lesley "Les" Miller, Jr., Chairman,
Hillsborough County Board of County Commissioners

APPROVED AS TO FORM:

Office of the County Attorney

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first written above.

CITY OF TAMPA, FLORIDA

ATTEST

By: _____
Bob Buckhorn, as its Mayor

APPROVED AS TO FORM:

Office of the City Attorney

EXHIBIT A