

## INTERLOCAL AGREEMENT

<sup>13<sup>th</sup></sup> **THIS INTERLOCAL AGREEMENT** (“Agreement”) is made and entered into as of this day of September, 2019 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 an option 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 and HMS Ferries, Inc. (“HMS”) entered into a license and operating agreement on August 3, 2018, for HMS to manage and operate the seasonal ferry service between St. Petersburg and Tampa for up to three seasons (i.e., November 1 through April 30) commencing in November 2018 (“Ferry Service”); and

**WHEREAS**, the Parties entered into an interlocal agreement on September 14, 2018 for the Participating Governmental Agencies to provide funding in the amount of \$150,000 for season one of the Ferry Service; and

**WHEREAS**, the City of St. Petersburg is requesting funding from the Participating Governmental Agencies for season two (i.e., November 1, 2019 through April 30, 2020) and season three (i.e., November 1, 2020 through April 30, 2021) of the 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 season two (i.e., November 1, 2019 through April 30, 2020) and season three (i.e., November 1, 2020 through April 30, 2021) of the Ferry Service.

## **2. DESCRIPTION OF FERRY SERVICE**

A. The Ferry Service is a seasonal ferry transit operation that will provide direct service from downtown St. Petersburg to downtown Tampa (Channelside or convention center areas) from November 1 through April 30. HMS is responsible for managing and operating the Ferry Service pursuant to and in accordance with the License and Operating Agreement between the City of St. Petersburg and HMS dated August 3, 2018 (“License and Operating Agreement”). The License and Operating Agreement (which includes the Operations Plan) is made a part of this Agreement by reference. Pursuant to the License and Operating Agreement, the City of St. Petersburg and HMS may amend the schedule by mutual written agreement, provided that there will be no reduction in the number of weekly trips without written consent from the Participating Governmental Agencies.

B. If HMS decides to dock the vessel at a Tampa owned or controlled facility, Tampa will negotiate in good faith with HMS to allow HMS to obtain necessary dockage for the Ferry Service.

## **3. MONTHLY REPORTS AND RECORDS**

A. The City of St. Petersburg shall remit the monthly operations reports to the Participating Governmental Agencies within five (5) days after receipt of such reports from HMS.

B. The City of St. Petersburg will keep records related to payments made to HMS pursuant to the License and Operating Agreement.

## **4. FUNDING AND WAIVER OF FEES**

A. Each of the Participating Governmental Agencies shall pay the City of St. Petersburg one hundred forty nine thousand one hundred eighty-two dollars (\$149,182) for season two of the Ferry Service. The City of St. Petersburg will invoice the Participating Governmental Agencies by October 1, 2019, and the Participating Governmental Agencies shall remit payment to the City of St. Petersburg on or before November 1, 2019.

B. Each of the Participating Governmental Agencies shall pay the City of St. Petersburg one hundred forty seven thousand eight hundred eighty-one dollars (\$147,881) for season three of the Ferry Service. If the vessel is able to dock at the St. Pete Pier™ for season three of the Ferry Service, the amount of funding from each of the Participating Governmental Agencies shall be reduced to one hundred thirty six thousand eight hundred eighty-one dollars (\$136,881), otherwise the amount of funding from each of the Participating Governmental Agencies shall remain \$147,881. The City of St. Petersburg will invoice the Participating

Governmental Agencies by October 1, 2020, and the Participating Governmental Agencies shall remit payment to the City of St. Petersburg on or before November 1, 2020.

C. If the Ferry Service for season two and/or season three 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 contributions.

D. If the Ferry Service for season two and/or season three does not commence due to a force majeure event, any of the funds paid to the City of St. Petersburg for the Ferry Service that are not expended pursuant to the License and Operating Agreement shall be reimbursed to the Participating Governmental Agencies in equal shares.

E. Once the Ferry Service commences, if any of the funds paid to the City of St. Petersburg for the 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.

F. If the vessel is docked at a Tampa owned or controlled facility, Tampa shall waive all docking fees for the Ferry Service.

## **5. REVENUE SHARING**

A. Pursuant to the License and Operating Agreement, each ferry season the City of St. Petersburg shall receive fifty percent (50%) of all Revenues (as defined in the License and Operating Agreement) generated from the Ferry Service above four hundred thousand dollars (\$400,000). In the event that the City of St. Petersburg receives any Revenues from the 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.

B. For season one of the Ferry Service, Revenues did not exceed four hundred thousand dollars (\$400,000) and the City of St. Petersburg does not expect Revenues to exceed four hundred thousand dollars (\$400,000) for season two and season three of the Ferry Service.

## **6. EFFECTIVE DATE AND TERM OF AGREEMENT**

The City of St. Petersburg shall be responsible for filing this Agreement with the Clerk of the Circuit Court of Pinellas and Hillsborough Counties and this Agreement shall be effective on the date of the last filing.

The term of this Agreement shall commence on September 15, 2019, and shall terminate upon conclusion of season three of the Ferry Service, unless earlier terminated as provided for herein.



**7. TERMINATION**

If the City of St. Petersburg does not notify HMS by August 1, 2020, that the City of St. Petersburg desires for HMS to manage and operate the Ferry Service for season three, then this Agreement shall automatically terminate at midnight on August 2, 2020. The City of St. Petersburg shall notify the Participating Governmental Agencies upon such automatic termination.

**8. 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.

**9. GOVERNING LAW**

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

**10. 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.

**11. 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: Barry A. Burton,  
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., 26<sup>th</sup> Floor  
Tampa, Florida 33602  
Attn: Michael S. Merrill,  
County Administrator

**12. 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.

**13. SURVIVAL**

All obligations and rights of any party arising during or attributable to the period prior to expiration or earlier termination of this Agreement shall survive such expiration or earlier termination.

**14. EXECUTION**

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

**15. NON-APPROPRIATION**

A. In the event sufficient budgeted funds are not appropriated for a new fiscal period of a particular Participating Governmental Agency, the affected Participating Governmental Agency shall notify the City of St. Petersburg of such an occurrence and this Agreement shall terminate as to the affected Participating Governmental Agency on the last day of the current fiscal year without penalty or expense to the affected Participating Governmental Agency.

B. The obligations of the City of St. Petersburg as to any funding required pursuant to this Agreement and for the Ferry Service shall be limited to an obligation in any given year to budget, appropriate and pay from legally available funds, after monies for essential city services have been budgeted and appropriated, sufficient monies for the funding that is required during that year. Notwithstanding the foregoing, the City of St. Petersburg shall not be prohibited from pledging any legally available non-ad valorem revenues for any obligations heretofore or hereafter incurred, which pledge shall be prior and superior to any obligation of the City of St. Petersburg pursuant to this Agreement and for the Ferry Service.

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

CITY OF ST. PETERSBURG, FLORIDA

By:   
Rick Kruseman, as its Mayor

ATTEST

  
City Clerk

(SEAL)

Approved as to Form and Content

  
City Attorney (Designee) 00463611



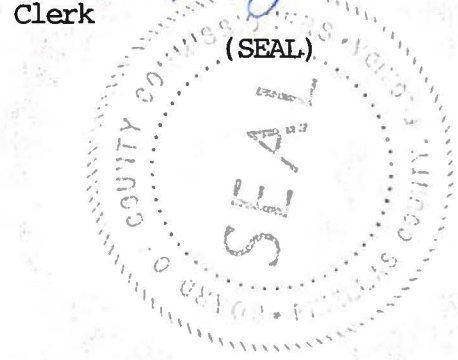
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first written above.

PINELLAS COUNTY, FLORIDA

ATTEST: Ken Burke, Clerk

By: Karen Seel  
Karen Williams Seel, Chairman,  
Pinellas County Board of County Commissioners

Norman D. Loy  
Deputy Clerk



APPROVED AS TO FORM:


Joseph A. Robinson  
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 : PAT FRANK, CLERK

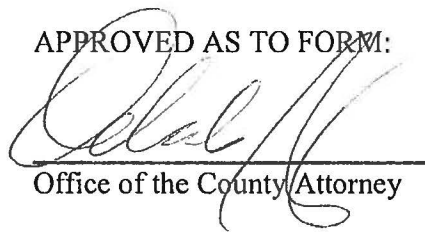
By: \_\_\_\_\_

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

  
Deputy Clerk



APPROVED AS TO FORM:

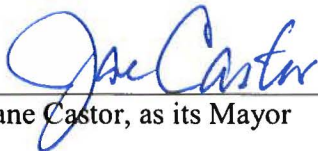
  
Office of the County Attorney

BOARD OF COUNTY COMMISSIONERS  
HILLSBOROUGH COUNTY FLORIDA  
DOCUMENT NO. 19-0883



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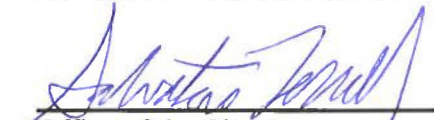
CITY OF TAMPA, FLORIDA

By:   
Jane Castor, as its Mayor

ATTEST.



APPROVED AS TO FORM:

  
Office of the City Attorney