

INTER-CITY FERRY SERVICE INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (“Agreement”) is made and entered into as of this _____ day of _____, 2021 by and between Hillsborough County, Florida (“Hillsborough”), the City of St. Petersburg, Florida (“St. Petersburg”) and Pinellas County, Florida (“Pinellas”), and City of Tampa, Florida (“Tampa”). For purposes of this Agreement, Pinellas, Tampa and St. Petersburg shall be referred to collectively as the “Participating Governmental Agencies” and the “Parties” to this Agreement shall be Hillsborough County 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, Hillsborough and HMS Ferries, Inc. (“HMS”) entered into an operating agreement on June 16, 2021, for HMS to manage and operate the inter-city seasonal ferry service between St. Petersburg and Tampa for four seasons commencing on October 1, 2021 (“Ferry Service”); and

WHEREAS, the Parties wish to enter into an interlocal agreement for the Participating Governmental Agencies to provide funding for four seasons of the Ferry Service; and

WHEREAS, Hillsborough has requested funding assistance from the Florida Department of Transportation and if such funding is received during the term of this Agreement, the Parties’ costs will be reduced accordingly to account for the state funds.

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, Hillsborough and the Participating Governmental Agencies hereby agree as follows:

1. PURPOSE

Hillsborough and the Participating Governmental Agencies desire to enter into this Agreement for the Participating Governmental Agencies to provide funding for four seasons 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). HMS is responsible for managing and operating the Ferry Service pursuant to and in accordance with the Operating Agreement between Hillsborough and HMS dated June 16, 2021 (“Operating Agreement”). Operating Agreement (which includes the Operations Plan) is made an exhibit to this Agreement for reference. Pursuant to the Operating Agreement, Hillsborough and HMS may amend the schedule by mutual written agreement, provided that there will be (i) no reduction in the number of weekly trips or (ii) change to the duration of a Ferry Service season without written consent from the Participating Governmental Agencies.

B. If HMS decides to dock the vessel at a St. Petersburg owned or controlled facility, St. Petersburg will negotiate in good faith with HMS to allow HMS to obtain necessary dockage for the Ferry Service. 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. Hillsborough must remit the monthly operations reports to the Participating Governmental Agencies within five (5) days after receipt of such reports from HMS.

B. Hillsborough will keep records related to payments made to HMS pursuant to the Operating Agreement.

4. FUNDING AND WAIVER OF FEES

A. Each of the Participating Governmental Agencies will pay Hillsborough one hundred seventy-five thousand dollars (\$175,000.00) for season one of the Ferry Service. Hillsborough will invoice the Participating Governmental Agencies on or after October 1, 2021, and the Participating Governmental Agencies will remit payment to Hillsborough in accordance with the Florida Local Government Prompt Payment Act (§218.70, Florida Statutes, et seq.).

B. Each of the Participating Governmental Agencies will pay Hillsborough one hundred ninety- thousand dollars (\$190,000.00) for season two of the Ferry Service. Hillsborough will invoice the Participating Governmental Agencies on or after October 1, 2022, and the Participating Governmental Agencies will remit payment to Hillsborough in accordance with the Florida Local Government Prompt Payment Act (§218.70, Florida Statutes, et seq.).

C. Each of the Participating Governmental Agencies shall pay Hillsborough two hundred two thousand five hundred dollars (\$202,500.00) for season three of the Ferry Service. Hillsborough will invoice the Participating Governmental Agencies on or after October 1, 2023,

and the Participating Governmental Agencies will remit payment to Hillsborough in accordance with the Florida Local Government Prompt Payment Act (§218.70, Florida Statutes, et seq.).

D. Each of the Participating Governmental Agencies shall pay Hillsborough two hundred fifty-five thousand dollars (\$255,000.00) for season four of the Ferry Service. Hillsborough will invoice the Participating Governmental Agencies on or after October 1, 2024, and the Participating Governmental Agencies will remit payment to Hillsborough in accordance with the Florida Local Government Prompt Payment Act (§218.70, Florida Statutes, et seq.).

E. Contribution amounts specified herein will be reduced in equal shares to each of the Parties to the extent of receipt of any Federal or State funding for the Ferry Service.

F. Any refunds received by Hillsborough pursuant to the Operating Agreement will be shared with the Parties in accord with their contribution.

G. If the vessel is docked at a St. Petersburg owned or controlled facility, St. Petersburg shall waive all docking fees for the Ferry Service. Additionally, St. Petersburg shall (i) provide utilities at the facility at no cost to HMS, (ii) obtain permits for the facility at its expense, (iii) provide security except during hours when HMS is operating the facility, (iv) be responsible for costs and expenses associated with any hurricane preparations at the facility, (v) and other costs identified in a license agreement between St. Petersburg and HMS.

H. If the vessel is docked at a Tampa owned or controlled facility, Tampa shall waive all docking fees for the Ferry Service. Additionally, Tampa shall (i) provide utilities at the facility at no cost to HMS, (ii) obtain permits for the facility at its expense, (iii) provide security except during hours when HMS is operating the facility, (iv) be responsible for costs and expenses associated with any hurricane preparations at the facility, (v) and other costs identified in a license agreement between Tampa and HMS.

5. REVENUE SHARING

Pursuant to the Operating Agreement, each ferry season Hillsborough shall receive fifty percent (50%) of all Revenues (as defined in the Operating Agreement) generated from the Ferry Service above four hundred thousand dollars (\$400,000). In the event that Hillsborough 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 Hillsborough to the Participating Governmental Agencies within thirty (30) days after Hillsborough's receipt of Revenues.

6. EFFECTIVE DATE AND TERM OF AGREEMENT

A. Hillsborough 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 ("Effective Date").

B. The term of this Agreement shall commence on the Effective Date and shall terminate upon conclusion of season four of the Ferry Service, unless earlier terminated or extended or renewed as provided for herein.

7. TERMINATION

A. If Hillsborough does not notify HMS by August 15 of each year starting August 15, 2022, that Hillsborough desires for HMS to manage and operate the Ferry Service for an upcoming season, then this Agreement shall automatically terminate at midnight the following day. This Agreement shall also automatically terminate if the Operating Agreement terminates. Hillsborough shall notify the Participating Governmental Agencies upon such automatic termination.

B. Not later than June 1 of any year during the term of this Agreement, any Participating Governmental Agency may terminate this Agreement by written notice to Hillsborough and all other Participating Governmental Agencies. The Interlocal Agreement will be deemed terminated, unless the remaining Parties agree to a modification of the Interlocal Agreement or enter into a new interlocal agreement.

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
PO Box 2842
St. Petersburg, FL 33731
Attn: Evan Mory
Transportation &
Parking Management Director

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: Director of Economic Opportunity

HILLSBOROUGH COUNTY

Hillsborough County
601 E. Kennedy Blvd., 26th Floor
Tampa, Florida 33602
Attn: Thomas H. Fass
Assistant County Administrator

WITH COPIES TO:

Tampa Convention Center
333 S. Franklin Street
Tampa, Florida 33602
Attn: Director of Convention Center & Tourism

Office of the City Attorney
315 E. Kennedy Boulevard
Tampa, Florida 33602
Attn: City Attorney

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

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 Hillsborough 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. The Interlocal Agreement will be deemed terminated, unless the remaining Parties agree to a modification of the Interlocal Agreement or enter into a new interlocal agreement.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

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

HILLSBOROUGH COUNTY, FLORIDA

ATTEST: CINDY STUART
Clerk of Circuit Court

By: _____
Chair, Patricia Kemp
Board of County Commissioners

BY: _____

(SEAL)

APPROVED BY COUNTY ATTORNEY
AS TO FORM AND LEGAL SUFFICIENCY

By: _____
Senior Assistant County Attorney

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, Mayor 00573708

BY: _____
City Clerk

(SEAL)

Approved as to Form and Content

By: _____
City Attorney (Designee)

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

PINELLAS COUNTY, FLORIDA

ATTEST:

By: _____
Dave Eggers
Board of County Commissioners

BY: _____

Approved as to form, Jewel White, County Attorney

(SEAL)

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: _____
Jane Castor, Mayor

By: _____
City Clerk/Deputy City Clerk

(SEAL)

Approved as to Form and Legal Sufficiency:

By: _____
Ron Wigginton, Assistant City Attorney