

INTER-CITY FERRY SERVICE INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (“Agreement”) is made and entered into as of this 17th day of August, 2022 by and between Hillsborough County, Florida (“Hillsborough”), the City of St. Petersburg, Florida (“St. Petersburg”), and City of Tampa, Florida (“Tampa”). For purposes of this Agreement, 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 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, on September 21, 2021, Hillsborough, St. Petersburg, Tampa, and Pinellas County, Florida (“Pinellas”) entered into an interlocal agreement to set forth the payments to be made by St. Petersburg, Tampa, and Pinellas to Hillsborough for four seasons on the Ferry Service (“Original Interlocal Agreement”); and

WHEREAS, St. Petersburg, Tampa, and Pinellas remitted payment to Hillsborough for season one of the Ferry Service; and

WHEREAS, in accordance with the terms set forth in the Original Interlocal Agreement, Pinellas sent notice of termination to Hillsborough, Tampa and St. Petersburg and the Original Interlocal Agreement terminated on May 13, 2022; and

WHEREAS, Hillsborough requested funding assistance for seasons two, three and four of the Ferry Service from the Florida Department of Transportation (“FDOT”); and

WHEREAS, FDOT awarded Hillsborough with funding in the amount of \$518,000.00; and

WHEREAS, on June 7, 2022, the Hillsborough County Board of County Commissioners approved a three-year agreement with FDOT to provide funding for the operation of Ferry Service, totaling \$518,000.00 for FY23, FY24, and FY25 (i.e., seasons two, three and four of Ferry Service; and

WHEREAS, Hillsborough has also been awarded a \$4.9M grant from the Federal Transit Administration (FTA) based on a Hillsborough County match of \$1.2M for a ferry vessel that is expected to be delivered in 2023 or 2024 and outfitted with Tier IV EPA Clean Diesel Engines which meet the strictest EPA emissions requirements for off-highway diesel engines; and

WHEREAS, battery and electric propulsion are rapidly-evolving technologies which are expected to result in continued improvements in the availability and pricing of electric-propulsion vessels in the future; and

WHEREAS, St. Petersburg, Tampa, and Hillsborough are committed to implementing sustainable practices including use of the most energy efficient and low-emission ferry vessels and terminals as practicable in relation to establishing future permanent ferry service; and

WHEREAS, the Parties wish to enter into this Agreement to set forth the funding that the Participating Governmental Agencies will provide to Hillsborough for the remaining three seasons of Ferry Service (i.e., season two, season three and season four of the Ferry Service) as identified in the Operating Agreement (as defined herein).

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 the remaining three seasons of Ferry Service (i.e., seasons two, three and four) as identified in the Operating Agreement.

2. DESCRIPTION OF FERRY SERVICE

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 (as it may be amended from time to time, the "Operating Agreement"). The 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.

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. Tampa will pay Hillsborough one hundred ninety- thousand dollars (\$190,000.00) for season two of the Ferry Service. St. Petersburg will pay Hillsborough two hundred twenty-eight thousand dollars (\$228,000.00) 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.).

B. Tampa will pay Hillsborough two hundred two thousand five hundred dollars (\$202,500.00) for season three of the Ferry Service. St. Petersburg will pay Hillsborough two hundred forty-three thousand dollars (\$243,000.00) 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.).

C. Tampa will pay Hillsborough two hundred fifty-five thousand dollars (\$255,000.00) for season four of the Ferry Service. St. Petersburg will pay Hillsborough three hundred six thousand dollars (\$306,000.00) 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.).

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

E. Any refunds received by Hillsborough pursuant to the Operating Agreement will be shared with the Parties equally.

F. 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.

G. 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 as identified in the Operating Agreement, 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, 2023, 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. This Agreement will be deemed terminated, unless the remaining Parties agree to a modification of this 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

HILLSBOROUGH COUNTY

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

CITY OF TAMPA

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

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. This Agreement will be deemed terminated, unless the remaining Parties agree to a modification of this 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

By: Mariella Smith
Vice Chair, Mariella Smith
Board of County Commissioners



ATTEST: CINDY STUART
Clerk of Circuit Court

BY: [Signature]
Deputy Clerk

(SEAL)

APPROVED BY COUNTY ATTORNEY
AS TO FORM AND LEGAL SUFFICIENCY

By: Orlando Perez
Senior Assistant County Attorney

BOARD OF COUNTY COMMISSIONERS
HILLSBOROUGH COUNTY FLORIDA
DOCUMENT NO.

22-0789

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: Kenneth T. Welch
Kenneth T. Welch, Mayor

BY: [Signature]
City Clerk

Approved as to Form and Content

By: [Signature]
City Attorney (Designee) 00632322



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

CITY OF TAMPA, FLORIDA

By: _____

Jane Castor, Mayor

ATTEST:

By: _____

City Clerk/Deputy City Clerk

(SEAL)

Approved as to Form and Legal Sufficiency:

By: _____

Ron Wigginton, Assistant City Attorney