

**AGREEMENT BETWEEN THE CITY OF KEY WEST  
AND  
HISTORIC TOURS OF AMERICA, INC.**

**FOR THE PROVISION OF  
SHUTTLE SERVICES FOR CRUISE SHIP PASSENGERS**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between the **CITY OF KEY WEST**, a municipal corporation of the State of Florida, with an address of 1300 White Street, Key West, Florida 33040, hereinafter referred to as the “CITY”, and **HISTORIC TOURS OF AMERICA, INC.** hereinafter referred to as the “HTA”

**WHEREAS**, the City Commission by Resolution \_\_\_\_\_ awarded a three (3) year with an option of an additional two (2) Agreement for Cruise Ship Passenger Shuttle Service to Historic Tours of America, Inc. (HTA) per Key West City Ordinance Section 2-797(1)b

**NOW, THEREFORE**, the parties hereto mutually agree as follows:

**SECTION 1. RECITALS**

- 1.1 The parties agree that the foregoing recitals are true and correct and are incorporated herein by this reference.

**SECTION 2. REQUIREMENTS**

- 2.1 The parties agree that HTA will use conch tour trains or trolleys as primary vehicles to provide the shuttle service for cruise ship passengers but may also use shuttle buses if approved by the CITY.
- 2.2 The parties agree that HTA will transport a minimum of 1,500 passengers per hour from the ship. If the CITY desires the transportation of more than 1,500 passengers then the CITY shall provide additional means of transportation and/or a traffic control police officer at designated intersections in sole determination of CITY. HTA must be able to guarantee that shuttle service can be provided for an unscheduled ship upon being given a minimum 24-hour notice by the City.
- 2.3 Vehicles must be equipped with radio control from a base station and other vehicles.
- 2.4 HTA must possess all required federal, state, and local license, certifications and permits for legal operation of the service.
- 2.5 Typical operating hours are between 8:00 am and 6:30 pm. HTA will occasionally be required to provide transportation outside of these operating hours.

- 2.6 All personnel entering the restricted access area must comply with current & future Homeland Security laws and Coast Guard requirements, at HTA's expense.
- 2.7 Each individual will be required to obtain, at the expense of HTA, a Port of Key West credentialing badge and Federal Transportation Worker Identification Credential (TWIC) badge as required by Florida State 311.12 and Federal Rule 33 CFR part 105.

**SECTION 3. TERMS**

- 3.1 This Agreement is for a term of three (3) years from the date this Agreement is executed by both parties. HTA and CITY may renew the Agreement for additional two (2) year periods under terms and conditions mutually agreed to by the both parties at least sixty (60) calendar days prior to the contract expiration.
- 3.2 The CITY reserves the right to terminate this AGREEMENT at any time, but with no less than 120-days written notice to HTA.
- 3.3 HTA reserves the right to terminate this AGREEMENT at any time, but with no less than 120-days written notice to the CITY.

**SECTION 4. PAYMENT**

- 4.1 The parties agree that HTA shall be paid by the CITY based on eighty percent (80%) of the total number of passengers and fifty percent (50%) of the total number of the crew members as evidenced on the manifest for each vessel docking at the Outer Mole. The parties agree that the initial rate will be \$5.00 per passenger and \$5.00 per crew member.
- 4.2 The parties agree that the rates will increase each year by the average change in the U.S. Department of Commerce Consumer Price Index (CPI) for All Urban Consumers, as reported by the Bureau of Labor Statistics for the 12 months prior to the renewal date.
- 4.3 There will be no added per vehicle surcharge assessed by HTA if shuttle service is required after 6:30 p.m. However, this will be for the first year only and subject to review 9 months from inception so CITY and HTA can specifically quantify any costs that may need to be addressed. When possible CITY will attempt to work with the ships to schedule departures in a manner that will minimize the impact on extended service.

**SECTION 5. INSURANCE**

- 5.1 HTA is to secure, pay for, and file with the City of Key West, prior to commencing any work under the Contract, all certificates for Workers' Compensation, Public Liability, and Property Damage Liability Insurance and such other insurance coverages as may be required by specifications and addenda thereto, in at least the following minimum amounts with specification amounts to prevail if greater than minimum amounts indicated. Notwithstanding any other provision of the Contract, the HTA shall provide the minimum limits of liability insurance coverages as follows:

Business Automobile Liability:	\$3,000,000	Combined Single Limit
Commercial General Liability:	\$3,000,000	Aggregate (Per Project)
	\$3,000,000	Products Aggregate
	\$3,000,000	Any One Occurrence
	\$1,000,000	Personal Injury
	\$ 300,000	Fire Damage/Legal

The above limits may be obtained through the use of a Umbrella Liability policy if the terms and conditions of the Umbrella policy are no less restrictive than the underlying Business Auto Liability and Commercial General Liability policies.

5.2 HTA shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as “Additional Insured” on PRIMARY and NON CONTRIBUTORY basis utilizing an ISO standard endorsement at least as broad as CG 2010 (11/85) or its Equivalent, (combination OF CG 20 10 07 04 and CG 20 37 07 04, providing coverage for completed operations is acceptable) INCLUDING A “Waiver of Subrogation” clause in favor of City of Key West on all policies. HTA will maintain the Business Automobile Liability, Commercial General Liability and Umbrella Liability insurance coverages summarized above with coverage continuing in full force including the “additional insured” endorsement until at least 3 years beyond completion and delivery of the work contracted herein.

5.3 Notwithstanding any other provision of the Contract, the HTA shall maintain Statutory Workers’ Compensation coverage for each and every employee, principal, officer, representative, or agent of the HTA who is performing any labor, services, or material under the Contract. Further, HTA shall additionally maintain Employers Liability Coverage with the following minimum limits of coverage:

Bodily Injury Each Accident	\$1,000,000
Bodily Injury by Disease Each Employee	\$1,000,000
Bodily Injury by Disease Policy Limit	\$1,000,000

5.4 If the work is being done on or near a navigable waterway, HTA Workers’ Compensation policy shall be endorsed to provide USL&H Act (WC 00 01 06 A) and Jones Act (WC 00 02 01 A)\_coverage if specified by the City of Key West. HTA shall provide the City of Key West with a Certificate of Insurance verifying compliance with the Workers’ Compensation coverage as set forth herein and shall provide as often as required by the City of Key West such certification which shall also show the insurance company, policy number, effective and expiration date, and the limits of Workers’ Compensation coverage under each policy.

5.5 HTA insurance policies shall be endorsed to give 30 days’ written notice to the City of Key West in the event of cancellation or material change, using form CG 02 24, or its equivalent.

- 5.6 Certificates of Insurance submitted to the City of Key West will not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation/material change notice endorsements, and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements will also be required if necessary. PLEASE ADVISE YOUR INSURANCE AGENT ACCORDINGLY.
- 5.7 HTA will comply with any and all safety regulations required by any agency or regulatory body including but not limited to OSHA. HTA will notify City of Key West immediately by telephone at (305) 809-3811 of any accident or injury to anyone that occurs on the jobsite and is related to any of the work being performed by the HTA.

**SECTION 6. INDEMNIFICATION**

- 6.1 HTA to the fullest extent permitted by law expressly agrees to indemnify and hold harmless the City of Key West, their officers, directors, agents and employees (herein called the “indemnitees”) from any and all liability for damages, including, if allowed by law, reasonable attorney’s fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, caused in whole or in part by any act, omission, or default by HTA or its subcontractors, material men, or agents of any tier or their employees, arising out of this agreement or its performance, including any such damages caused in whole or in part by any act, omission or default of any indemnitee, but specifically excluding any claims of, or damages against an indemnitee resulting from such indemnitee’s gross negligence, or the willful, wanton or intentional misconduct of such indemnitee or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of the HTA or its subcontractors, material men or agents of any tier or their respective employees.

**SECTION 7. NOTICES**

Notices, requests, or authorizations provided for herein shall be in writing and shall be delivered or mailed addressed as follows:

To the CITY:           City of Key West  
                                   Attention: City Manager  
                                   1300 White Street  
                                   Key West, Fl. 33040

                                  City of Key West Port Operations  
                                   Attention: Port and Marine Services Director  
                                   201 William Street  
                                   Key West, Fl. 33040

To HTA:                 Historic Tours of America, Inc.  
                                   Attention: Christopher Belland  
                                   201 Front Street, Suite 224

or addressed to either party at such other address as such party shall hereinafter furnish to the other party in writing. Each such notice, request, or authorization shall be deemed to have been duly given when so delivered, or if mailed, when deposited in the U.S. mail, registered or certified, return receipt requested, postage pre-paid.

**SECTION 8. GENERAL CONSIDERATIONS**

- 8.1 This Agreement shall inure to the benefit of and be binding upon the heirs, personal representative, successors and assigns of the parties hereto.
- 8.2 HTA shall not assign, sublet, or transfer any rights under, or interest in this Agreement without the written consent of the CITY.
- 8.3 If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be impaired thereby, but such remaining provisions shall be interpreted and enforced so to achieve, as near as may be possible, the purpose of this Agreement, to the extent permitted by law.
- 8.4 This Agreement constitutes the full and complete Agreement between the CITY and HTA and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument of the same formality and dignity hereof.
- 8.5 HTA warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the HTA to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the HTA any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.
- 8.6 In the carrying out of this Agreement, HTA shall not discriminate any employee or applicant for employment because of race, color, religion, national origin or citizenship status, sex, gender identity or expression, pregnancy, sexual orientation, age, disability, or military status. In carrying out this Agreement, HTA will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, national origin or citizenship status, sex, gender identity or expression, pregnancy, sexual orientation, age, disability, or military status.
- 8.7 This Agreement shall be governed by the laws of the State of Florida. Both parties waive trial by jury on any action brought to enforce or otherwise related to this agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement  
To be executed on the day and year first above written.

Signed, sealed and delivered in the presence of:

**City of Key West, Florida**

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

Mayor

Attest: \_\_\_\_\_ Date: \_\_\_\_\_

Cheryl Smith  
City Clerk

**Historic Tours of America, Inc.**

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Witness \_\_\_\_\_ Date: \_\_\_\_\_

Witness \_\_\_\_\_ Date: \_\_\_\_\_