

No. 448

Regular Season Franchise

FRANCHISE

THE CITY OF MACKINAC ISLAND ORDAINS:

Section 1. A nonexclusive ferryboat franchise authorizing the Franchisee to operate a public ferryboat service to and from Mackinac Island during the Regular Ferry Boat Season is hereby granted to SHEPLER'S, INC., d/b/a SHEPLER'S (hereinafter referred to as **MACKINAC ISLAND FERRY SERVICE** "Franchisee") by the City of Mackinac Island ("City") upon acceptance by the Franchisee of the terms and conditions stated herein.

Section 2. The term of this franchise shall be from April 1, 2010 to March 31, 2011.

Section 3. The Franchisee shall operate in accordance with its schedule of services on file with the Council, although it may deviate from that schedule for up to four (4) days at a time without notice to the Council to meet short term operational necessities. The Franchisee shall file a schedule of services with the Council annually and whenever a change is made which will last for more than four (4) days. However, nothing herein shall be interpreted as limiting the Franchisee from offering ferryboat services in addition to the services contained in its filed schedule of services.

Section 4. The Clerk is directed to issue a certificate evidencing the existence of this franchise, which certificate must be publicly displayed on all of the Franchisee's ferryboats providing ferryboat service.

Section 5. During the term of this franchise, the Franchisee agrees to pay to the City of Mackinac Island in consideration of the granting of this franchise, a monthly franchise fee in the amount of 2-½% of the gross receipts from providing a ferryboat service to and from

Mackinac Island less those revenues attributable to the transportation of freight, and to parking and other income not directly related to the operation of a ferryboat service (hereinafter "franchise fee"). This franchise fee shall be due and payable on the last day of each month in which any ferryboat service is performed, except as provided in Section 6.

Section 6. The franchise fee shall be paid monthly during the existence of the franchise on or before the 15th day of the month following the month for which the franchise fee is due except that franchise fees accrued from January through June of each year shall not be due until July 15. The franchise fee is to be paid at the Treasurer's Office of the City of Mackinac Island during regular business hours. If the City of Treasurer's Office is closed on the 15th day of the month, then payment may be made during regular business hours on the next following day on which the office is open for business.

Section 7. At the time of each payment of the monthly franchise fee, a statement setting forth in detail the computation of the franchise fee, including the gross receipts for the period for which payment is made and certified under oath by the Franchisee or an officer thereof, shall be filed with the City of Mackinac Island auditor.

Section 8. The City shall have the right to have its auditor inspect during regular business hours upon reasonable notice the records of the Franchisee from which its franchise fee payments are computed, and the City shall have the right of audit and recomputation of any and all franchise fees paid. No acceptance of payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable as a franchise fee under this franchise or for the performance of any other obligation hereunder.

Section 9. This franchise may not be sold, transferred or assigned unless such transaction is first approved by the Council after receipt of a written application therefor, containing the same information as to the transferee as would be required of an original applicant.

Section 10. This franchise is subject to all applicable provisions of the Charter of the City of Mackinac Island and ordinances thereof, particularly Ordinance No. 244, being the Ferry Boat Code, as well as the laws and Constitution of the State of Michigan, and shall, whenever possible, be construed as consistent with them.

Section 11. The franchisee shall comply with the agreements made by it in its Application for this franchise.

Section 12. This franchisee shall not be given any value by any court or other authority, public or private, in any proceeding of any nature or character whatsoever, wherein or whereby the City of Mackinac Island shall be a party or affected therein or thereby.

Section 13. Should any section, clause or provision of this franchise be declared to be invalid by a court of record, the same shall not affect the validity of the franchise as a whole or any part thereof, other than the part so declared invalid.

Section 14. This franchise shall be of no effect unless and until the Franchisee accepts the franchise and agrees to abide by all terms and conditions thereof.

Section 15. This franchise shall become a binding and enforceable contract, upon the signing of both parties. The Mayor of the City of Mackinac Island is hereby authorized and directed to sign this franchise on behalf of the City.

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Approved and adopted as Ordinance No. 448, at the regular City Council meeting held April 20, 2010.

Karen S. Lennard
City Clerk
Karen S. Lennard

This franchise agreement entered into by the aforesaid parties this 20th day of April, 2010.

Margaret M. Doud
By: Margaret M. Doud
Title: Mayor, City of Mackinac Island

Witnesses:
[Signature]
[Signature]

THE FRANCHISEE HEREBY ACCEPTS THIS FRANCHISE AND EXPRESSLY AGREES TO ABIDE BY ALL THE TERMS AND CONDITIONS CONTAINED HEREIN.

By: [Signature]
Title: [Signature]

Witnesses:
[Signature]

OFFICIAL COPY
Oct 18 2022