

PROTOCOL AGREEMENT REGARDING THE PROVISION
OF FARKLAND BETWEEN
THE MAYNE ISLAND LOCAL TRUST COMMITTEE
AND THE MAYNE ISLAND PARKS AND RECREATION COMMISSION
REPRESENTING
THE CAPITAL REGIONAL DISTRICT

WHEREAS the Mayne Island Local Trust Committee and the Mayne Island Parks and Recreation Commission consider it in the public interest of the Mayne Island Community for its Local Trust Committee and Parks and Recreation Commission to coordinate their administrative procedures to ensure the acquisition of appropriate lands for community parks given the powers of the Mayne Island Local Trust Committee in relation to the provision of park land at the time of subdivision, and the responsibility of the Mayne Island Parks and Recreation Commission to develop, operate, and maintain community parks for recreation purposes;

AND WHEREAS the Mayne Island Local Trust Committee jurisdiction includes:

- i) the authority, through its Official Community Plan, to generally state broad objectives and policies respecting the form and character of existing and proposed park land use, and to designate the approximate location and type of present and proposed park land use, and to designate the approximate location and type of present and proposed public park facilities (see Section 945 of the Municipal Act);
- ii) the authority to designate lands for park use in regulatory bylaws (see Section 963 of the Municipal Act); and
- iii) the power to require, at the time of subdivision, that park land be provided, or cash-in-lieu be paid, under Section 992 of the Municipal Act;

AND WHEREAS the Capital Regional District has jurisdiction over the community parks pursuant to Division XIV of its Letters Patent and as such is entitled to the possession and control of land on Mayne Island dedicated to the public for a park or public square pursuant to Section 992 of the Municipal Act and has the authority to acquire, develop, operate and maintain community parks;

AND WHEREAS the Capital Regional District pursuant to its Supplementary Letters Patent dated (27th day of February, 1976), established the Mayne Island Parks and Recreation Commission by Bylaw 1948 and in such bylaw delegated to the Commission all of the administrative powers of the Regional Board with respect to the development, maintenance and operation of all community parks on Mayne Island;

AND WHEREAS the Mayne Island Parks and Recreation Commission has an interest in the identification and acquisition of land for community parks purposed through the power exercised by the Mayne Island Local Trust Committee in relation to the requirements for the provision of park land, or cash-in-lieu payments, at the time of subdivision;

AND WHEREAS the Mayne Island Parks and Recreation Commission has an interest in providing community parks for recreational purposes and the Mayne Island Local Trust Committee has an interest in identifying community park lands which preserve and protect the

Trust Area and its unique amenities and environment for the benefit of the residents of the Trust Area and of the Province generally, in cooperation with the Mayne Island Parks and Recreation Commission;

NOW THEREFORE both parties agree as follows:

- I The intent of the Mayne Island Parks and Recreation Commission (the "Commission") and the Mayne Island Local Trust Committee (the "Trust Committee") is to improve the coordination of administration procedures between the Commission and the Trust Committee with respect to the Commission's responsibility for the administration of community parks and the Trust Committee's powers in relation to the provision of park land, pursuant to Section 992 of the Municipal Act, and to facilitate the dedication of park land or cash-in-lieu payments for acquisition of park land to be operated, developed and maintained by the Commission.
2. The Trust Committee and the Commission agree that the purpose of Section 992 of the Municipal Act is to provide dedicated park land or cash-in-lieu for future acquisition of **park land**.
3.
 - i) The Commission will adopt by resolution a Parks and Recreation Master Plan (the "Master Plan") that will include recommendations on community parks and trails in a form amenable to consideration by the Trust Committee for inclusion in its Official Community Plan (the "OCP"), the recommendation to have been developed by a process providing for public participation at various stages, and in the context of and explicit recognition of the Trust Committee's role in the Trust's legislated object to preserve and protect the trust area and its unique amenities and environment for the benefit of the residents of the Trust Area and the Province generally, in cooperation with municipalities and the government of the Province (see Section 3, Islands Trust Act).
 - ii) The Trust Committee, when revising or reviewing its OCP, will consult with the Commission with respect to community parks and trail network designations, from a land use planning perspective and with respect to appropriate policies and strategies relating to park land dedication versus cash-in-lieu payments, and will give due consideration to the recommendations of the Commission.
 - iii) Both parties agree to collaborate to the greatest degree possible in their respective planning initiatives through cross-representation on plan preparation committees, background study information, circulation of drafts, community forum hosting and other similar mutually beneficial measures.
4. Upon receipt of a copy of a Master Plan, and any amendments thereto, the Trust Committee will give due consideration to those recommendations pertaining to community park land use and trail network designation, with a view to incorporating appropriate and relevant provisions into the Trust Committee's OC? and associated regulatory bylaws.
5.
 - i) The Trust Committee will refer to the Commission all those referrals for subdivision, and applications for rezoning or a permit under Division 5 of Part 29 of the Municipal

Act which relate to land mapped in the Master Plan on Mayne Island as having park potential.

ii) The Trust Committee will refer to the Commission all those referrals for subdivision, and applications for rezoning or a permit under Division 5 of Part 29 of the Municipal Act which relate to land mapped in the Master Plan on Mayne Island as having trail network potential.

6. The Commission will review the applications referred to it by the Trust Committee and will respond in writing within 30 (thirty) working days of receipt for the purpose of commenting on the potential affects of such applications upon specific community park and trail network values and, where applicable, will make recommendations to the Trust Committee respecting park land dedication or cash-in-lieu payment pursuant of Section 992 of the Municipal Act.
7. The Trust Committee will exercise its statutory power with due consideration for the recommendations of the Commission and with full respect for the spirit and intent of Section 992 of the Municipal Act. The Trust Committee will endeavour to maintain close communications with, and be open to advice from, the Commission. The Commission acknowledges that the statutory responsibility of the Trust Committee in this regard cannot be delegated, nor can any discretion be fettered by reference to another body such as the Commission.
8. The Trust Committee will investigate and will strive to implement, whenever possible to the extent permitted by applicable law, procedural policies designed to ensure that a phased approach to property development is not used as a means of circumventing the requirements of Section 992 of the Municipal Act.
9. The Trust Committee will advise the Commission in writing within 10 (ten) working days of its final determination of park land dedication or cash-in-lieu requirements in response to applications which invoke Section 992 of the Municipal Act.
10.
 - i) The Trust Committee will direct, through its communications with the Approving Officer, that all money received as cash-in-lieu pursuant to Section 992 of the Municipal Act be paid to the Commission pursuant to Section 27 of the Islands Trust Act for the Commission to place in a Reserve Fund established for community park land acquisition on Mayne Island.
 - ii) Where appraisal costs are incurred pursuant to Section 992 (7) of the Municipal Act, those costs will be borne by the applicant and the Commission.
11. The Commission will refer to the Trust Committee, for its consideration and comment, all recommendations for disposal of surplus park land prior to referral to the Capital Regional District Board for preparation and consideration of the required bylaw(s). The Trust Committee acknowledges that this statutory responsibility of the Capital Regional District, through the Commission, cannot be further delegated nor can any discretion be fettered by reference to another body such as the Trust Committee.

12.

The Trust Committee and the Commission will confirm all verbal communication in writing and will forward all written communication to the following addresses by mail, fax or personal delivery to the Local Trustees or Commissioners:

Local Trust Committee:

Commission:

Attention: Senior Planner,
Mayne Island Local Trust Committee,
2nd. Floor, 1627 Fort Street,
Victoria, B.C., V8R 11-18
Fax: (604) 387-4047

Attention: Secretary,
Mayne Island Parks and Recreation Commission,
P.O. Box 130,
Mayne Island, B.C. VON 2JO

The Trust Committee and the Commission agree that this Protocol Agreement may be amended at any time by mutual consent and agree to jointly review the Protocol Agreement on an annual basis.

14. The Trust Committee and the Commission acknowledge and agree that this agreement will not be interpreted as prejudicing or affecting the rights and powers of the Local Trust Committee, the Trust Council, the Commission or the Board of the Capital Regional District in the exercise of their functions under any public or private statute, regulation or bylaw.

DATED THIS 7th day of July,

For the Mayne Island Local Trust Committee.

Chairperson

J. J. [Signature]

day of _____ 1995.

For the Mayne Island Parks and Recreation Commission.

Chairperson

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Z. [Signature]