

**AGREEMENT BETWEEN THE TRUST COUNCIL
AND THE MINISTRY OF MUNICIPAL AFFAIRS
ESTABLISHING A FRAMEWORK FOR INCORPORATION
OF MUNICIPALITIES WITHIN THE TRUST AREA**

Prepared by:

Ministry of Municipal Affairs
Province of British Columbia

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WHEREAS the Ministry of Municipal Affairs (the Ministry) and the Islands Trust Council (the Trust) wish to establish a framework for the incorporation of Island Municipalities within the Trust Area;

AND WHEREAS the Ministry and the Trust acknowledge that the residents of an island are entitled to make a decision on incorporation on the basis of objective information and with a clear understanding of the implications of municipal status in relation to the mandate of the Trust;

AND WHEREAS the Ministry recognizes that the incorporation of an Island Municipality requires further definition, within the context of the provisions of the *Islands Trust Act* and the mandate of the Trust;

NOW THEREFORE the Ministry and the Trust agree to the following:

PART 1 - OBLIGATIONS OF THE MINISTRY

Restructure Process

1. The ministry is responsible for overseeing the process of creating a broadly representative Restructure Study Committee (the Committee).
2. The local trustees must be invited to participate in the creation of the Committee, and will (with the regional district electoral area director) be ex-officio members of the Committee.
3. The role of the Committee will be to:

oversee the preparation of the restructure study; prepare terms of reference for the study, carry out a proposal call and select a consultant to undertake the study; manage the study process in a neutral and objective way; manage the restructure study grant, which will be awarded to the regional district, or perhaps the Trust, if the former is not practical; act as the liaison with the ministry regarding the offer of restructure assistance and other conditions of incorporation; make recommendations to the Minister about holding an incorporation vote; and advise on the development of draft Letters Patent.

4. The Trust and the Committee will be provided with an opportunity to review draft Letters Patent:
 - a) before the incorporation vote ; and b) after a successful incorporation vote and prior to submission to Cabinet.
5. Trust Council and the local trust committee will be invited to the inaugural meeting of the council of the Island municipality.

Political Representation

1. The Letters Patent for an Island municipality will, unless otherwise agreed to by a Committee and the Trust Executive Committee, provide for the trustees and the Island municipality to be elected by the "double-direct" method, with details to be described in the Letters Patent of the Island municipality.
2. The ministry will consult with the Trust on the boundaries of an Island municipality and the boundaries of the local trust committee before developing and finalizing Letters Patent for the Island municipality.

Policy Relationship Between the Trust Council and an Island Municipality

1. The Letters Patent for the Island municipality will require that where the municipality intends to submit a bylaw to the minister for approval pursuant to section 34(4) of the *Islands Trust Act*:
 - the Island municipality must advise the Trust and the Ministry of its intention to submit the bylaw;
 - the Island municipality must first meet with the Trust, facilitated by ministry staff, to determine if the issue of the Trust Council not approving the bylaw can be resolved without formal appeal to the minister;
 - the Minister may require that the issue of Trust Council not approving the bylaw be resolved using any or all of the dispute resolution mechanisms contained in sections 942.21, 942.23 or 942.24 of the *Growth Strategies Statutes Amendment Act*, - and
 - the Minister will, prior to determining an appeal, ensure that the Trust has an opportunity to present its position.
2. The Letters Patent for the Island municipality, in accordance with section 34 of the *Islands Trust Act*, will require the Island municipality to refer all Official Community Plan bylaws to the Trust Executive Committee for review and approval, and establish the timing of referrals.

3. In recognition of the fact that the *Islands Trust Act* does not explicitly tie a municipality to the Trust object, the Letters Patent for the Island municipality will require that the municipality, in all of its actions, have regard for the Trust Policy Statement and the Trust object; and the ministry will consider legislative change which will require an Island municipality to have regard for the Trust Policy Statement and the Trust object.
4. The Letters Patent for the Island municipality will require that the municipality refer all regulatory bylaws, proposed to be adopted pursuant to Part 29 of the *Municipal Act*, to the Trust Executive Committee for review before adoption, for the purpose of ensuring no conflict with the Trust Policy Statement.
5. The Letters Patent for the Island municipality will require that bylaws of the municipality be registered by the ministry for a period of three years.
6. The ministry will use the process of registration of municipal bylaws as means for monitoring concerns with respect to consistency between Official Community Plan and regulatory bylaws.

Relationship Between the Trust, the Province and the Island Municipality

1. The Letters Patent for the Island municipality will require that the Island municipality enter into discussions to establish a protocol agreement with the Trust respecting inter-jurisdictional communications.
2. The ministry and the Trust will review all extant protocol agreements between the Trust and provincial agencies and reach an agreement on which agreements, or parts thereof, which ought to be applicable to the new municipality; and on the basis of that review, the Letters Patent for the Island municipality will specify which agreements or parts of agreements that will be binding on the new municipality.
3. The Letters Patent for the Island municipality will require the Island municipality to refer all proposed protocol agreements with provincial agencies to the Trust for review before adoption.
4. Where the Trust refers a proposed protocol agreement with a provincial agency to the Island municipality for review, the Letters Patent for the Island municipality will require the municipality to review the proposed agreement and provide comments to the Trust within 30 days.

5. Letters Patent for the Island municipality will require the municipality to submit all proposed protocol agreements with provincial agencies to the Minister for approval, as is required for Trust Agreements.

Transition

1. The Letters Patent for the Island municipality will specify that all bylaws of the local trust committee will continue to have effect (section 31(2) of *Municipal Act*) .
2. The Letters Patent for the Island municipality will transfer all assets and liabilities of a local trust committee to the new municipality.

Administrative and Financial issues

1. Letters Patent for the Island municipality will require that the municipality contribute to the costs of the operations of Trust Council, the Executive Committee and the Trust Fund Board in accordance with the *Islands Trust Act* .
2. Letters Patent for the Island municipality will require that the municipality enter into a contract with the Trust whereby the municipality will receive and pay for local planning services provided by the Trust for a period of three years, unless otherwise agreed by the Trust and the Island municipality.
3. The Letters Patent for the Island municipality will provide that the municipality may receive and pay for an additional year of local planning services from the Trust where the Trust and the municipality agree.
4. The Ministry will consider provisions in Letters Patent, and future amendment to the *Islands Trust Act* , to require the municipality to participate in local planning for other islands in the Trust Area unless the municipality chooses to "opt-out."

PART TWO: OBLIGATIONS OF TRUST COUNCIL

Restructure Process

1. Local trustees on the island may participate in the creation of the Committee as set out in Part 1 of this agreement.

2. The Trust must review draft Letters Patent for an island municipality:
 - a) before the incorporation vote; and
 - b) after a successful incorporation vote and prior to submission to Cabinet.

Policy Relationship Between Trust Council and the Island Municipality

- 1 . The Trust must refer all proposed amendments to the Trust Policy Statement to the Island municipality for review before adoption.

Relationship Between the Trust, the Province and the Island Municipality

- 1 . The Trust must refer all proposed protocol agreements with provincial agencies to the Island municipality for review before adoption.
2. When an Island municipality refers a proposed protocol agreement with a provincial agency to the Trust for review, the Trust must review that agreement within 30 days.

Administrative and Financial Issues

- 1 . The Trust will enter into a contract with the Island municipality whereby the Trust will provide the municipality with local planning services for a period of three years with the costs being paid for by the municipality.
2. The Trust will provide the Island municipality with an additional year of local planning services on a full cost recovery basis where the municipality and the Trust agree.
3. The Trust will review all bylaws submitted to it by a municipality pursuant to section 34 of the *Islands Trust Act* in the context of the Trust Policy Statement.

PART THREE: OBLIGATIONS OF THE ISLAND MUNICIPALITY

Restructure Process

- 1 . The municipal council must invite Trust Council and the local trustees on the island to the inaugural meeting of the municipal council.

Political Representation

1. The Island municipality must appoint trustees to Trust Council in accordance with the elector's wishes as expressed through the "double direct" method.

Policy Relationship Between Trust Council and the Island Municipality

1. Where the Island municipality intends to submit a bylaw to the minister for approval under the provisions of section 34(4) of the *Islands Trust Act*, the Island municipality must advise the Trust of its intention to do so, and to first meet with the Trust, facilitated by the ministry, to determine if the issue of Trust Council refusing to approve the bylaw can be resolved without formal appeal to the minister.
2. The Island municipality, in accordance with section 34 of the *Islands Trust Act*, must refer all Official Community Plan bylaws to the Trust Executive Committee for review and approval.
3. The Island municipality must have regard for the Trust Policy Statement and the Trust object in respect to all actions of the municipality.
4. The Island municipality will refer all regulatory bylaws, proposed to be adopted pursuant to Part 29 of the *Municipal Act*, to the Trust Executive Committee for review before adoption.
5. All bylaws of the Island municipality will be forwarded to the ministry for registration for a period of three years.

Relationship Between the Trust, the Province and the Island Municipality

1. The Island municipality and the Trust will enter into a protocol agreement respecting inter-jurisdictional communications.
2. The Island municipality will abide by those protocol agreements between the Trust and the Province which the Letters Patent indicate are binding on the new municipality.
3. The Island municipality will refer all proposed protocol agreements with provincial agencies to the Trust for review before adoption.
4. The Island municipality must submit all proposed protocol agreements with provincial agencies to the minister for approval.

Transition

1. All bylaws of the local trust committee will continue to have effect as bylaws of the municipality (section 31(2) of *Municipal Act*).
2. All assets and liabilities of the local trust committee will be transferred to the Island municipality.

Administrative and Financial Issues

1. The Island municipality must contribute to the costs of Trust Council, the Executive Committee and Trust Fund Board in accordance with the provisions of the *Islands Trust Act*.
2. The Island municipality must enter into a contract with the Trust whereby the municipality will receive and pay for local planning services provided by Trust staff for a period of three years.
3. The annual cost payable by the Island municipality to the Trust under section (2) above shall be not less than the amount that would have been contributed from the Island if the Island municipality had not been incorporated and the local trust committee still existed, unless otherwise agreed.
4. The Island Municipality may receive an additional year of local planning services from the Trust staff on the same basis as outlined above where the municipality and the Trust agree.