

FREEPORT LETTER OF OCTOBER 16, 1984
(Conformed Copy]

Agreement

Agreement, dated as of October 16, 1984, between the Town of Freeport, a municipality of the State of Maine ("Freeport"), and the Bustins Island Village Corporation, a village corporation within the limits of Freeport ("BIVC").

WHEREAS, in order to improve the method of dealing with the BIVC's annual budget requests to Freeport, for the mutual benefit of Freeport and the BIVC, Freeport (acting by vote of its Town Council) and the BIVC (acting by vote of its legal voters and by action of its Board of Overseers) have approved the proposed amendments set forth in Exhibit A hereto ("Amendments") to Chapter 213 of the Private and Special Laws of 1913 of the State of Maine, as heretofore amended, creating the BIVC ("Enabling Act"); and

WHEREAS, to be enacted into law the Amendments will require action by the Legislature and Governor of the State of Maine; and

WHEREAS, Freeport and the BIVC deem it desirable to set forth their mutual understanding with regard to the steps to be taken to have the Amendments enacted into law, implementation of the Amendments and certain other matters related thereto;

NOW, THEREFORE, Freeport and the BIVC hereby agree as set forth below.

1. Freeport and the BIVC shall each use their best efforts to have the Amendments enacted into law at the earliest practicable date.

2. Freeport shall arrange for its Town attorney and/or other counsel and consultants to proceed promptly with the preparation of appropriate special legislation with respect to the Amendments, which legislation shall be in form satisfactory to Freeport's Town Manager and the Board of Overseers of the BIVC, and for such legislation to be introduced into the Legislature and sponsored by such members of the Legislature as Freeport, in consultation with the Board of Overseers, shall deem appropriate. The BIVC shall arrange for appropriate representatives to assist in the preparation of such legislation, as and to the extent reasonably requested by Freeport.

3. Freeport and the BIVC shall each take such action as is reasonably appropriate to support the special legislation, and to arrange for their respective representatives to appear, if requested, and speak favorably with regard to the Amendments before any committees of the Legislature conducting any hearings relative thereto.

4. The Amendments are intended solely to improve the budget process between Freeport and the BIVC, to assist Freeport by eliminating unpredictable variations in BIVC requests for funds and fixing the rate of spending on BIVC requirements, and to put the BIVC in a better position to deal first hand with BIVC monetary needs and priorities. The Amendments are not intended to affect otherwise the relationship between Freeport and the BIVC. Accordingly, the availability to the BIVC of Freeport municipal services, including (without limitation) emergency fire and rescue services, police services beyond the capability of the Bustins Island constable, the right to use Freeport's dock facilities at South Freeport and access to the landfill, will continue as is and be unaffected by the Amendments.

5. If the Amendments are not enacted into law by June 30, 1985, Freeport and the BIVC shall, with respect to fiscal years beginning after such date and continuing until the Amendments have been so enacted, deal with the BIVC's budget and monetary needs on the same basis as if proposed new Sections 3A and 2A to the Enabling Act had been enacted into law; provided, however, that in the event of emergency or unforeseen situations as a result of which the reasonable monetary needs of the BIVC exceed the funds available to it as contemplated by such proposed new Section 3A, Freeport shall loan or otherwise advance or make available funds to the BIVC to cover such excess needs on a basis which reimburses Freeport for its cost of such funds or otherwise as may be agreed between Freeport and the BIVC. As a result of the foregoing, whether or not the Amendments have then been enacted into law, the first payment to be made by Freeport to the BIVC on the basis contemplated by proposed new Section 3A to the Enabling Act shall be made between July 1 and July 30, 1985 based on taxes collected during the fiscal year ended June 30, 1985, and payments in subsequent years shall continue as provided herein and/or in the Amendments.

6. Freeport shall bear its expenses related to endeavoring to have the Amendments enacted into law and otherwise carrying out its obligations hereunder, including the fees and expenses of its Town attorney and/or other counsel and consultants retained by it in connection therewith; and the BIVC shall bear its expenses related to endeavoring to have the Amendments enacted into law and otherwise carrying out its obligations hereunder.

7. Any requests or notices with respect to this Agreement shall be addressed, if to Freeport, to its Town Manager at the Municipal Office Building, 4 Main Street, Freeport, Maine 04032, and if to the BIVC, to its Clerk, David A. Pease, at 48 Foreside Road, Cumberland Foreside, Maine 04110.

8. If the Amendments are not enacted into law on or prior to June 30, 1990, this Agreement shall terminate on June 30, 1990 unless mutually extended by Freeport and the BIVC.

Printed August 24, 2000

IN WITNESS WHEREOF, Freeport and the BIVC have each caused this Agreement to be signed by a duly authorized representative as of the date first above written.

TOWN OF FREEPORT

BUSTINS ISLAND VILLAGE CORPORATION

By Dale C. Olmstead, Jr.

Larrabee, Jr.

Dale C. Olmstead, Jr.

Larrabee, Jr.

Town Manager

Chairman,

Board of Overseers

By Leonard P.

Leonard P.

EXHIBIT A

Proposed Amendments to Chapter 213 of the Private and Special Laws of 1913 of the State of Maine, as heretofore amended (Appendix I hereto), creating the Bustins Island Village Corporation

(60%-40% tax revenue sharing)

1. Addition of (i) a new section designated "Section 3A" to read as follows:

"Annual payments by Town of Freeport

Section 3A. The Town of Freeport shall annually pay over to the treasurer of said corporation a sum equal to sixty percent of all real estate and personal property taxes collected by the town out of the taxes and estates on Bustins Island, exclusive of any state or county tax or tax collected pursuant to Section 8 of Chapter 213 of the Private and Special Laws of 1913, such monies to be expended by the corporation for its municipal purposes. The monies to be so paid over annually to the treasurer of said corporation shall be so paid over each year as soon as practicable, but in no event later than 30 days after the start of each fiscal year, and the amount to be so paid over shall be computed on the basis of the taxes collected during the immediately preceding fiscal year."

- and (ii) a new section designated "Section 2A" to read as follows:

"Town of Freeport relieved of certain obligations.

Section 2A. The Town of Freeport is hereby relieved from any and all duty to build, repair or maintain roads, streets or ways upon Bustins Island or to perform any of the duties for which said corporation is authorized by Section 2 of Chapter 213 of the Private and Special Laws of 1913 to raise money, and said town shall not be liable for any failure to perform any duty from which it is relieved by this Section 2A, but said corporation shall assume all of such duties."

(addition of specific borrowing authority)

2. Addition of the following sentence at the end of Section 2:

"The corporation is further authorized to borrow funds towards accomplishing the above purposes."

(elimination of ceiling on self-assessment and indebtedness)

3. Deletion of the proviso at the end of the first sentence of Section 4.

Appendix I to EXHIBIT A

BUSTIN'S ISLAND VILLAGE CORPORATION
ENABLING ACT AND BY-LAWS

CHAPTER 213

An Act to Create a Body Politic and Corporate by the Name of Bustin's Island Village Corporation.

Be it enacted by the People of the State of Maine, as follows:

Territorial limits.

Section 1. The territory embraced within the limits of Bustin's Island, sometimes known as Bibber's Island, in the town of Freeport, in the county of Cumberland, together with the inhabitants thereon and certain owners of real estate thereon as hereinafter specified is hereby created a body politic and corporate by the name of Bustin's Island Village Corporation.

Corporate Name.

Corporation may raise money for certain purposes.

Section 2. Said corporation is hereby authorized and vested with the power at any legal meeting called for the purpose to raise money for the following purposes: To create and maintain a fire department with all the necessary equipment, appliances and apparatus for the prevention and extinguishment of fires; to build, repair and maintain roads, streets, ways, sidewalks, sewers and other sanitary works, including the collection and removal of offal and garbage; to care for and beautify that portion of the island which has been, or may hereafter be, reserved for and dedicated to public uses to be enjoyed in common by all the owners of lots of land on the island and to that end to build roads and walks upon and through said public lands and to plant and care for trees in the roads and streets and upon said public lands; to build, repair and maintain wharves and landings; to establish and maintain police and night watch; to produce or procure light for public use and for the use of the inhabitants of the island, and for such purposes to contract with any individual, firm or corporation to furnish such water or light for either or both of the purposes named, and to establish reasonable rates to be paid by the inhabitants of the island using such water or light for domestic purposes; to construct, maintain and operate telephone and telegraph lines or to aid in such construction, maintenance and operation and to that end, and for that purpose, to contract with any corporation, firm or individual therefore; to acquire by purchase or gift, and by deed, will, lease or otherwise, title to real estate and personal property, and to manage, operate, mortgage, sell, lease and exchange real estate and personal property for

the benefit of the Village Corporation; to arrange for, either by contract, purchase or lease, boat and ferry service from the mainland to Bustin's Island and to defray any and all other necessary or proper corporate charges.

Town of Freeport shall raise moneys for corporation.

Section 3. All moneys which shall be raised by the town of Freeport by special action for use on said Bustin's Island, not including moneys raised for general town purposes, shall be expended only upon the request of, and for such purposes as, the board of overseers of said corporation may direct.

Assessments, how levied.

Section 4. All moneys which shall be raised by said corporation for the purposes named in section two of this act or for any other purpose, for which the corporation may lawfully raise money, shall be assessed upon the taxable polls and estates embraced within the limits of the corporation by the assessors of the town of Freeport in the same manner as is provided by law for the assessment of town and county taxes; provided, that it shall not be legal for said assessment to exceed five mills on the dollar on estates, and that the total appropriations together with any indebtedness of said corporation shall not exceed two and one-half per cent of the total valuation of said island as shown on the assessor's books of said town at the last preceding assessment. For the purposes of taxation under this act, the person or persons entitled to the use or occupation of any lot of land on said island shall be deemed the owner thereof and be taxed for said lot and the improvements, if any, thereon.

Officer of corporation

Corporation may adopt by-laws.

Section 5. The officers of said corporation shall be a clerk, who shall be a resident of this state, a treasurer and five overseers who shall be chosen by ballot and such other officers as the by-laws of said corporation may require. Said corporation is empowered to adopt at any legal meeting called for that purpose a code of by-laws for the government of the same and for the proper management of its prudential affairs and other purposes connected therewith, provided said by-laws are not repugnant to the laws of the state. Such code of by-laws may be altered or amended at any legal meeting of the corporation in the call for which notice of the proposed change has been given. The officers aforesaid shall be sworn before the clerk or a justice of the peace and the treasurer shall give bond to said corporation in such sums as the overseers may direct, which bond shall be approved by the overseers and the clerk.

Only legal voters shall hold office.

Section 6. Any person who Is a legal voter in said corporation may be elected or appointed to any office therein but shall cease to hold said office whenever he ceases to be such legal voter.

Overseers.

Section 7. Said overseers shall be the general municipal officers of said corporation and shall have general charge of its affairs and of the expenditure of all money therein, except so far as they may be committed to other officers or persons.

Certificate of money voted by corporation shall be filed with clerk of Freeport.

Duties of collector and treasurer of Freeport.

Section 8. Upon a certificate being filed with the assessors of the town of Freeport by the clerk of this corporation of the amount of money voted to be raised at any meeting of the corporation, it shall be the duty of said assessors, or their successors in office, at the time of the next annual assessment of town and county taxes in said town of Freeport to assess in addition thereto the total amounts certified by the clerk of this corporation, upon the polls and estates of persons residing within the limits of said corporation, and upon the estates of non-resident proprietors thereof and to certify and deliver the lists of the assessments so made to the collector of the town of Freeport, whose duty it shall be to collect the same in like manner as county and town taxes are collected by law, and said collector shall pay over to the treasurer of said corporation, whenever the overseers shall so direct, all money collected by him of said sum assessed in addition to said town, county and state taxes. It shall be the duty of the treasurer of said corporation to receive all moneys belonging to the corporation, to pay it out only upon the written order or direction of the overseers, to keep a regular account of all moneys received and paid out and to exhibit the same to the overseers whenever requested; and said town of Freeport shall have the power to direct the mode of collecting said taxes that it has in the collection of town taxes, and said collector shall have the same rights and powers to recover any taxes committed to him under the provisions of this act by suit that he has for the collection of town taxes committed to him; and the town of Freeport shall have the same right to recover taxes assessed under this act, by suit that it has to recover town taxes assessed therein. The collector of Freeport shall be entitled to receive the same percentage for the collection of taxes assessed under this act, and the same fees in connection with the collection thereof, which he receives for the collection of town taxes.

Overseers shall prepare lists of legal voters.

-votes. how taken and checked.

Section 9. All persons residing within the limits of said corporation who would be legal voters in the town of Freeport, and every person of legal age who owns a part or the whole of one or more lots of land upon said island shall be legal voter at any meeting of said corporation at which they are present. The overseers of said corporation shall determine who are the legal voters at any meeting and shall prepare a list of such legal voters twenty-four hours, at least, before every meeting, which said list they may correct at any time before said meeting, or during its progress. The vote upon any proposition at any meeting shall be taken and checked by said list upon the demand of five legal voters provided, however, that where a lot of land is owned by two or more persons, such persons may agree in writing filed with said board of overseers which of the said owners is to be the legal voter at any meeting of the corporation, and in no case shall the ownership of any tract or parcel of land entitle the owner or owners thereof to more than one vote at any of the meetings of the said corporation.

First election of officers.

Section 10. The first election of officers shall be at the meeting at which this charter is accepted. Said officers shall hold their respective offices until the first Monday of September following the annual meeting of the corporation, at which said meeting officers may be elected and there afterwards at each annual meeting, but they shall not assume the duties of their respective offices until the first Monday in September following their election; but, in any event, all officers duly elected shall hold office until their successors are elected and duly qualified. The annual meeting of the said corporation shall be held on the first Saturday of August in each year.

When this charter may be accepted.

Section 11. This charter may be accepted at any time within five years from its approval by the governor, but only one meeting to vote thereon shall be called in any one calendar year. Frederic D. Fuller, Freeman M. Grant, E. S. Hosmer, W. C. Russell, C. E. Brainard, Frederic W. Mar, and E. W. Tuttle, or either of them, may call all meetings of the corporation previous to the acceptance of this charter and the election of officers, and notify the persons entitled to vote therein to meet at some suitable time and place on said Bustin's Island, by posting of notices in two public places on said island seven days at least before the time of holding said meeting; all subsequent meetings shall be called and notified by the overseers as town meetings are called and notified by the selectmen; either of the above named persons is authorized to preside at any meeting previous to the acceptance of the charter until the meeting is organized and until a moderator shall have been chosen by ballot and sworn; at all meetings of the corporation, a moderator shall be chosen in the manner, and with the same power as in town meetings.

Transfer of Bustin's Island Cottage Association authorized.

Section 12. The Bustin's Island Cottage Association is hereby authorized to sell, convey, lease or otherwise dispose of any and all real estate, or interest therein, which it now has to the

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Bustin's Island Village Corporation, and said latter corporation is hereby authorized to purchase, take title to, lease or otherwise require said real estate or interest therein and to hold, manage and control the same for the benefit of said corporation and the members thereof, and for the purpose of enabling the corporation to accomplish the objects for which it was created.

When this act shall take effect.

Section 13. This act shall take effect when approved by the governor so far as to authorize the calling of a meeting, or acceptance of this charter, and whenever this charter shall be accepted by a majority of the voters of said corporation at a legal meeting called for that purpose, then the same shall take and have complete effect in all its parts.