



First Nations Tax Commission
Commission de la fiscalité des premières nations

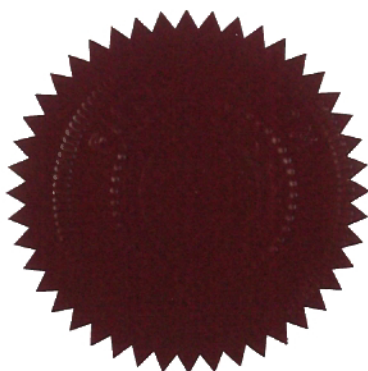
The First Nations Tax Commission, pursuant to the *First Nations Fiscal Management Act*, hereby approves the following law made by the Skowkale First Nation in the Province of British Columbia,

***Skowkale First Nation
North Subdivision Long-term Capital Borrowing Law, 2017***

Dated at Vancouver, British Columbia this 13th day of December, 2017.

On behalf of the First Nations Tax Commission

C.T. (Manny) Jules – Chief Commissioner
First Nations Tax Commission



**SKOWKALE FIRST NATION
NORTH SUBDIVISION
LONG-TERM CAPITAL BORROWING LAW, 2017**

WHEREAS:

A. Pursuant to paragraph 5(1)(d) of the *First Nations Fiscal Management Act*, the council of a first nation may make laws respecting the borrowing of money from the Authority;

B. The Skowkale First Nation is a borrowing member of the Authority and has entered into a borrowing agreement with the Authority;

C. The Authority has as one of its purposes the securing for its borrowing members, through the use of property tax revenues, long-term financing of capital infrastructure for the provision of local services on reserve lands;

D. The Council of the Skowkale First Nation has determined that it is in the interests of the First Nation and those residing on the reserve to undertake the capital infrastructure project;

E. The estimated cost of undertaking the proposed capital infrastructure project is two million eight hundred fifty seven thousand dollars (\$2,857,000);

F. The Council of the Skowkale First Nation deems it necessary to borrow the sum of two million eight hundred fifty seven thousand dollars (\$2,857,000) from the Authority to finance all of the costs of undertaking the capital infrastructure project;

G. The amount of the Skowkale First Nation's existing obligations authorized as of the date of this Law is zero dollars (\$0), and the estimated additional obligations authorized under this Law are one hundred fifty eight thousand six hundred eighteen dollars and fifty two cents (\$158,618.52), as certified by the Senior Finance Officer for the First Nation, a copy of which certification is attached as Schedule "A" to this Law;

H. The Skowkale First Nation has enacted a financial administration law under paragraph 9(1)(a) of the Act, which law has been approved by the First Nations Financial Management Board in accordance with section 9(2) of the Act and as required by section 4 of the Act;

I. The Skowkale First Nation has sufficient unutilized borrowing capacity to undertake the borrowing authorized under this Law; and

J. The Skowkale First Nation has obtained a certificate from the First Nations Financial Management Board, as required by subsection 32(1) of the Act, a copy of which certificate is attached as Schedule "B" to this Law.

NOW THEREFORE the Council of the Skowkale First Nation duly enacts as follows:

1. This Law may be cited as the *Skowkale First Nation North Subdivision Long-term Capital Borrowing Law, 2017*.

2. In this Law:

"Act" means the *First Nations Fiscal Management Act*, S.C. 2005, c. 9, and the regulations enacted under that Act;

"Authority" means the First Nations Finance Authority established under the Act;

"capital infrastructure project" means the project generally described as the North Subdivision, and as set out in the plans on file at the First Nation's offices;

“certificate” means a Financial Performance Certificate issued by the First Nations Financial Management Board under subsection 50(3) of the Act;

“completion”, in respect of a capital infrastructure project, means substantial completion as evidenced by a certificate from a registered professional certifying that the capital infrastructure project is substantially completed;

“First Nation” means the Skowkale First Nation;

“interim long-term financing” means financing provided by the Authority to the First Nation in anticipation of the inclusion and replacement of such financing by long-term financing in an issue of debt securities by the Authority;

“Law” means this borrowing law;

“promissory note” means a contractual promise to pay made by the First Nation to the Authority that sets out a schedule of repayment of principal and interest;

“registered professional” means an individual qualified and licensed as a professional engineer or architect in the Province in which the reserve is located;

“reserve” means any land set apart for the use and benefit of the First Nation within the meaning of the *Indian Act*;

“security issuing council resolution” means a Council resolution that includes the information required in section 5 and is in the form required by the Authority; and

“undertaking agreement” means an agreement among the First Nation, the Authority and one (1) or more creditors of the Authority (or a trustee on behalf of such creditors) under which such creditors or such trustee may, among other things, exercise the Authority’s rights in respect of a loan to the First Nation.

3. Unless the context otherwise requires, words and expressions used in this Law and not otherwise defined have the same meaning as in the Act.

4. The Council is hereby authorized and empowered to borrow upon the credit of the First Nation for the capital infrastructure project using property tax revenues, and the Authority is requested and authorized to finance from time to time the capital infrastructure project at the sole cost and on behalf of the First Nation, a sum not exceeding two million eight hundred fifty seven thousand dollars (\$2,857,000) in lawful money of Canada (provided that the First Nation may borrow all or part of such amount in such currency as the Authority determines, but the aggregate amount in lawful money of Canada and in Canadian dollar equivalents so borrowed must not exceed two million eight hundred fifty seven thousand dollars (\$2,857,000) CAD), together with such interest and with such discounts or premiums and expenses as the Authority determines appropriate in consideration of the market and economic conditions.

5. When from time to time the First Nation wishes to borrow all or a portion of the amount authorized under this Law, the Council shall pass a security issuing council resolution that

- (a) approves the borrowing of the specified amount;
- (b) requests the Authority to undertake the borrowing of the specified amount on Council’s behalf and to
 - (i) include the specified amount as part of the Authority’s next issue of debt securities, or
 - (ii) provide the specified amount to the First Nation as interim long-term financing; and
- (c) states the number of years, from the date of the first advance, that the financing must be repaid by the First Nation.

6. On completion by the Authority of all or part of the financing authorized and undertaken pursuant to this Law and a security issuing council resolution, the First Nation

(a) shall execute and deliver to the Authority such promissory notes as requested by the Authority and in the form required by the Authority and hereby authorizes and directs the General Manager and the Senior Finance Officer to execute such promissory notes on behalf of the First Nation when requested by the Authority; and

(b) shall execute and deliver to the Authority an undertaking agreement when requested by the Authority and in the form required by the Authority and hereby authorizes members of Council constituting at least a quorum to execute such undertaking agreement on behalf of the First Nation when requested by the Authority.

7. The First Nation shall in each budget year after this Law comes into force provide for payments of all amounts payable to the Authority during that budget year and reserve such local revenues as are required to ensure that all amounts authorized to be paid to the Authority are actually paid in that year.

8. An expenditure law made under paragraph 5(1)(b) of the Act shall not authorize the expenditure of moneys raised under a local revenue law unless the First Nation's budget provides for the payment of all amounts payable to the Authority during the budget period.

9. The First Nation must repay the financing obtained from the issuance of debt securities by the Authority no later than thirty (30) years from the date on which the Authority provides the first advance of such financing to the First Nation.

10. Unless pre-paid by the First Nation in accordance with its borrowing agreement with the Authority, the First Nation must repay the interim long-term financing to the Authority by replacing such financing with financing obtained from the issuance of debt securities by the Authority, no later than the earlier of

(a) five (5) years from the date on which the Authority provided the first advance of the interim long-term financing to the First Nation, or

(b) the date of completion of the capital infrastructure project.

11. Where a provision in this Law is expressed in the present tense, the provision applies to the circumstances as they arise.

12. This Law shall be construed as being remedial and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

13. The Schedules attached to this Law form integral parts of this Law.

14. The authority to borrow under this Law ends on the earlier of

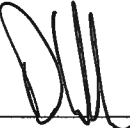
(a) the date that the amount authorized by this Law has been fully borrowed by the First Nation, as evidenced by security issuing council resolutions passed by Council, and

(b) five (5) years from the date that this Law comes into force for any part of the amount authorized by this Law that has not been borrowed, as evidenced by security issuing council resolutions passed by Council.

This Law comes into force and effect on the day after it is approved by the First Nations Tax Commission.

THIS LAW IS HEREBY DULY ENACTED by Council on the 12th day of December, 2017, at Chilliwack in the Province of British Columbia.

A quorum of Council consists of three (3) members of Council.



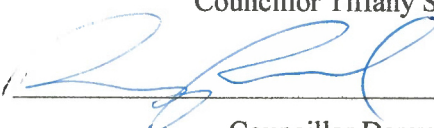
Chief Mark Point



Councillor Dustin Hall



Councillor Derek Hansom



Councillor Tiffany Silver



Councillor Darcy Paul

SCHEDULE "A"

CERTIFICATE OF CAPITAL LIABILITIES AND CALCULATION OF BORROWING CAPACITY

The Skowkale First Nation (the "First Nation") in relation to the *Skowkale First Nation North Subdivision Long-term Borrowing Law, 2017* (the "borrowing law").

The undersigned officer assigned responsibility as the senior financial officer under the authority of the First Nation's financial administration law hereby certifies as of December 12th, 2017, as follows:

Previous year's local revenues in aggregate (excluding service tax revenues, if any) = \$ 741,112.51 a
(sections 5, 6, and 7 of the *Commission Standards Establishing Criteria for the Approval of First Nation Borrowing Laws*)

(1) (i) Annual debt servicing limit ("a" above x 25%) **GROSS** \$ 185,278.13 b

(Where section 1.3 of the *Commission Standards Establishing Criteria for the Approval of First Nation Borrowing Laws* applies, use the following calculation instead.)

OR (ii) Annual debt servicing limit ("a" above x 40%) **GROSS** \$ n/a b

(2) Annual debt servicing cost payable from local revenues for
previous year (audited F/S) **LESS:** \$ 0 c
(section 4 of the *Commission Standards Establishing Criteria for the Approval of First Nation Borrowing Laws*)

(3) Account for: <u>New local revenue capital liabilities since audited F/S (if any)</u>	<u>Annual servicing cost</u>
_____	_____ d
_____	_____ e
_____	_____ f
Total of lines d through f	LESS: \$ 0 g

(4) Account for: <u>capital liabilities which have matured after audited F/S (and previous year's debt to be refinanced)</u>	<u>Annual servicing cost</u>
_____	_____ h
_____	_____ i
_____	_____ j
Total of lines h through j	ADD: \$ 0 k

(5) Available net revenue from property tax: (b-c-g+k) **NET:** \$ 185,278.13 l

(6) Available revenue from service tax: (+s) **ADD:** \$ 0 m

(7) Total available revenues to service debt **EQUALS:** \$ 185,278.13 n

(8) Estimated annual servicing cost of the Authority loan from local revenues (r) LESS: \$ 158,618.52 o

(9) Estimated cash flow exceeds (deficient) to service loan (lines n-o = p) EQUALS \$ 26,659.61 p

(10) Amount of new loan or refinancing requested from the Authority \$ 2,857,000 q
Term of new loan: 30 years

Interest rate used to determine annual servicing cost for this Certificate: 3.45%

Estimated annual servicing cost of new or refinancing the Authority loan \$ 158,618.52 r
(per discussion with FNFA)

(11) Estimated unutilized borrowing capacity remaining after new loan (p) **\$ 26,659.61**

Complete the following only if the First Nation is enacting a Service Tax Law to pay all or a portion of the costs of this borrowing, as set out in section 2 of the Commission Standards Establishing Criteria for the Approval of First Nation Borrowing Laws, 2016:

Name of Service Tax Law: _____

First Year the Service Tax will be levied: _____

Number of Years the Service Tax will be levied: _____

Portion of Service Tax revenues allocated to servicing new loan or refinancing: _____ %

Annual Service Taxes to be collected: \$ _____

Leveragability rate for Service Tax: 90%

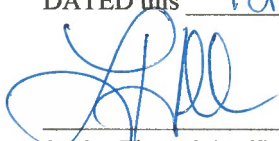
Available Service Tax revenue each year: \$ _____ s

In accordance with subsection 5.2 of the *Commission Standards for the Form and Content of First Nation Borrowing Laws*, the debt to be contracted under the borrowing law will not exceed the lesser of thirty (30) years and the reasonable life expectancy of the capital infrastructure project for which the loan is to be contracted, or where the borrowing law is for refinancing, the remaining reasonable life expectancy of the capital infrastructure project.

This Certificate is not determinative of the actual amount of any loan that may be made by the Authority to the First Nation, which will be determined by the Authority in its sole discretion, subject to the limitations in the First Nation's borrowing law. The actual interest rate or rates applicable to any loan may differ from the interest rate used by the First Nation for the purposes of this Certificate.

This Certificate is provided to the First Nations Tax Commission as required under paragraph 1.1(b) of the Commission's *Standards for the Form and Content of First Nation Borrowing Laws*, and may be relied on by the Commission in its determination of the First Nation's unutilized borrowing capacity for the purposes of the review and approval of the borrowing law.

DATED this 12 day of DECEMBER, 2017



Senior Financial Officer

LISA TALL

(please print full name)

FINANCIAL PERFORMANCE CERTIFICATE ISSUED TO SKOWKALE

The First Nations Financial Management Board ("the Board") has completed its review of Skowkale's Financial Performance for compliance with the *Financial Performance Standards* established under section 55 of the *First Nations Fiscal Management Act* ("the Act"). The Board has not audited or otherwise attempted to verify the underlying financial information upon which the review is based.

On the basis of its review and after consideration of its findings, the Board is of the opinion and certifies that, as at March 31, 2016, Skowkale was in compliance with the *Financial Performance Standards*.

The Board has provided Skowkale with a Report and attached Schedule dated March 30, 2017 as required under subsection 50(2) of the Act and upon which the Board's opinion and certification is based.

This Certificate has been issued to Skowkale under subsection 50(3) of the Act solely for the purpose of enabling Skowkale to satisfy the requirements of the Act. It must not be used or relied upon by Skowkale or by any other person for any other purpose and the Board accepts no responsibility for any loss or damages resulting from any unauthorized use of or reliance on this Certificate.

This Certificate is issued on the 30th day of March, 2017.

First Nations Financial Management Board