

**SONGHEES NATION
FINANCIAL ADMINISTRATION LAW, 2017**

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WHEREAS:

A. Pursuant to section 9 of the *First Nations Fiscal Management Act*, the Council of a First Nation may make laws respecting the financial administration of the First Nation; and

B. The Council of the Songhees Nation considers it to be in the best interests of the Nation to make a law for such purposes;

NOW THEREFORE the Council of the Songhees Nation enacts as follows:

PART I - Citation

Citation

1. This Law may be cited as the *Songhees Nation Financial Administration Law, 2017*.

PART II - Interpretation and Application

Definitions

2. (1) Unless the context indicates the contrary, in this Law:

"Act" means the *First Nations Fiscal Management Act*;

"agent" means a person, who may or may not be an employee, who has been appointed by resolution to represent the Nation in dealing with third parties;

"annual budget" means the annual budget of the Nation that has been approved by the Council in accordance with section 27;

"annual financial statements" means the annual financial statements of the Nation referred to in Division 7 of Part IV;

"appropriation" means an allocation of money under an annual budget to the purposes for which it may be used;

"auditor" means the auditor of the Nation appointed under section 75;

"borrowing member" means a First Nation that has been accepted as a borrowing member under subsection 76(2) of the Act and has not ceased to be a borrowing member under section 77 of the Act;

"capital project" means the construction, rehabilitation or replacement of the Nation's tangible capital assets and any other major capital projects funded by local revenues in which the Nation or its related bodies are investors;

“Chair” means the Chair of the FAC, appointed by the Council in accordance with section 13;

“COIP” means the Songhees Nation Conflict of Interest Policy enacted in accordance with this Law;

“Council” means the Council of the Nation;

“Councillor” means a member of the Council and includes the Chief;

“Executive Director” means the person appointed by the Council as the executive director in accordance with section 18;

“entity” means a corporation or a partnership, a joint venture or any other unincorporated association or organization, the financial transactions of which are consolidated in the annual financial statements of the Nation in accordance with GAAP;

“FAC” means the Finance and Audit Committee established under section 12;

“financial administration” means the management, supervision, control and direction of all matters relating to the financial affairs of the Nation;

“financial competency” means the ability to read and understand financial statements that present accounting issues reasonably expected to be raised by the Nation’s financial statements;

“financial institution” means the FNFA, a bank, or a credit union;

“financial records” means all records respecting the financial administration of the Nation, including the minutes of meetings of the Council and the FAC;

“FMB” means the First Nations Financial Management Board established under the Act;

“FMB standards” means the standards established from time to time by the FMB under the Act;

“FNFA” means the First Nations Finance Authority established under the Act;

“FNTC” means the First Nations Tax Commission established under the Act;

“FNTC standards” means the standards established from time to time by the FNTC under the Act;

“fiscal year” means the 12-month period of time that the Nation uses for accounting purposes, set out in section 24;

“GAAP” means generally accepted accounting principles of the Chartered Professional Accountants of Canada, as revised or replaced from time to time;

“GAAS” means generally accepted auditing standards adopted by the Chartered Professional Accountants of Canada, as amended or replaced from time to time;

“guarantee” means a promise or agreement by a person to be liable for the debt or obligation of another person who is primarily responsible for the debt or obligation;

“INAC” means the department of Indigenous and Northern Affairs Canada, and includes a successor department;

“indemnity” means

(a) a promise to make a person whole from specified losses or costs they may suffer, or

(b) payment of compensation to make a person whole from a loss they have already suffered;

“Land Code” means the *Songhees First Nation Land Code* adopted by the Nation under the *First Nations Land Management Act*;

“law of the Nation” means any law, bylaw, Land Code or other enactment that is made by the Council or approved by the members of the Nation;

“local revenue account” means an account with a financial institution into which local revenues are deposited separately from other moneys of the Nation;

“local revenue law” means a local revenue law made by the Nation under the Act;

“local revenues” means money raised under a local revenue law;

“multi-year financial plan” means the plan referred to in section 25;

“Nation” means the Songhees Nation, being a band named in the schedule to the Act;

“Nation official” means a current or former Councillor, officer, or designated employee of the Nation;

“Nation’s financial assets” means all money and other financial assets of the Nation;

“Nation’s lands” means all reserves of the Nation within the meaning of the *Indian Act*, and includes all lands that are or become subject to the Land Code;

“Nation’s records” means all records of the Nation respecting its governance, management, operations and financial administration;

“Nation’s tangible capital assets” mean all non-financial assets of the Nation having physical substance that

- (a) are held for use in the production or supply of goods and services, for rental to others, for administrative purposes or for the development, construction, maintenance or repair of other tangible capital assets,
- (b) have useful economic lives extending beyond one fiscal year,
- (c) are to be used on a continuing basis,
- (d) are not for sale in the ordinary course of operations, and
- (e) have a historical cost of at least \$25 000;

“natural resource” means any material, in its natural state, found on or under the Nation’s lands which, when extracted, has economic value;

“officer” means the Executive Director, SFO, tax administrator and any other employee of the Nation designated by the Council as an officer;

“other revenues” means other revenues as defined in section 3 of the *Financing Secured by Other Revenues Regulations* made under the Act;

“record” means anything on which information is recorded or stored by any means whether graphic, electronic, mechanical or otherwise;

“rehabilitation” includes alteration, extension and renovation but does not include routine maintenance;

“related body” means

- (a) any agency of the Nation,
- (b) any corporation in which the Nation has a material or controlling interest,
- (c) any partnership in which the Nation, an agency of the Nation or a corporation of the Nation is a partner with a material or controlling interest, or
- (d) a trust of the Nation;

“remuneration” means any salaries, wages, commissions, bonuses, fees, honoraria and dividends and any other monetary and non-monetary benefits;

“replacement” includes substitution, in whole or in part, with another of the Nation’s tangible capital assets;

“reportable expenses” includes the costs of transportation, accommodation, meals, hospitality and incidental expenses;

“SFO” means the person appointed senior finance officer under section 19;

“special purpose report” means a report described in section 74; and

“tax administrator” means the person appointed tax administrator under the Nation’s local revenue laws.

(2) Except as otherwise provided in this Law, words and expressions used in this Law have the same meanings as in the Act.

(3) Unless a word or expression is defined under subsection (1) or (2) or another provision of this Law, the definitions in the *Interpretation Act* apply.

(4) Except as otherwise indicated, all references to named enactments in this Law are to enactments of the Government of Canada.

Interpretation

3.(1) In this Law, the following rules of interpretation apply:

- (a) words in the singular include the plural, and words in the plural include the singular;
- (b) if a word or expression is defined, other parts of speech and grammatical forms of the same word or expressions have corresponding meanings;
- (c) unless the context indicates otherwise, “including” means “including, but not limited to”, and “includes” means “includes, but not limited to”;
- (d) where a provision in this Law is expressed in the present tense, the provision applies to the circumstances as they arise;
- (e) headings form no part of this Law and must be construed as being inserted for convenience of reference only; and
- (f) a reference to an enactment includes any amendment or replacement of it and every regulation made under it.

(2) Provisions that apply to an officer, by name of office or otherwise, also apply to any person designated, assigned or delegated under this Law to act in the officer’s place.

(3) The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

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

Notice

4. If a notice must be given under this Law, the notice must be provided at least ten (10) days before the date of the meeting, unless the matter is urgent.

Calculation of Time

5. In this Law, time must be calculated in accordance with the following rules:

(a) where the time limited for taking an action ends or falls on a holiday, the action may be taken on the next day that is not a holiday;

(b) where there is a reference to a number of days, not expressed as "clear days", between two events, in calculating that number of days the day on which the first event happens is excluded and the day on which the second event happens is included;

(c) where a time is expressed to begin or end at, on or within a specified day, or to continue to or until a specified day, the time includes that day;

(d) where a time is expressed to begin after or to be from a specified day, the time does not include that day; and

(e) where anything is to be done within a time after, from, of or before a specified day, the time does not include that day.

Conflict of Laws

6.(1) If there is a conflict between this Law and another law of the Nation, other than a Land Code or a local revenue law, this Law prevails to the extent of the conflict.

(2) If there is a conflict between this Law and the Act, the Act prevails to the extent of the conflict.

(3) If there is a conflict between this Law and the Land Code, the Land Code prevails to the extent of the conflict.

(4) If there is a conflict between this Law and a local revenue law, the local revenue law prevails to the extent of the conflict.

Scope and Application

7. This Law applies to the financial administration of the Nation.

PART III - Administration

DIVISION 1 - Council

Responsibilities of Council

8.(1) The Council is responsible for all matters relating to the financial administration of the Nation whether or not they have been assigned or delegated to an officer, employee, committee, contractor or agent by or under this Law.

(2) The Council must take all reasonable steps to ensure that the Nation hires or retains qualified and competent personnel to carry out the financial administration activities of the Nation.

(3) Subject to paragraph 5(1)(f) of the Act, this Law and any other applicable law of the Nation, the Council may delegate to any of its officers, employees, committees, contractors or agents any of its functions under this Law except:

- (a) the approval of Council policies, procedures or directions;
- (b) the appointment of members, the Chair and the Vice-chair of the FAC;
- (c) the approval of annual budgets and financial statements of the Nation; and
- (d) the approval of borrowing of the Nation.

Council Policies, Procedures and Directions

9.(1) Subject to subsections (2) to (5), the Council may establish policies and procedures and give directions respecting any matter relating to the financial administration of the Nation.

(2) The Council must establish policies or procedures or give directions respecting the acquisition, management and safeguarding of Nation assets.

(3) The Council must establish policies and procedures respecting the avoidance and mitigation of conflicts of interest including the following:

- (a) defining the private interests of Councillors, officers, employees, committee members, contractors and agents that could result in a conflict of interest;
- (b) requiring Councillors to annually disclose relevant information respecting their private interests which could result in a conflict of interest;
- (c) requiring the disclosure of actual or potential conflicts of interest as they arise and keeping of records of such disclosures;

- (d) specifying restrictions on the acceptance of gifts and benefits by any person referred to in paragraph (a) that might reasonably be seen to have been offered in order to influence the making of a decision by that person;
- (e) prohibiting any person referred to in paragraph (a) who has a conflict of interest from attempting to influence a decision or from participating in the making of a decision respecting the matter in which the person has a conflict of interest; and
- (f) specifying how any undisclosed or any alleged but not admitted conflicts of interest of Councillors are to be addressed.

(4) The Council must not establish any policies or procedures or give any directions relating to the financial administration of the Nation that are in conflict with this Law, the Act or GAAP.

(5) The Council must ensure that all human resources policies and procedures are designed and implemented to facilitate effective internal financial administration controls.

(6) The Council must document all its policies, procedures and directions and make them available to any person who is required to act in accordance with them or who may be directly affected by them.

Reporting of Remuneration and Expenses

10. Annually the SFO must prepare a report separately listing the remuneration paid and the reportable expenses reimbursed by the Nation, and by any entity, to each Councillor, whether such amounts are paid to the Councillor while acting in that capacity or in any other capacity.

DIVISION 2 - Finance and Audit Committee

Interpretation

11. For the purposes of section 12, an individual is considered to be independent if the individual does not have a direct or indirect financial relationship with the government of the Nation that could, in the opinion of the Council, reasonably interfere with the exercise of independent judgment as a member of the FAC.

Finance and Audit Committee Established

12.(1) The Finance and Audit Committee is established to provide the Council with advice and recommendations in order to support the Council's decision-making process respecting the financial administration of the Nation.

(2) The Council must appoint not less than three (3) members of the FAC, a majority of whom must have financial competency, and all of whom must be independent.

- (3) The Council must establish policies or procedures or give directions
 - (a) setting criteria to determine if an individual is eligible to be a member of the FAC and is independent;
 - (b) requiring confirmation, before appointment, that each potential member of the FAC is eligible to be a member and is independent; and
 - (c) requiring each member of the FAC annually to sign a statement confirming that they continue to meet the criteria referred to in paragraph (a).
- (4) At least two (2) of the FAC members must be Councillors.
- (5) Subject to subsection (6), the FAC members must be appointed to hold office for staggered terms of not less than three (3) complete fiscal years.
- (6) The Council may terminate the appointment of a member of the FAC for cause, including where a member
 - (a) is convicted of an offence under the *Criminal Code*;
 - (b) breaches this Law or the COIP;
 - (c) has unexcused absences from three (3) FAC meetings; or
 - (d) fails to perform any of their duties under this Law in good faith and in accordance with the terms of this Law.
- (7) If a FAC member is removed from office, resigns or dies before the member's term of office expires, the Council must as soon as practicable appoint a new FAC member to hold office for the remainder of the first member's term of office.
- (8) If a FAC member is unable to attend or participate in a FAC meeting due to personal circumstances or a conflict of interest, and the member's absence will leave the FAC without a quorum, the Council may appoint an alternate member to participate as needed, provided that the person appointed as an alternate member
 - (a) is a Councillor; and
 - (b) satisfies all of the requirements set out in this Law for being a member of the FAC.

Chair and Vice-Chair

13. The Council must appoint a Chair and a Vice-chair of the FAC, both of whom must be Councillors.

FAC Procedures

14.(1) The quorum of the FAC is fifty percent (50%) of the total number of FAC members, including at least one (1) Councillor.

(2) Except where a FAC member is not permitted to participate in a decision because of a conflict of interest, every FAC member has one (1) vote in all FAC decisions.

(3) In the event of a tie vote in the FAC, the Chair, or Vice-chair of the FAC in the absence of the Chair, may cast a second tiebreaking vote.

(4) Subject to subsection (5), the Executive Director and the SFO must be notified of all FAC meetings and, subject to reasonable exceptions, must attend those meetings.

(5) The Executive Director or the SFO may be excluded from all or any part of a FAC meeting by a recorded vote if

(a) the subject matter relates to a confidential personnel or performance issue respecting the Executive Director or the SFO; or

(b) it is a meeting with the auditor.

(6) The FAC must meet

(a) at least once every quarter in each fiscal year as necessary to conduct the business of the FAC; and

(b) as soon as practical after it receives the audited annual financial statements and report from the auditor.

(7) The FAC must provide minutes of its meetings to the Council and report to the Council on the substance of each FAC meeting as soon as practicable after each meeting.

(8) Subject to this Law and any directions given by the Council, the FAC may make rules for the conduct of its meetings.

(9) After consultation with the Executive Director, the FAC may retain a consultant to assist in the performance of any of its responsibilities.

Financial Planning Responsibilities

15.(1) The FAC must carry out the following activities in respect of the financial administration of the Nation:

(a) annually reviewing, and recommending to the Council for approval, the multi-year financial plan;

- (b) reviewing draft annual budgets and recommending them to the Council for approval;
- (c) on an ongoing basis, monitoring the financial performance of the Nation against the annual budget and reporting any significant variations to the Council; and
- (d) reviewing the quarterly financial statements and recommending them to the Council for approval.

(2) The FAC may make a report or recommendations to the Council on any matter respecting the financial administration of the Nation that is not otherwise specified to be its responsibility under this Law.

Audit Responsibilities

16. The FAC must carry out the following audit activities in respect of the financial administration of the Nation:

- (a) making recommendations to the Council on the selection, engagement and performance of an auditor;
- (b) receiving assurances on the independence of a proposed or appointed auditor;
- (c) reviewing and making recommendations to the Council on the planning, conduct and results of audit activities;
- (d) reviewing and making recommendations to the Council on the audited annual financial statements, including the audited annual financial statements respecting the local revenue account and any special purpose reports;
- (e) periodically reviewing and making recommendations to the Council on policies, procedures and directions on reimbursable expenses and benefits of the Councillors, officers and employees of the Nation;
- (f) monitoring financial reporting risks and fraud risks and the effectiveness of mitigating controls for those risks taking into consideration the cost of implementing those controls;
- (g) conducting a review of this Law under section 102 and, where appropriate, recommending amendments to the Council; and
- (h) periodically reviewing and making recommendations to the Council on the terms of reference of the FAC.

Council Assigned Responsibilities

17. The Council may assign to the FAC the following activities in respect of the financial administration of the Nation:

- (a) developing, and recommending to the Council for approval, performance measurements and goals designed to confirm that financial management activities occur as planned;
- (b) reviewing and reporting to the Council on the financial content of any Nation reports;
- (c) reviewing, monitoring, and reporting to the Council on the appropriateness of the Nation's accounting and financial reporting systems, policies and practices;
- (d) reviewing, and recommending to the Council for approval, any proposed significant changes in the Nation's accounting or financial reporting systems, policies, procedures or directions;
- (e) reviewing and reporting to the Council on the Nation's risk management policies and control and information systems and, where appropriate, recommending improvements to the Council;
- (f) reviewing the adequacy of security of information, information systems and recovery plans and, where appropriate, recommending improvements to the Council; and
- (g) reviewing, monitoring and reporting to the Council on the adequacy and appropriateness of the Nation's insurance coverage respecting significant Nation risk.

DIVISION 3 - Officers and Employees

Executive Director

18.(1) The Council must appoint a person as Executive Director of the Nation and may set the terms and conditions of that appointment.

(2) Reporting to the Council, the Executive Director is responsible for leading the planning, organization, implementation and evaluation of the overall management of all the day-to-day operations of the Nation, including the following duties:

- (a) developing and recommending to the Council for approval, human resources policies and procedures for the hiring, management and dismissal of officers and employees of the Nation;
- (b) recommending to the Council, for approval and implementation, human resource policies and procedures that facilitate effective internal financial administration controls;
- (c) preparing and recommending to the Council for approval, descriptions of the powers, duties and functions of all employees of the Nation;
- (d) hiring the employees of the Nation, as the Executive Director considers necessary, and setting the terms and conditions of their employment;

- (e) overseeing, supervising and directing the activities of all officers and employees of the Nation;
 - (f) overseeing and administering the contracts of the Nation;
 - (g) preparing, recommending to the Council and maintaining and revising as necessary the organization chart referred to in section 21;
 - (h) identifying, assessing, monitoring and reporting on financial reporting risks and fraud risks;
 - (i) monitoring and reporting on the effectiveness of mitigating controls for the risks referred to in paragraph (h) taking into consideration the cost of implementing those controls;
 - (j) liaising with legal counsel, government officials, and contractors and agents of the Nation;
 - (k) performing any other duties of the Executive Director under this Law; and
 - (l) carrying out any other activities specified by the Council that are not contrary to the Act or inconsistent with the Executive Director's duties specified in this Law.
- (3) The Executive Director may assign the performance of any of the Executive Director's duties or functions
- (a) to an officer or employee of the Nation; and
 - (b) with the approval of the Council, to a contractor or agent of the Nation,
- provided that the person reports directly to the Executive Director or, in the absence of the Executive Director, to the Council.
- (4) Any assignment of duties or functions under subsection (3) does not relieve the Executive Director of the responsibility to ensure that these duties or functions are carried out properly.

Senior Finance Officer

19.(1) The Council must appoint a person as SFO of the Nation and may set the terms and conditions of that appointment.

(2) Reporting to the Council, with communication and accountability to the Executive Director, the SFO is responsible for the day-to-day management of the systems of the financial administration of the Nation, including the following duties:

- (a) ensuring the financial administration systems, policies, procedures, directions and internal controls are appropriately designed and operating effectively;
- (b) administering and maintaining all charts of accounts of the Nation;
- (c) preparing the draft annual budgets, subject to paragraph 20(3)(b), and, with advice and input from the tax administrator, preparing any draft amendments for the component of the annual budget respecting the Nation's local revenue account;
- (d) preparing the monthly financial information required in section 70, the quarterly financial statements required in section 71 and the draft annual financial statements required in section 72 and 73;
- (e) preparing the financial components of reports to the Council and of the multi-year financial plan referred to in subsection 15(1);
- (f) actively monitoring compliance with any agreements and funding arrangements entered into by the Nation;
- (g) administering and supervising the preparation and maintenance of financial records and the financial administration reporting systems;
- (h) administering and supervising the maintenance of the records of all receipts and expenditures of the Nation to facilitate the annual audit;
- (i) actively monitoring compliance with the Act, this Law, any other applicable law of the Nation, applicable standards and any policies, procedures and directions of the Council respecting the financial administration of the Nation;
- (j) preparing or providing any documentation and financial information required by the Council or the FAC to discharge their responsibilities;
- (k) evaluating the financial administration systems of the Nation and recommending improvements;
- (l) developing and recommending procedures to the Council for the safeguarding of assets and ensuring approved procedures are followed;
- (m) developing and recommending to the Council procedures for identifying and mitigating financial reporting and fraud risks and ensuring approved procedures are followed;
- (n) performing any other duties of the SFO under this Law; and
- (o) carrying out any other activities specified by the Executive Director that are not contrary to the Act or inconsistent with the SFO's duties under this Law.

(3) With the approval of the Executive Director, the SFO may assign the performance of any of the duties or functions of the SFO to any officer, employee, contractor or agent of the Nation, but this assignment does not relieve the SFO of the responsibility to ensure that these duties or functions are carried out properly.

Tax Administrator

20.(1) The Council must, under its local revenue laws, appoint a person as tax administrator of the Nation and may set the terms and conditions of that appointment.

(2) Reporting to the Executive Director, the tax administrator is responsible for performing the tax administrator's duties or functions under the Nation's local revenue laws, the Act, and under this Law.

(3) In addition to any duties or functions under the Nation's local revenue laws and the Act, the tax administrator is responsible for the day-to-day management of the local revenue system of the Nation including the following duties:

- (a) managing local revenues and administering and maintaining the Nation's local revenue account, subject to paragraph 19(2)(b);
- (b) preparing, in consultation with the SFO, the draft and amended budgets for the component of the annual budget respecting the Nation's local revenue account;
- (c) recommending to the SFO the local revenues components of the multi-year financial plan;
- (d) on request, providing advice to the Executive Director, SFO, FAC and the Council respecting local revenues matters;
- (e) monitoring compliance with the Act, the Nation's local revenue laws and this Law in the administration of local revenues and the local revenue account;
- (f) evaluating the local revenue system of the Nation and recommending improvements to the Executive Director; and
- (g) performing any other duties of the tax administrator under the Nation's local revenue laws, the Act, or this Law.

(4) With the approval of the Executive Director, the tax administrator may assign the performance of any of the duties or functions of the tax administrator to any officer, employee, contractor or agent of the Nation, but this assignment does not relieve the tax administrator of the responsibility to ensure that these duties or functions are carried out properly.

Organization Chart

21.(1) The Council must establish and maintain a current organization chart for the governance, management and administrative systems of the Nation that includes the following information:

- (a) all governance, management and administrative systems of the Nation;
- (b) the organization of the systems described in paragraph (a), including the linkages between them;
- (c) the specific roles and responsibilities of each level of the organization of the systems described in paragraph (a); and
- (d) all governance, management and administrative positions at each level of the organization of the systems described in paragraph (a), including
 - (i) the membership on the Council, FAC and all other committees of the Council,
 - (ii) the Executive Director, the SFO, the tax administrator and other officers of the Nation, and
 - (iii) the principal lines of authority and the responsibility between the Council, the committees referred to in subparagraph (i) and the officers referred to in subparagraph (ii).

(2) On request, the Executive Director must provide a copy of the organization chart under subsection (1) to a Councillor, a member of a committee referred to in subparagraph (1)(d)(i), an officer, employee or contractor or agent of the Nation and a member of the Nation.

DIVISION 4 - Conduct Expectations

Conduct of Councillors

22.(1) When exercising a power, duty or responsibility relating to the financial administration of the Nation, a Councillor must

- (a) comply with this Law, the Act, any other applicable law of the Nation and any applicable standards;
- (b) act honestly, in good faith and in the best interests of the Nation;
- (c) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances; and
- (d) avoid conflicts of interest and comply with the requirements of the COIP, including required annual disclosures of private interests.

(2) If it has been determined under this Law or by a court of competent jurisdiction that a Councillor has contravened this section,

- (a) the Councillor must be removed from the FAC in accordance with subsection 12(6), if applicable; and
- (b) the Nation may use any legal means available to remedy the situation.

Conduct of Officers, Employees, Contractors and Agents

23.(1) Any

- (a) officer, employee, contractor and agent of the Nation,
- (b) person acting under the delegated authority of the Council or the Nation, or
- (c) member of a committee of the Council or the Nation who is not a Councillor,

who exercises a power, duty or responsibility relating to the financial administration of the Nation must

- (d) comply with this Law, the Act, any other applicable law of the Nation and any applicable standards,
- (e) comply with all policies, procedures and directions of the Council, and
- (f) avoid conflicts of interest and comply with any applicable requirements of the COIP, including required disclosure of potential conflicts of interest.

(2) The Council must incorporate the relevant provision of this section into

- (a) the terms of employment or appointment of every officer or employee of the Nation;
- (b) the terms of every contract of a contractor of the Nation;
- (c) the terms of appointment of every member of a committee who is not a Councillor; and
- (d) the terms of appointment of every agent of the Nation.

(3) If a person contravenes subsection (1), the following actions may be taken:

- (a) an officer or employee may be disciplined, including dismissal;
- (b) a contractor's contract may be terminated;
- (c) the appointment of a member of a committee may be revoked; or

- (d) the appointment of an agent may be revoked.

PART IV - Financial Management

DIVISION 1 - Financial Plans and Annual Budgets

Fiscal Year

- 24.** The fiscal year of the Nation is April 1 to March 31 of the following year.

Multi-year Financial Plan

- 25.** No later than March 31 of each year, the Council must approve a multi-year financial plan that

- (a) has a planning period of five (5) years comprised of the current fiscal year and the four (4) succeeding fiscal years;
- (b) is based on the projections of revenues, expenditures and transfers between accounts;
- (c) sets out projected revenues, segregated by significant category;
- (d) sets out projected expenditures, segregated by significant category;
- (e) in respect of transfers between accounts, sets out the amounts from the tangible capital asset reserve account;
- (f) shows all categories of restricted cash; and
- (g) indicates whether in any of the five (5) years of the plan a deficit or surplus is expected from the projection of revenues and expenditures for that year.

Content of Annual Budget

- 26.(1)** The annual budget must encompass all the operations for which the Nation is responsible and must identify

- (a) anticipated revenues, segregated by significant category, with estimates of the amount of revenue from each category;
- (b) anticipated expenditures, segregated by significant category, with estimates of the amount of expenditure for each category; and
- (c) any anticipated annual and accumulated surplus or annual and accumulated deficit and the application of year-end surplus.

(2) The revenue category of moneys derived from the Nation's lands must be shown separately in the annual budget from other revenues and must include a sub-category for revenues from natural resources obtained from the Nation's lands.

Budget and Planning Process Schedule

27.(1) On or before February 1 of each year, each director must prepare and submit, to the Executive Director and to the SFO, a preliminary work plan and budget for their division for the next fiscal year.

(2) On or before March 1 of each year, the SFO must prepare and submit to the FAC for review a draft annual budget and a draft multi-year financial plan for the next fiscal year, which documents must be based, in part, on the work plans and budgets referenced in subsection (1).

(3) On or before March 15 of each year, the FAC must review

(a) the draft annual budget and recommend an annual budget to the Council for approval, and

(b) the draft multi-year financial plan and recommend a multi-year financial plan to the Council,

and may recommend to the Council revisions to the annual budget and financial plan.

(4) On or before March 31 of each year, the Council must review and approve the annual budget for the Nation for the next fiscal year.

(5) In the event that there is a material variance in the forecasted revenues or expenditures respecting local revenues,

(a) the tax administrator, in consultation with the SFO, must prepare and submit to the FAC for review a draft amendment of the component of the annual budget respecting the Nation's local revenue account, on or before June 15;

(b) the FAC must review the draft amendment of the component of the annual budget respecting the Nation's local revenue account and recommend an amendment to the annual budget to the Council for approval, on or before June 30; and

(c) the Council must approve the amendment of the component of the annual budget respecting the Nation's local revenue account, on or before July 15.

Additional Requirements for Budget Deficits

28. If a draft annual budget contains a proposed deficit, the Council must ensure that

(a) the multi-year financial plan of the Nation demonstrates how and when the deficit will be addressed and how it will be serviced; and

- (b) the deficit does not have a negative impact on the credit-worthiness of the Nation.

Amendments to Annual Budgets

29.(1) The annual budget of the Nation must not be changed without the approval of the Council.

(2) Subject to subsection 27(5) and sections 37 and 38, unless there is a substantial change in the forecasted revenues or expenses of the Nation or in the expenditure priorities of the Council, the Council must not approve a change to the annual budget of the Nation.

Local Revenue Account Budget Requirements

30. Despite any other provisions of this Law, any part of a budget relating to local revenues must be prepared, approved and amended in accordance with applicable provisions of the Act and of the FNTC standards.

Informing and Involving Members of the Nation

31.(1) As soon as practicable after their approval, the Council must present the annual budget and the multi-year financial plan to the members of the Nation at a community meeting.

(2) The Council must provide notice to the members of the Nation of

- (a) annual budget deficits and extraordinary expenditures,
- (b) capital projects,
- (c) borrowing for new capital projects described in subsection 91(2), and
- (d) proposed amendments to this Law.

(3) A notice provided under subsection (2) must state whether and how members of the Nation may be involved in the decision, and must be

- (a) posted in the reception area of the administration office, and
- (b) published in the Nation's newsletter.

DIVISION 2 - Financial Institution Accounts

Financial Institution Accounts

32.(1) No account may be opened for the receipt and deposit of money of the Nation unless the account is

- (a) in the name of the Nation;

(b) opened in a financial institution; and

(c) authorized by the Council, on the recommendation of the SFO.

(2) Where moneys exist, the Nation must establish the following accounts in a financial institution:

(a) a general account for money from any sources other than those described in paragraphs (b) to (e);

(b) a separate local revenue account for money from local revenues;

(c) a trust account;

(d) a land and resources account for money from revenues from the Nation's lands; and

(e) a tangible capital asset reserve account for money set aside for purposes of section 88.

(3) On the recommendation of the SFO the Council may establish any other accounts not referred to in subsection (2) as may be necessary and appropriate to manage the Nation's financial assets.

Accounts Management

33.(1) The SFO must exercise due diligence to ensure the safekeeping of all money received by the Nation.

(2) The SFO must ensure that all money received by the Nation is deposited as soon as practicable into the appropriate accounts described in section 32.

(3) No payment of money from an account described in section 32 may be authorized unless the payment relates to the subject matter for which the account was established and is otherwise authorized or permitted under this Law.

DIVISION 3 - Expenditures

Prohibited Expenditures

34.(1) Money or financial assets in a trust account must not be used for a purpose other than that permitted under the terms of the trust.

(2) Money in a local revenue account must not be used for any purpose other than that authorized in a local revenue law or permitted under section 13.1 of the Act.

(3) Money in a tangible capital asset reserve account must not be used for any purpose other than that described in Part V.

Prohibited Agreements

35. The Nation must not enter into an agreement or undertaking that requires the Nation to expend money that is not authorized by or that contravenes this Law, a local revenue law or the Act.

No Expenditure Without Appropriation

36.(1) Subject to sections 37 and 38, money must not be paid out of any account unless the expenditure is authorized under an appropriation.

(2) Subsection (1) does not apply to expenditures from a trust account where the expenditure is authorized under the terms of the trust.

Extraordinary Expenditures

37. Notwithstanding subsection 36(1), the Council may authorize an expenditure of up to 5% of the annual budget for a reasonable purpose that was not and could not have been anticipated in the annual budget if the expenditure is not expressly prohibited by or under this law or another law of the Nation.

Emergency Expenditures

38. Notwithstanding subsection 36(1), the Council may authorize an expenditure for an emergency purpose that was not anticipated in the annual budget if the expenditure is not expressly prohibited by or under this law or another law of the Nation.

Appropriations

39.(1) An amount that is appropriated in an annual budget must not be expended for any purpose other than that described in the appropriation.

(2) The total amount expended by the Nation in relation to an appropriation must not exceed the amount specified in the annual budget for the Nation for that appropriation.

(3) Every person who is responsible for managing an appropriation must establish and maintain a current record of commitments chargeable to that appropriation.

Payments after Fiscal Year-end

40.(1) Money appropriated in an annual budget for a fiscal year must not be expended after the end of the fiscal year except to discharge a liability incurred in that fiscal year.

(2) If the liabilities for an appropriation under subsection (1) exceed the unexpended balance of the appropriation at the end of the fiscal year, the excess must be

(a) charged against a suitable appropriation for the following fiscal year; and

- (b) reported in the financial statements for the fiscal year in which the liability was incurred.

Requisitions for Payment

41.(1) No money may be paid out of any account without

- (a) a requisition for payment as required under this section; or
 - (b) the existence of an annual or ongoing contract for goods or services, the payments under which have been approved by the SFO.
- (2) No requisition may be made or given for a payment of money unless it is a lawful charge against an appropriation or an authorized use of money in a trust.
- (3) No requisition may be made or given for payment of money that results in expenditures from a trust account in excess of the unexpended balance of the trust account.
- (4) No requisition may be made or given for payment of money that reduces the balance available in an appropriation or trust account so that it is not sufficient to meet the commitments chargeable against it.
- (5) A requisition may apply to one or more expenditures chargeable against one or more appropriations.
- (6) A requisition must identify the appropriation or trust account out of which payment is to be made.
- (7) If a requisition is for the payment of performance of work or services or the supply of goods, the requisition must include a statement certifying that
- (a) the work or services have been performed or the goods supplied, any conditions in an agreement respecting the work, services or goods have been met and the price charged or amount to be paid is in accordance with an agreement or, if not specified by agreement, is reasonable; or
 - (b) if payment is to be made before completion of the work or services, delivery of the goods or satisfaction of any conditions in an agreement, the payment is in accordance with the agreement.
- (8) The tax administrator must authorize payment out of a local revenue account.
- (9) Subject to subsection (8), the Executive Director may authorize a payment out of, or sign a requisition for payment from, any appropriation.

(10) Subject to subsections (8) and (9), a person who is responsible for managing an appropriation may authorize payment out of, or sign a requisition for payment from, the appropriation.

Form of Payment

42. Payments by the Nation may be made by cheque, draft, electronic transfer, purchase order, credit card, or other approved payment method, in accordance with policies or procedures established by the Council.

DIVISION 4 - General Matters

Advances

43.(1) The Executive Director may approve an advance to prepay expenses that are chargeable against an appropriation in the current fiscal year or an appropriation in the next fiscal year.

(2) The tax administrator may approve an advance to prepay expenses that are chargeable against an appropriation from local revenues in the current fiscal year or an appropriation from that account in the next fiscal year.

Holdbacks

44. If the Nation withholds an amount payable under an agreement, the payment of the amount withheld must be charged to the appropriation from which the agreement must be paid even if the fiscal year for which it was appropriated has ended.

Deposit Money

45.(1) Money received by the Nation as a deposit to ensure the doing of any act or thing must be held and disposed of in accordance with

- (a) the agreement under which the deposit has been paid; and
- (b) in the absence of any provisions respecting that matter, any policy or directions of the Council.

(2) The Council must make policies or procedures or give directions in respect of the disposition of deposit money referred to in subsection (1).

Interest

46.(1) All interest earned on

- (a) a trust account must be retained in that account;
- (b) the local revenue account must be retained in that account; and

(c) the tangible capital asset reserve account must be retained in that account.

(2) Subject to the *Interest Act*, the Nation may charge interest at a rate set from time to time by the Council on any debts or payments owed to the Nation that are overdue.

Write Off and Extinguishment of Debts

47. All or part of a debt or obligation owed to the Nation may be written off or extinguished only if approved by the Council.

Year-end Surplus

48.(1) Subject to subsections (2) and (3), an operating surplus at the end of the fiscal year that is maintained in a bank account other than the general account referred to in paragraph 32(2)(a) may, at the Council's discretion, be paid into the general account described in paragraph 32(2)(a).

(2) An operating surplus in the local revenue account at the end of the fiscal year must be retained in that account.

(3) An operating surplus in the tangible capital asset reserve account at the end of the fiscal year must be retained in that account.

DIVISION 5 - Borrowing

Limitations on Borrowing

49.(1) Except as specifically authorized in this Law or in a local revenue law, the Nation must not borrow money or grant security.

(2) Subject to this Law, if the Nation is authorized in this Law to borrow money or grant security, the Council may authorize the borrowing of moneys or granting of security in the name of the Nation.

Borrowing for Ordinary Operations

50.(1) The Nation may incur trade accounts or other current liabilities payable within normal terms of trade for expenditures provided for in the annual budget for the fiscal year.

(2) The Nation may enter into agreements with financial institutions for overdrafts or lines of credit and, for the purpose of securing any overdrafts or lines of credit, may grant security to the financial institution in a form, amount, and on terms and conditions that the Council approves.

(3) The Nation may enter into a general security agreement or a lease for the use or acquisition of lands, materials or equipment required for the operation, management or administration of the Nation.

Financial Agreements

51.(1) The Council may enter into the following agreements in the name of the Nation:

- (a) for the purpose of efficient management of the Nation's financial assets, agreements with financial institutions and related services agreements; and
- (b) for the purpose of reducing risks or maximizing benefits in relation to the borrowing, lending or investing of the Nation's financial assets, agreements with financial institutions respecting currency exchange, spot and future currency, interest rate exchange and future interest rates.

(2) Unless otherwise specified by the Council, the SFO may enter into any agreements referred to in subsection (1) on behalf of the Nation.

Borrowing for Authorized Expenditures

52.(1) If the general account described in paragraph 32(2)(a) is not sufficient to meet the expenditures authorized to be made from it and the SFO recommends that money be borrowed to ensure that the general account is sufficient for these purposes, the Council may, on behalf of the Nation, borrow an amount not exceeding a maximum amount specified by the Council and to be repaid within a specified period of time.

(2) Despite the repayment terms specified in subsection (1), if the money borrowed under subsection (1) is no longer required for the purpose for which it was borrowed, the money must be repaid as soon as possible.

Borrowing Member Requirements

53. If the Nation is a borrowing member, then

- (a) if the Nation has obtained long-term financing secured by property taxes from the FNFA, the Nation must not subsequently obtain long-term financing secured by property tax revenues from any other person;
- (b) the Nation may only obtain long-term financing from the FNFA as permitted under its local revenue law and the Act;
- (c) money borrowed under paragraph (b) may only be used for the purposes permitted under the Act; and
- (d) money borrowed by the Nation from the FNFA that is secured by other revenues may only be used for the purposes set out in section 4 of the *Financing Secured by Other Revenues Regulations* made under the Act.

Borrowing for Repayment of Debts

54. The Nation may not borrow money to repay or refinance a debt of the Nation, unless doing so results in a cost savings, or more favourable terms, for the Nation.

Use of Borrowed Money

55.(1) Subject to this section and any local revenue law, money borrowed by the Nation for a specific purpose must not be used for any other purpose.

(2) All or some of the money borrowed for a specific purpose by the Nation and not required to be used immediately for that purpose may be temporarily invested under subsection 63(1) until required for that purpose.

(3) If some of the money borrowed for a specific purpose is no longer required for that purpose, that money must be applied to repay the debt from the borrowing as soon as practicable.

Execution of Security Documents

56.(1) Subject to subsection (2), a security granted by the Nation must be signed by a quorum of the Council.

(2) A security granted by the Nation in respect of local revenues must be signed by a quorum of the Council and by the tax administrator.

Operational Controls

57. The Council must establish policies or procedures or give directions respecting the establishment and implementation of an effective system of internal controls that ensures the orderly and efficient conduct of the Nation's operations.

DIVISION 6 - Risk Management

Limitation on Business Activity

58. (1) Subject to subsections (2) and (3), the Nation must not

- (a) carry on business as a proprietor;
- (b) acquire an interest in a partnership as a general partner; or
- (c) act as a trustee respecting property used for, or held in the course of, carrying on a business.

(2) The Nation may carry on a business that

- (a) is ancillary or incidental to the provision of programs or services or other functions of Nation governance; or
- (b) derives income from the granting of a lease or licence of or is in respect of
 - (i) an interest in, or natural resources on or under, the Nation's lands or lands owned in fee simple by, or in trust for, the Nation, or
 - (ii) any other property of the Nation.
- (3) The Nation may carry on business activities for the primary purpose of profit if the Council determines that the business activities
 - (a) do not result in a material liability for the Nation; or
 - (b) do not otherwise expose the Nation's financial assets, property or resources to significant risk.
- (4) The Council may impose terms and conditions on the conduct of any business activity permitted under this section in order to manage any risks associated with that activity.

Guarantees and Indemnities

59.(1) The Nation must not give a guarantee unless the Council has considered the report of the SFO under subsection (2).

(2) Before the Council authorizes a guarantee under subsection (1), the SFO must prepare a report for Council identifying any risks associated with giving the guarantee and assessing the ability of the Nation to honour the guarantee should it be required to do so.

- (3) The Nation must not give an indemnity unless it is
 - (a) authorized under section 101;
 - (b) necessary and incidental to and included in another agreement to which the Nation is a party; or
 - (c) in relation to a security granted by the Nation that is authorized under this Law or another Law of the Nation.
- (4) Subject to a resolution described in section 101, the Council must make policies and directions respecting guarantees and indemnities as follows:
 - (a) specifying circumstances under which an indemnity may be given without Council approval;

- (b) designating the persons who may give an indemnity on behalf of the Nation and specifying the maximum amount of any indemnity which may be given by them;
- (c) specifying any terms or conditions under which a guarantee or indemnity may be given; and
- (d) specifying the records to be maintained of all guarantees and indemnities given by the Nation.

Loans

60.(1) The Nation must not make a loan to a member of the Nation or to an entity in which a member of the Nation has an interest.

- (2) The Council must establish policies or procedures or give directions
 - (a) respecting the terms and conditions under which loans may be made, if any, including a requirement that all loans be recorded in a written agreement that provides for proper security for repayment and sets out the terms for repayment of principal and interest; and
 - (b) respecting the effective management of the lending of the Nation's funds and the collecting of funds loaned.

Ministerial Loan Guarantees

61.(1) For greater certainty, nothing in this Law prevents the Council from authorizing a Ministerial Loan Guarantee on a mortgage held by the Nation or a member of the Nation.

- (2) The Council must establish policies or procedures respecting the authorization of Ministerial Loan Guarantees, including
 - (a) criteria for evaluating the ability of the mortgage-holder to make mortgage payments;
 - (b) a requirement for assessing the risk to the Nation; and
 - (c) a requirement for evaluating whether the Ministerial Loan Guarantee could negatively impact the Nation's credit-worthiness, financial position, or status as a borrowing member.

Authority to Invest

62.(1) Except as specifically authorized in this Law or another Law of the Nation, the Nation must not invest the Nation's financial assets.

- (2) If the Nation is authorized in this Law to invest the Nation's financial assets, a quorum of the Council may authorize an investment in accordance with Council policies or procedures.

Approved Investments

63.(1) Money in an account described in section 32 that is not immediately required for expenditures may be invested by the Nation in one or more of the following:

- (a) securities issued or guaranteed by Canada, a province or the United States of America;
- (b) fixed deposits, notes, certificates and other short-term paper of, or guaranteed by, a financial institution, including swaps in United States of America currency;
- (c) securities issued by the FNFA or by a local, municipal or regional government in Canada;
- (d) commercial paper issued by a Canadian company that is rated in the highest category by at least two (2) recognized security-rating institutions;
- (e) any investments a trustee may make under an enactment of a province relating to trustees; or
- (f) any other investments or class of investments prescribed by a regulation under the Act.

(2) Subject to the terms of the trust, money held in trust that is not immediately required for expenditures may be invested by the Nation as permitted under the terms of the trust or under the laws of the jurisdiction in which the majority of the Nation's lands are located.

(3) If the Nation has established an investment account under section 32, the Nation may invest money in that account in

- (a) a company that is incorporated under the laws of Canada or of a province or territory and in which the Nation is a shareholder;
- (b) a trust in which the Nation is a beneficiary;
- (c) securities issued by the FNFA or by a local, municipal or regional government in Canada; or
- (d) a limited partnership in which the Nation is a partner.

(4) Despite any other provision in this section, the Nation may only invest government transfer funds, local revenues and other revenues in the following investments:

- (a) securities issued or guaranteed by Canada or a province;
- (b) securities of a local, municipal or regional government in Canada;
- (c) securities of the FNFA or of a municipal finance authority established by a province;

- (d) investments guaranteed by a bank, trust company or credit union; and
- (e) deposits in a bank or trust company in Canada or non-equity or membership shares in a credit union.

Administration of Investments and Loans

64. If the Nation is authorized to make an investment or loan under this Law, the Council, on the recommendation of the SFO, may do all things necessary or advisable for the purpose of making, continuing, exchanging or disposing of the investment or loan.

Risk Assessment and Management

65.(1) Annually, and more often if necessary, the Executive Director, with input from the officers, must identify and assess any significant risks to the Nation's

- (a) financial assets;
- (b) tangible capital assets; and
- (c) operations.

(2) Annually, and more often if necessary, the Executive Director must report to the FAC on proposed plans to mitigate the risks identified in subsection (1) or, where appropriate, to manage or transfer those risks by agreement with others or by purchasing insurance.

Insurance

66.(1) On recommendation of the Executive Director or SFO, the Council must procure and maintain in force all insurance coverage that is appropriate and commensurate with the risks identified in section 65 and any other risks associated with any assets, property or resources under the care or control of the Nation.

(2) The Council must not cancel any insurance coverage unless

- (a) it is replaced with appropriate coverage; or
- (b) it is no longer necessary under the circumstances.

(3) The Council may purchase and maintain insurance for the benefit of a Councillor or an officer or their personal representatives against any liability arising from that person being or having been a Councillor or an officer.

Fraud Risks

67. The Council must establish procedures for the identification and assessment of the following types of potential fraud in the Nation:

- (a) intentional acts in financial reporting that are designed to deceive the users of the financial reports, and which may result in material omissions from or misstatements of financial reports;
- (b) intentional acts in non-financial reporting that are designed to deceive the users of the non-financial reports;
- (c) thefts of the Nation's assets in circumstances where the thefts may result in material omissions from or misstatements in financial reports; and
- (d) corruption and illegal acts.

DIVISION 7 - Financial Reporting

GAAP

- 68.** All accounting practices of the Nation must comply with GAAP.

Separate Accounting

69.(1) The SFO must account for local revenues of the Nation separately from other moneys of the Nation.

(2) If the Nation has a loan from the FNFA that is secured by other revenues, the SFO must

- (a) account for all other revenues of the Nation separately from other moneys of the Nation; and
- (b) provide the FNFA or the FMB, on its request, with accounting information respecting the other revenues.

Monthly Financial Information

70. No more than forty-five (45) days following the end of each month, the SFO must prepare, and provide to the Council and the FAC, financial information respecting the financial affairs of the Nation, in the form and with the content approved by the Council on the recommendation of the FAC.

Quarterly Financial Statements

71.(1) No more than forty-five (45) days following the end of each quarter of the fiscal year, the SFO must prepare, and provide to the Council and the FAC, financial statements for the Nation for that quarter, in the form and with the content approved by the Council on the recommendation of the FAC.

(2) The quarterly financial statements in subsection (1) must be

- (a) reviewed by the FAC and recommended to Council for approval; and
- (b) reviewed and approved by the Council.

Annual Financial Statements

72.(1) At the end of each fiscal year the SFO must prepare the annual financial statements of the Nation for that fiscal year in accordance with GAAP and to a standard that is at least comparable to that generally accepted for governments in Canada.

(2) The annual financial statements must be prepared in a form approved by the Council on the recommendation of the FAC.

(3) The annual financial statements must include the following information:

- (a) the financial information of the Nation for the fiscal year;
- (b) the local revenue account annual financial statements referred to in section 73; and
- (c) the revenue categories for the Nation's lands referred to in subsection 26(2).

(4) The SFO must provide draft annual financial statements to the FAC for review within forty-five (45) days following the end of the fiscal year for which they were prepared.

(5) The FAC must present draft annual financial statements to the Council for review within sixty (60) days following the end of the fiscal year for which they were prepared.

Local Revenues Annual Financial Statements

73. The SFO must prepare separate annual financial statements respecting the Nation's local revenues in accordance with FMB standards respecting financial reporting of local revenues.

Special Purpose Reports

74. The SFO must prepare the following special purpose reports:

- (a) a report setting out all payments made to honour guarantees and indemnities for that fiscal year;
- (b) a report setting out the information required in section 10;

- (c) a report setting out all debts or obligations forgiven by the Nation;
- (d) a report setting out moneys of the Nation derived from the Nation's lands, categorized and shown separately from other revenues and that includes a sub-category respecting revenues from natural resources obtained from the Nation's lands; and
- (e) any other report required under the Act or an agreement.

Appointment of Auditor

75.(1) The Nation must appoint an auditor for each fiscal year to hold office until the later of

- (a) the day after the date the Council approves the audited financial statements for that fiscal year; or
- (b) the date the auditor's successor is appointed.

(2) The terms and conditions of the appointment of the auditor must be set out in an engagement letter approved by the FAC and signed by a quorum of the Council, and must include the auditor's obligation

- (a) to confirm in writing that the annual financial statements and the audit of them comply with this Law, the Act, and, FMB standards, where applicable; or
- (b) to the extent they are not in compliance, to identify in writing consequential non-compliance matters.

(3) To be eligible for appointment as the auditor of the Nation, an auditor must

- (a) be independent of the Nation, its related bodies, Councillors and officers and members; and

(b) be a public accounting firm or public accountant

(i) in good standing with the Chartered Professional Accountants of Canada, the Certified General Accountants Association of Canada or the Society of Management Accountants of Canada and their respective counterparts in the province or territory in which the public accounting firm or public accountant is practicing, and

(ii) licensed or otherwise authorized to practice public accounting in British Columbia.

(4) If the auditor ceases to be independent, the auditor must as soon as practicable after becoming aware of the circumstances

- (a) advise the Nation in writing of the circumstances; and

- (b) eliminate the circumstances that resulted in loss of independence or resign as the auditor.

Auditor's Authority

76.(1) To conduct an audit of the annual financial statements of the Nation, the auditor must be given access to

- (a) all of the Nation's records for examination or inspection and given copies of these records on request; and
- (b) any Councillor, officer, employee, contractor or agent of the Nation to ask any questions or request any information.

(2) On request of the auditor, every person referred to in paragraph (1)(b) must

- (a) make available all records referred to in paragraph (1)(a) that are in that person's care or control; and
- (b) provide the auditor with full information and explanation about the affairs of the Nation as necessary for the performance of the auditor's duties.

(3) The auditor must be given notice and minutes of

- (a) every meeting of the FAC; and
- (b) the Council meeting where the annual audit, including the annual financial statements, will be considered and approved.

(4) Subject to subsection (6), the auditor may attend any meeting for which he or she must be given notice under this section or to which the auditor has been invited and must be given the opportunity to be heard at those meetings on issues that concern the auditor as auditor of the Nation.

(5) The auditor may communicate with the FAC, as the auditor considers appropriate, to discuss any subject that the auditor recommends be considered by the FAC.

(6) The auditor may be excluded from all or any part of a meeting of the FAC or the Council by a recorded vote if the subject matter relates to the retaining or dismissal of the auditor.

Audit Requirements

77.(1) Within one hundred and twenty (120) days of the end of each fiscal year, the auditor must audit the annual financial statements of the Nation referred to in both subsections 72(1) and 73(1), in accordance with GAAS and with any applicable INAC reporting requirements.

- (2) When conducting the audit, the auditor must provide
 - (a) an audit opinion of the annual financial statements; and
 - (b) review comments on the special purpose reports referred to in section 74.

Review of Audited Annual Financial Statements

78.(1) The audited annual financial statements referred to in subsection 77(1) must be provided to the FAC for its review and consideration not more than one hundred and five (105) days after the fiscal year-end for which the statements were prepared.

(2) The Council must review and approve the audited annual financial statements not more than one hundred and twenty (120) days after the end of the fiscal year for which the statements were prepared.

Access to Annual Financial Statements

79.(1) Before the annual financial statements referred to in subsection 77(1) may be published or distributed, they must

- (a) be approved by the Council;
- (b) be signed by
 - (i) a quorum of the Council, including the Chief of the Nation,
 - (ii) the Chair, and
 - (iii) the SFO; and
- (c) include the auditor's audit report of the annual financial statements.

(2) The audited annual financial statements referred to in subsection 72(1) must be available for inspection by members of the Nation at the principal administrative offices of the Nation during normal business hours.

(3) In accordance with subsection 14(2) of the Act, the audited annual financial statements respecting local revenues referred to in section 73 must be available for inspection at the principal administrative offices of the Nation during normal business hours by:

- (a) the members of the Nation;
- (b) any other persons who have an interest in, or the right to occupy, possess or use the Nation's lands;
- (c) the FNTC, the FMB and the FNFA; and

- (d) the Minister responsible for INAC.

Annual Report

80.(1) Not later than one hundred and eighty (180) days after the end of each fiscal year, the Council must prepare an annual report on the operations and financial performance of the Nation for the previous fiscal year, which includes the following:

- (a) a description of the services and operations of the Nation;
 - (b) a progress report on any established financial objectives and performance measures of the Nation;
 - (c) all audited annual financial statements referred to in subsection 77(1) for the previous fiscal year; and
 - (d) any special purpose reports referred to in section 74, including the auditor's report or review engagement report, as applicable.
- (2) The Executive Director must ensure that the annual report referred to in subsection (1) is
- (a) made available to members of the Nation at the principal administrative offices of the Nation during normal business hours;
 - (b) provided in paper or electronic format to a member of the Nation as soon as practicable after a request is made by the member; and
 - (c) provided in paper or electronic format to the FMB, and to the FNFA if the Nation is a borrowing member.
- (3) The Executive Director must establish and maintain a register for the annual report that identifies all members of the Nation who have requested a copy of the annual report, and includes:
- (a) the date each request was received; and
 - (b) the date the annual report was provided or made available to the member.
- (4) If a member requested a copy of the annual report and the Executive Director does not provide the annual report to the member in a timely manner, the member may apply to the Council to request a copy of the report.
- (5) The Executive Director must report quarterly to the FAC on the steps taken to ensure compliance with subsections (2) to (4).

DIVISION 8 - Information and Information Technology

Ownership of Records

81.(1) All records that are produced by or on behalf of the Nation or kept, used or received by any person on behalf of the Nation are the property of the Nation.

(2) The Council must establish policies or procedures or give directions to ensure that the records referred to in subsection (1) remain the property of the Nation.

Operations Manual

82.(1) The Executive Director must prepare and maintain a current operations manual respecting every element of the Nation's administrative systems, including any financial administration systems referred to in this Law.

(2) The operations manual under subsection (1) must be made available to Councillors, members of the FAC and all other Council committees and officers and employees of the Nation.

(3) If any part of the operations manual under subsection (1) is relevant to the services being provided by a contractor or agent of the Nation, that part of the operations manual must be made available to the contractor or agent.

Record Keeping and Maintenance

83.(1) The Executive Director must ensure that the Nation prepares, maintains, stores and keeps secure all of the Nation's records that are required under this Law or any other applicable law.

(2) The Nation's records may not be destroyed or disposed of except as permitted by, and in accordance with, this Law, any other applicable law, and the policies, procedures or directions of the Council.

(3) All financial records of the Nation must be stored for at least seven (7) years after they were created.

(4) The Council must establish policies and procedures or give directions respecting access of any person to the Nation's records.

Account Records

84.(1) The tax administrator must prepare, maintain, store and keep secure a complete set of all records respecting the local revenue system of the Nation, including all records referred to in section 5 of the *Revenue Management Implementation Regulations*.

(2) If the Nation has a loan from the FNFA that is secured by other revenues, the SFO must prepare, maintain, store and keep secure a complete set of all records respecting other revenues of the Nation, including all records referred to in section 5 of the *Revenue Management Implementation Regulations* as amended by the *Financing Secured by Other Revenues Regulations*.

Confidentiality of Information

85.(1) No person may be given access to the Nation's records containing confidential information except as permitted by, and in accordance with, the policies, procedures and directions of the Council.

(2) All persons who have access to the Nation's records must comply with all policies, procedures or directions of the Council respecting the confidentiality, control, use, copying or release of that record or information contained in those records.

Information Technology

86. The Council must establish policies or procedures or give directions respecting information technology used by the Nation in its operations to ensure the integrity of the Nation's financial administration system and its database.

PART V - Capital Projects

Council General Duties

87. The Council must take reasonable steps to ensure that

- (a) the Nation's tangible capital assets are maintained in a good and safe condition and to the same standard as a prudent owner of those assets;
- (b) the rehabilitation or replacement of the Nation's tangible capital assets is in accordance with a life-cycle management program described in this Part; and
- (c) capital projects for the construction of buildings or other improvements are financed, planned and constructed in accordance with procedures and to standards that generally apply to the financing, planning and construction of public buildings and other improvements of organized communities in the region in which the majority of the Nation's lands are located.

Tangible Capital Assets Reserve Fund

88. The Council must establish a tangible capital asset reserve fund for the purpose of funding expenditures for capital projects carried out under this Part.

Reports on Capital Projects

89. At least quarterly, the Executive Director must report to the FAC on the following subjects:

- (a) the status of each capital project, including
 - (i) year to date borrowings, loans and payments,
 - (ii) a comparison of expenditures to date with the project budget,
 - (iii) a detailed description of any identified legal, financial, technical, scheduling or other problems, and
 - (iv) the manner in which a problem identified in subparagraph (iii) has been or will be addressed; and
- (b) steps taken to ensure compliance with section 91 for every capital project.

Life-cycle Management Program

90.(1) The Executive Director must establish and keep current a register of all the Nation's tangible capital assets that identifies each of these assets and includes the following information:

- (a) location and purpose of the asset;
- (b) ownership and restrictions over ownership of the asset;
- (c) year of acquisition;
- (d) last inspection date of the asset;
- (e) expected life of the asset at the time of acquisition;
- (f) assessment of condition of the asset and its remaining useful life;
- (g) estimated residual value of the asset;
- (h) insurance coverage for the asset; and
- (i) any other information required by the Council.

(2) On or before November 30 of each year, the Executive Director must arrange for the inspection and review of the state of each of the Nation's tangible capital assets to establish or update information respecting the following matters:

- (a) its present use;

- (b) its condition and state of repair;
 - (c) its suitability for its present use;
 - (d) its estimated remaining life;
 - (e) its estimated replacement cost;
 - (f) estimated dates and costs of its required future rehabilitation;
 - (g) a comparison of annual operating and maintenance costs, other than rehabilitation costs, for the last five (5) fiscal years;
 - (h) maintenance records for all periods up to the date of inspection; and
 - (i) property and liability insurance covering the capital asset and its use or operation.
- (3) On or before January 25 of each year, the SFO must prepare and provide to the FAC the following:
- (a) a schedule of annual routine maintenance, other than rehabilitation, for each of the Nation's tangible capital assets for the next fiscal year;
 - (b) five- (5), ten- (10) and twenty- (20) year forecasts of the estimated cost for rehabilitation or replacement of the Nation's tangible capital assets;
 - (c) the proposed budget for rehabilitation of the Nation's tangible capital assets for the next fiscal year, setting out
 - (i) each proposed rehabilitation project and its schedule,
 - (ii) the estimated cost, including contingencies, of each proposed rehabilitation project, and
 - (iii) the estimated amounts and timing of money that is required to carry out each proposed rehabilitation project; and
 - (d) the proposed budget for replacement of the Nation's tangible capital assets for the next fiscal year setting out
 - (i) each proposed replacement project and its schedule,
 - (ii) the description of each asset to be replaced,
 - (iii) the estimated cost, including contingencies, of each proposed replacement project, and

- (iv) the reasons why each proposed acquisition should be regarded as a replacement for the capital asset to be replaced.

Review by FAC

91.(1) Each year, on or before the earlier of

- (a) February 15, or
- (b) INAC's deadline for submitting a capital plan or capital plan update,

the FAC must review the information, schedules and budget prepared under section 89 for the following purposes:

- (c) identifying any means to reduce the costs of each rehabilitation or replacement project included in the proposed budgets;
- (d) knowing the effect that each rehabilitation or replacement project included in the proposed budgets will have on the annual operating costs and routine maintenance costs in future years; and
- (e) determining whether any significant savings might be effected by coordinating the scheduling of projects, deferring any projects or carrying out rehabilitation projects rather than replacement projects.

(2) On or before March 31 of each year, the FAC must review and make recommendations to the Council regarding any plans for new construction of the Nation's tangible capital assets, including the proposed schedule, budget and impact on annual operating costs and routine maintenance costs in future years.

Capital Projects – Contracts and Tenders

92.(1) The Council must establish policies or procedures or give directions respecting the management of capital projects, including the following:

- (a) project planning, design, engineering, safety and environmental requirements;
- (b) project costing, budgeting, financing and approval;
- (c) project and contractor bidding requirements;
- (d) tender, contract form and contract acceptance;
- (e) course of construction insurance;
- (f) project performance guarantees and bonding;

(g) project control, including contract management; and

(h) holdbacks, work approvals, payment and audit procedures.

(2) All of the Nation's capital projects must be managed in accordance with the policies, procedures or directions referred to in subsection (1).

Capital Project Consultants

93. The Executive Director may retain the services of a professional engineer or other consultant to assist the Executive Director, FAC and Council to carry out their obligations under this Part.

PART VI - Miscellaneous

FMB Standards

94.(1) If the Nation is a borrowing member or has a certificate issued by the Board under subsection 50(3) of the Act, the Nation must comply with all the applicable FMB standards.

(2) If the Council becomes aware that the Nation is not complying with a FMB standard referred to in subsection (1), the Council must as soon as practicable take the required actions to bring the Nation into compliance with the FMB standard.

Delegated Authority on Intervention

95. (1) Without limiting section 53 of the Act, if

(a) the Nation is

(i) making local revenue laws under subsection 5(1) of the Act, or

(ii) using its local revenues to secure a loan from the FNFA, and

(b) the Board gives notice to the Nation under section 53 of the Act that third-party management of the Nation's local revenue is required,

the Council delegates to the FMB:

(c) the powers and authorities described in subsection 53(2) of the Act, and

(d) any other of the Council's powers required to give effect to third party management of the Nation's local revenues and local revenue account under the Act.

(2) Without limiting section 53 of the Act as adapted by *the Financing Secured by Other Revenues Regulations*, if

- (a) the Nation is using its other revenues to secure a loan from the FNFA, and
- (b) the FMB gives notice to the Nation under section 53 of the Act that third-party management of the Nations' other revenues is required,

the Council delegates to the FMB

- (c) the powers and authorities described in subsection 53(2) of the Act as adapted by the *Financing Secured by Other Revenues Regulations*, and
- (d) any other of the Council's powers required to give effect to third-party management of the Nation's other revenues under the Act.

Land Management Obligations

96.(1) The Nation must comply with the *First Nations Land Management Act* and the Land Code.

(2) The Council must establish and implement a policy that provides a method consistent with the requirements of the Nation's Land Code for being accountable to members of the Nation for the management of the Nation's lands and for moneys earned from those lands to satisfy paragraph 6(1)(e) of the *First Nations Land Management Act*.

Reports of Breaches and Financial Irregularities

97.(1) Subject to subsections (2) and (3), if any person has reason to believe that

- (a) an expenditure, liability or other transaction of the Nation is not authorized by or under this Law or another law of the Nation,
- (b) there has been a theft, misappropriation or other misuse or irregularity in the funds, accounts, assets, liabilities and financial obligations of the Nation,
- (c) a provision of this Law has been contravened, or
- (d) a person has failed to comply with the COIP,

the person may disclose the circumstances to the Chair, a Councillor, or the Executive Director.

(2) If a Councillor becomes aware of any circumstances described under subsection (1), the Councillor must report them to the Chair, a Councillor, or the Executive Director.

(3) If an officer, employee, contractor or agent of the Nation becomes aware of any circumstances described under subsection (1), the officer, employee, contractor or agent, as the case may be, must report them to the Executive Director, the Chair or a Councillor.

Inquiry into Report

98.(1) If a report is made to the Chair, a Councillor, or the Executive Director under section 97, the person receiving the report must inquire into the circumstances reported and report the findings to the FAC as soon as practicable.

(2) The FAC may make a further inquiry into any findings reported to it under this section but, in any event, must make a report to the Council respecting any circumstances reported to the FAC under this section, including the FAC's recommendations, if any.

Protection of Parties

99.(1) All reasonable steps must be taken by the Executive Director, the Council and the FAC to ensure that the identity of the person who makes a report under subsection 97(3) is kept confidential to the extent practicable in all the circumstances.

(2) A person who makes a report in good faith under subsection 97(3) must not be subjected to any form of reprisal by the Nation or by a Councillor, officer, employee, contractor or agent of the Nation as a result of making that report.

(3) The Executive Director and the Chair must take all necessary steps to ensure that subsection (2) is not contravened and must report any contravention or suspected contravention to the Council.

(4) The Council must establish policies or procedures or give directions

(a) for the recording and safeguarding of reports made under subsection 97(3) and any records prepared during the inquiry or investigation into those reports;

(b) for the inquiry or investigation into reports made under subsection 97(3); and

(c) concerning the fair treatment of a person against whom a report has been made under subsection 97(3).

Liability for Improper Use of Money

100.(1) A Councillor who votes for a resolution authorizing an amount to be expended, invested or used contrary to this Law or the Nation's local revenue law is personally liable to the Nation for that amount.

(2) Subsection (1) does not apply if the Councillor relied on information provided by an officer or employee of the Nation and the officer or employee was guilty of dishonesty, gross negligence or malicious or willful misconduct when providing the information.

(3) An amount owed to the Nation under subsection (1) may be recovered for the Nation by the Nation, a member of the Nation or a person who holds a security under a borrowing made by the Nation.

(4) It is a good defence to any action brought against an officer or employee of the Nation for unauthorized expenditure, investment or use of the Nation's financial assets if it is proved that the officer or employee gave a written and signed warning to the Council that in his or her opinion, the expenditure, investment or use would be unlawful.

Indemnification against Proceedings

101.(1) Subject to subsection (2), the Council may, by resolution, provide an indemnity to a named representative of the Nation, a category of representatives of the Nation or all representatives of the Nation in accordance with the terms specified in the resolution.

(2) The Council may not pay a fine that is imposed as a result of a Nation official's conviction for an offence unless the offence is a strict or absolute liability offence.

Periodic Review and Change of Law

102.(1) On or before September 15 of each year, the FAC must conduct a review of this Law to

(a) determine if it facilitates effective and sound financial administration of the Nation; and

(b) identify any amendments to this Law that may better serve this objective.

(2) If the Nation is a borrowing member, the Nation may only repeal this Law if it replaces it at the same time with another financial administration law which has been reviewed by the FMB and issued a compliance approval under section 9 of the Act.

(3) Any amendment of this Law must be reviewed by the FMB and issued a compliance approval under section 9 of the Act.

Provision of Law to FNFA

103. The Council must provide a copy of this Law to the FNFA as soon as practicable after the FMB approves the Law.

Repeal

104. The *Songhees Nation Financial Administration Law, 2014*, is hereby repealed in its entirety.

Coming into Force

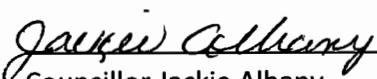
105. This Law comes into force on the day after it is approved by the FMB, pursuant to section 9 of the Act.

THIS LAW IS HEREBY DULY ENACTED by the Council on the 15 day of MARCH, 2017, at Victoria, in the Province of British Columbia at a duly called and conducted Council meeting at which the required quorum of four (4) members of Council was present throughout.



Chief Ron Sam

Councillor Garry Albany



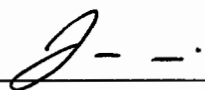
Councillor Jackie Albany



Councillor Frank George



Councillor Karen Tunkara



Councillor John Rice Jr.