

Ministre des Affaires indiennes et  
du Nord canadien et interlocuteur fédéral  
auprès des Métis et des Indiens non inscrits



Minister of Indian Affairs and  
Northern Development and Federal Interlocutor  
for Métis and Non-Status Indians

Ottawa, Canada K1A 0H4

I, the Minister of Aboriginal Affairs and Northern Development, HEREBY APPROVE, pursuant to section 83 of the *Indian Act*, the following by-law made by the Homalco First Nation, in the Province of British Columbia, at a meeting held on the 27th day of June 2011.

- **Homalco First Nation  
Financial Administration By-law No. 1**

A handwritten signature in blue ink, appearing to read 'J. Man...'.

Dated at Ottawa, Ontario, this 1st day of March 2012.

**HOMALCO FIRST NATION**  
**FINANCIAL ADMINISTRATION BY-LAW**  
**NO. 1**

A by-law to establish the administrative structure of the First Nation and regulate the management and control of First Nation funds.

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## PART 1 - INTRODUCTORY PROVISIONS

### Preamble

WHEREAS the *Indian Act* provides that Council may, subject to the approval of the Minister of Indian Affairs and Northern Development, make by-laws for the following purposes:

- (a) The appropriation and expenditure of moneys of the First Nation to defray the First Nation expenses;
- (b) The appointment of officials to conduct the business of Council; and
- (c) Any matter arising out of or ancillary to the exercise of powers described in subsection 83(1) of the *Indian Act*;

AND WHEREAS the Council of the First Nation has determined that is desirable and necessary that a financial administration by-law be established for the purposes set out in subsection 83(1) of the *Indian Act*;

NOW THEREFORE the Council of the First Nation, at a duly convened meeting, enacts the following by-law:

### Title

1.1 This By-law may be called the Homalco First Nation Financial Administration By-law.

### Application

- 1.2
- (a) This By-law governs the management and control of the finances of the Homalco First Nation.
  - (b) This By-law applies to Council, all non-elected officials and all departments of the Homalco First Nation.

### Definitions

1.3 In this Act,

“annual audit” means an audit required under section 10.5;

“annual budget” means a budget approved by Council under section 5.7;

“annual financial statements” means the financial statements and any special purpose reports prepared by the band manager under section 10.5(a);

“audited annual financial statements” means

- (a) the annual financial statements,

- (b) the audit opinion prepared by the auditor under section 10.5(b)(ii)(A), and
- (c) any audit opinion prepared by the auditor under section 10.5(b)(ii)(B);

“auditor” means the person appointed as auditor of the First Nation in accordance with section 10.4;

“band manager” means the employee or contractor appointed by Council in accordance with section 4.1;

“Council” means the Council of the First Nation and includes the Chief of the First Nation;

“councillor” means a member of the Council of the First Nation;

“department” means an administrative division or agency of the First Nation as established from time to time and includes

- (a) internal organizational units of the First Nation,
- (b) any board, tribunal, commission or committee of the First Nation, and
- (c) any partnership or corporate entity controlled by the First Nation;

“emergency expenditure” means an expenditure that

- (a) is not authorized under the annual budget for the current fiscal year, and
- (b) is made in response to a present or imminent event that requires prompt coordination of actions to protect the health, safety or welfare of First Nation members or individuals who are ordinarily resident on First Nation lands, or to limit damage to property of the First Nation or the environment within the First Nation lands;

“finance committee” means the standing committee on finance established under section 3.1;

“financial institution” means a bank, credit union or trust company;

“financial records” means all records respecting the finances of the First Nation, including the minutes of meetings of the finance committee;

“First Nation” means the Homalco First Nation;

“fiscal year” means the fiscal year of the First Nation established under section 5.1;

“general account” means the account referred to in section 6.2(a)(i);

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

“generally accepted auditing standards” means the generally accepted auditing standards of the Canadian Institute of Chartered Accountants, as revised or replaced from time to time;

“Homalco account” means any account established by the band manager under section 6.2;

“monthly financial report” means a report prepared by the band manager under section 10.2(a);

“quarterly financial statements” means the financial statements prepared by the band manager under section 10.3(a);

“securities” means bonds, debentures, deposit certificates, promissory notes, treasury bills or other evidences of indebtedness;

“trust account” means an account referred to in section 6.2(a)(ii).

### **Interpretation**

- 1.4** In this By-law, unless the context requires otherwise, any reference to the First Nation is deemed to include a reference to a department of the First Nation.
- 1.5** In this By-law any words in the singular include the plural and words in the plural include the singular and the masculine includes the feminine and neuter where the context requires.

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## PART 2 - COUNCIL

### Role of council

- 2.1 Council must conduct the business of the First Nation in a prudent and responsible manner.
- 2.2 Council must apply the best financial management practices by, among other things, carrying out the following duties and responsibilities:
- (a) establishing policies and procedures to safeguard the assets and resources of the First Nation,
  - (b) developing and implementing annual financial plans,
  - (c) ensuring the First Nation meets its financial obligations with third parties,
  - (d) ensuring that investments are made after applying due diligence and in accordance with prudent investor standards,
  - (e) ensuring that assets of the First Nation are not disposed of for less than fair market value,
  - (f) ensuring that all financial records of the First Nation are kept in a safe and secure manner on the First Nation's premises and are not removed from those premises without the approval of Council, such authority to be evidenced by resolution,
  - (g) ensuring, through the band manager, that all employees who manage and control First Nation funds are
    - (i) responsible for maintaining accurate records, and
    - (ii) qualified for the position to which they are appointed,
  - (h) ensuring transparency and accountability by permitting members of the First Nation access to by-laws, annual budgets and annual audited financial statements.

### Councillor obligation

- 2.3 Each councillor must, in exercising their powers and performing their functions under this by-law
- (a) act honestly, in good faith and in the best interests of the First Nation, and
  - (b) exercise the care, diligence and skill of a reasonably prudent person.



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## PART 3 - STANDING COMMITTEE ON FINANCE

### Standing committee on finance established

3.1 The standing committee on finance is established.

### Mandate

3.2 The mandate of the finance committee is to assist Council in fulfilling its obligation to manage and control the finances of the First Nation.

### Composition and appointment of committee members

3.3 Council must, by resolution, appoint at least three (3) members to the committee and those members must include

- (a) at least one (1) councillor,
- (b) at least one (1) individual who is not a councillor, and
- (c) the band manager.

### Terms of office

3.4 The band manager or acting band manager as the case may be, shall be a member of the committee for as long as he or she holds office.

3.5 Council must, by resolution, appoint the members of the committee prescribed in section 3.3 for a term of office that is the same duration as a term of office for a councillor.

3.6 A member of the committee may be removed from office

- (a) by the chair if the member has missed three (3) consecutive scheduled meetings of the committee,
- (b) by a majority of Council and with the recommendation of the chair, or
- (c) by a unanimous vote of Council.

3.7 If any position on the committee is vacated for any reason Council must, by resolution and at the earliest possible opportunity, appoint the members needed to fill any vacancies on the committee.

### Chair and vice-chair

3.8 Council must appoint, by resolution, a councillor as the chair of the committee.

3.9 The committee members may appoint one of their members as vice-chair of the committee.

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### **Role of the committee chair**

- 3.10** The chair must
- (a) supervise and direct the work of the committee,
  - (b) undertake administrative duties as necessary to oversee and implement the work of the committee, and
  - (c) preside at committee meetings.

### **Committee procedures**

- 3.11** The quorum of the committee is fifty percent (50%) of the total number of committee members, including at least one (1) councillor.
- 3.12** In the event of a tie vote in the committee, the chair may cast a second tiebreaking vote.
- 3.13** The finance committee must meet at least four times each fiscal year.
- 3.14** The committee must provide minutes of its meetings to Council as soon as practicable after each meeting.
- 3.15** Subject to this By-law and the direction of Council the committee may create rules for the conduct of its meetings.
- 3.16** The auditor may be notified of and invited to attend any finance committee meetings and may be invited to be heard at those meetings on matters relating to the auditor's duties.

### **Duties of the finance committee**

- 3.17** The finance committee must perform the following duties:
- (a) review, and make recommendations to Council on draft annual budgets,
  - (b) on an ongoing basis, monitor the financial performance of the First Nation against the annual budget for the current fiscal year and report any significant variations to Council,
  - (c) review, and make recommendations to Council on quarterly financial statements,
  - (d) make recommendations to Council on the appointment of the auditor and the performance by the auditor of his or her duties under this By-law,
  - (e) review, and make recommendations to Council on the audited annual financial statements,
  - (f) periodically review this By-law and, where appropriate, recommend amendments to Council,

- (g) periodically review, and make recommendations to Council on
  - (i) the accounting and financial reporting policies and procedures of the First Nation, and
  - (ii) the internal controls of the First Nation,
- (h) review, and make recommendations to Council on any proposed fiscal agreement with Canada or British Columbia,
- (i) review, and make recommendations to Council on any new or proposed by-law that may affect the finances of the First Nation,
- (j) review, and make recommendations to Council on any new or proposed accounting or financial reporting standards that may affect the First Nation,
- (k) report to Council by oral or written report at meetings of Council when requested, and
- (l) any other duties assigned or delegated to the finance committee
  - (i) under this or any other First Nation by-law; or
  - (ii) by Council.

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## PART 4 - BAND MANAGER

### Appointment of band manager

- 4.1 Council must appoint a person as band manager of the First Nation and may set the terms and conditions of that appointment.

### General duties of band manager

- 4.2 Reporting to Council, the band manager is responsible for the leading, planning, organization, implementation and evaluation of the overall management of all the day-to-day operations of the First Nation, including the following general duties:
- (a) developing and recommending to Council for approval, human resources policies and procedures for the hiring, management and dismissal of officers and employees of the First Nation,
  - (b) preparing and recommending to Council for approval, descriptions of the powers, duties and functions of all employees of the First Nation,
  - (c) hiring the employees of the First Nation, as the band manager considers necessary, and to set the terms and conditions of their employment,
  - (d) overseeing, supervising and directing the activities of all officers and employees of the First Nation,
  - (e) overseeing and administering the contracts of the First Nation,
  - (f) performing any other duties of the band manager under this By-law, and
  - (g) carrying out any other activities specified by Council that are not contrary to or inconsistent with the band manager's duties specified in this By-law.

### Financial management duties of band manager

- 4.3 The band manager is responsible for the following financial management duties:
- (a) identifying, assessing, monitoring and reporting on financial and fraud risks,
  - (b) ensuring the financial administration systems, policies, procedures, directions and internal controls are appropriately designed and operating effectively,
  - (c) preparing the draft annual budget,
  - (d) preparing the monthly financial information required in section 10.2, the quarterly financial statements required in section 10.3 and the draft annual financial statements required in section 10.5(a),

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- (e) monitoring compliance with any agreements and funding arrangements entered into by the First Nation,
  - (f) overseeing the preparation and maintenance of financial records and the financial administration reporting systems,
  - (g) monitoring compliance with this By-law, any other applicable First Nation by-law, applicable standards and any policies, procedures and directions of the Council respecting the financial administration of the First Nation,
  - (h) preparing or providing any documentation and financial information required by Council or the finance committee to discharge its responsibilities,
  - (i) evaluating the financial administration systems of the First Nation and recommending improvements, and
  - (j) developing and recommending procedures for the safeguarding of assets and the mitigation of financial risks,

#### **Delegation authority**

- 4.4**
- (a) The band manager may delegate, in writing, the performance of any of the band manager's duties or the exercise of any of the band manager's powers to
    - (i) an officer or employee of the First Nation, and
    - (ii) with the approval of Council, to a contractor or agent of the First Nation.
  - (b) Despite the delegation of any duties or powers under subsection (a), the band manager remains responsible for ensuring that the duties are performed properly and the powers are exercised appropriately.

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## PART 5 - ANNUAL BUDGET

### Fiscal year

5.1 The fiscal year of the First Nation is April 1 of one year to March 31 of the subsequent year.

### Budget documents

5.2 The following documents must be prepared on an annual basis:

- (a) an annual budget for each department, and
- (b) a consolidated annual budget aggregating the budgeted revenues and expenses for all departments.

### Budget responsibilities

- 5.3 On or before December 31<sup>st</sup> Council must determine the overall objectives for the upcoming fiscal year and must communicate those objectives to the finance committee and band manager.
- 5.4 The band manager is responsible for preparation of the draft annual budget for each department and the draft consolidated annual budget.
- 5.5 On or before February 28<sup>th</sup> the band manager must provide the finance committee with the draft consolidated annual budget.
- 5.6 On or before March 31<sup>st</sup> the finance committee must submit the draft consolidated annual budget to Council with the committee's recommendation.
- 5.7 On or before April 30<sup>th</sup> Council must, by resolution, finalize and adopt the annual budget.

### Budget amendments

- 5.8 Council must not approve a change to the annual budget of the First Nation other than to
  - (a) adjust for a material change in the revenues and expenditures of an existing funding agreement, or
  - (b) add the revenues and expenditures related to a new funding agreement.

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## PART 6 - FINANCIAL ACCOUNTS

### Financial institution accounts

- 6.1 No account may be opened for the receipt and deposit of money of the First Nation unless the account is
- (a) in the name of the First Nation,
  - (b) opened in a financial institution, and
  - (c) authorized by Council.

### Homalco accounts

- 6.2 (a) The band manager must establish the following accounts in the name of the First Nation:
- (i) a general account for money from any source other than money that must be deposited into any other Homalco account, and
  - (ii) one or more trust accounts if the First Nation has money held in trust.
- (b) Council may, by resolution, authorize the band manager to establish any other accounts in the name of the First Nation, in addition to those referred to in subsection (a), as may be necessary or appropriate to manage the finances of the First Nation.
- (c) All Homalco accounts must be established in a financial institution.

### Income earned on accounts

- 6.3 (a) Any income earned on money held in a Homalco account becomes a part of that account.
- (b) Any income earned on an investment made from a Homalco account must be deposited into that account.

### Receipt and deposit of money

- 6.4 The band manager must
- (a) deposit all money received by the First Nation as soon as practicable into the appropriate accounts described in section 6.2, and
  - (b) not authorize payment of money from an account described in section 6.2 unless the payment relates to the subject matter for which the account was established and is otherwise authorized or permitted under this By-law.
- 6.5 Council must establish, by resolution, a policy for the management and control of revenues, receipts and deposits.

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## PART 7 - EXPENDITURES

### General limitation on expenditures

- 7.1 Money must not be paid out of any Homalco account unless the expenditure is
- (a) authorized under the annual budget for the current fiscal year,
  - (b) provided for in the draft annual consolidated budget for the next fiscal year reviewed by the finance committee and recommended to Council under section 5.6,
  - (c) an emergency expenditure,
  - (d) from a trust account and authorized under the terms of the applicable trust, or
  - (e) for an investment authorized under section 8.2 or 8.3.

### Limitation on trust account expenditures

- 7.2 Money in a trust account must not be expended for any purpose other than that permitted under the terms of the applicable trust.

### Purchase control

- 7.3 Council must establish, by resolution, a policy for the management and control of purchases.

### Travel, honoraria and Council remuneration

- 7.4 Council must establish, by resolution, policies for the management and control of travel advances, travel reimbursements, staff honoraria and Council remuneration.

### Requisitions for payment

- 7.5 Money must not be paid out of any Homalco account unless a requisition for payment has been
- (a) completed in the prescribed form, and
  - (b) signed by the prescribed individual or individuals.

### Form of payments

- 7.6 Payments from a Homalco account may be made by cheque, draft, electronic transfer or other similar instrument.

### Authorized signatories for cheques and other similar instruments

- 7.7 Any cheque, draft, electronic transfer or other similar instrument drawn on a Homalco account must be signed by at least two authorized individuals one of which must be a councillor.



- 7.8 Council must, by resolution, designate up to four (4) individuals authorized to sign any cheque, draft, electronic transfer or other similar instrument drawn on a Homalco account.

**Emergency expenditures**

- 7.9 The band manager must report an emergency expenditure to Council as soon as practicable after it is made.

**Prohibited agreements**

- 7.10 The First Nation must not enter into an agreement or undertaking that requires the First Nation to make an expenditure that is not authorized by or contravenes this By-law.

**Contracts and tendering**

- 7.11 Council must establish, by resolution, a policy for the management and control of the awarding of contracts and tendering of purchases.

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## PART 8 - INVESTMENTS

### Limitation on investments from a trust account

- 8.1 Money in a trust account must not be invested except as permitted under the terms of the applicable trust.

### Investment of money not immediately required

- 8.2 Council may, by resolution, authorize an investment of all or a portion of the money in any Homalco account that is not immediately required for expenditures, in one or more of the following:
- (a) securities issued or guaranteed by Canada or a province or territory of Canada,
  - (b) fixed deposits, notes, certificates and other short-term paper of, or guaranteed by, a financial institution, or
  - (c) securities issued by a local, municipal or regional government in Canada.

### Business investments

- 8.3 The First Nation may invest in and carry on business activities for the primary purpose of profit if Council determines that the business activities do not
- (a) result in a material liability for the First Nation, or
  - (b) otherwise expose the First Nation's financial assets, property or resources to significant risk.
- 8.4 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.

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## **PART 9 - BORROWING, GUARANTEES AND INDEMNITIES**

### **General limitation on borrowing, guarantees and indemnities**

**9.1** The First Nation must not borrow money or provide a guarantee or indemnity except in accordance with this By-law.

### **Borrowing for operations**

- 9.2** (a) The band manager may incur trade accounts payable or other accounts payable provided they are for an expenditure authorized under
- (i) the annual budget for the current fiscal year, or
  - (ii) the draft consolidated annual budget for the next fiscal year reviewed by the finance committee and recommended to Council under section 5.6.
- (b) Council may, by resolution, authorize
- (i) the band manager to obtain an overdraft or line of credit in the name of the First Nation for the purpose of covering any short term cash flow needs of the First Nation for its operations, and
  - (ii) any drawdown on such overdraft or line of credit.

### **Borrowing for capital expenditures**

**9.3** Council may, by resolution, and after first having considered the recommendation of the finance committee authorize any borrowing by the First Nation for a purpose of a capital nature.

### **Borrowing for repayment or refinancing of debts**

**9.4** Council may, by resolution, and after first having considered the recommendation of the finance committee authorize any borrowing by the First Nation for the purpose of repaying or refinancing any debt owed by the First Nation.

### **Limitation on the use of borrowed money**

- 9.5** (a) Subject to subsections (b) and (c), money borrowed by the First Nation must not be used for any purpose other than the purpose for which it was borrowed.
- (b) Money borrowed by the First Nation that is not immediately required for expenditures may be invested in accordance with section 8.2.
- (c) Money borrowed by the First Nation that is no longer required for the purpose for which it was borrowed must be used to repay the debt from the borrowing.

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**Guarantees and indemnities**

- 9.6** (a) Subject to subsection (b), Council may, by resolution, and after first having considered the recommendation of the finance committee authorize the provision of any guarantee by the First Nation.
- (b) Before Council authorizes any guarantee under subsection (a)
- (i) the band manager must prepare a report to Council identifying any risks associated with providing the guarantee and assessing the ability of the First Nation to honour the guarantee should it be required to do so, and
- (ii) Council must consider such report.
- (c) Council may, by resolution, and after first having considered the recommendation of the finance committee authorize the provision of any indemnity by the First Nation.

**Authorized signatories for borrowing, guarantees and indemnities**

- 9.7** Any agreement or instrument relating, in whole or in part, to the borrowing of money by the First Nation or the provision of any guarantee or indemnity by the First Nation must be signed by at least two (2) councillors.

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## PART 10 - FINANCIAL RECORDS AND REPORTING

### Generally accepted accounting principles

- 10.1 All accounting and financial reporting policies, procedures and practices of the First Nation must comply with generally accepted accounting principles.

### Monthly financial reports

- 10.2 (a) Not more than 30 days following the end of each month, the band manager must prepare and submit to the finance committee a monthly financial report for that month in the form and with the content approved by Council after first having considered the recommendation of the finance committee.
- (b) Not more than 45 days following the end of the month the finance committee must review the monthly financial report for that month.

### Quarterly financial statements

- 10.3 (a) Not more than 30 days following the end of the first, second and third quarter of each fiscal year, the band manager must prepare and submit to the finance committee quarterly financial statements for the First Nation for that quarter in the form and with the content approved by Council after first having considered the recommendation of the finance committee.
- (b) Not more than 45 days following the end of the first, second and third quarter of each fiscal year
- (i) the finance committee must review, and make recommendations to Council on, and
- (ii) Council must review and, by resolution, approve
- the quarterly financial statements for that quarter.

### Appointment of auditor

- 10.4 Council must, after considering the recommendation of the finance committee on the appointment, appoint an auditor for the First Nation for each fiscal year to hold office until the later of
- (a) the end of the meeting of Council when the audited annual financial statements for that fiscal year are being considered, or
- (b) the date the auditor's successor is appointed.

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**Audited annual financial statements**

- 10.5** (a) On or before June 15 of each year, the band manager must prepare and submit to the finance committee and the auditor annual financial statements and any special purpose reports for the First Nation for the previous fiscal year
- (i) in accordance with generally accepted accounting principles,
  - (ii) to a standard that is generally accepted for governments in Canada, and
  - (iii) in the form and with the content approved by Council after first having considered the recommendation of the finance committee.
- (b) On or before July 15 of each year, the auditor must
- (i) audit the annual financial statements for the previous fiscal year in accordance with generally accepted auditing standards, and
  - (ii) prepare and submit to Council and the finance committee an audit opinion
    - (A) on the annual financial statements, and
    - (B) or review comments on any special purpose reports.
- (c) On or before July 31 of each year,
- (i) the finance committee must review, and make recommendations to Council on, and
  - (ii) Council must review and, by resolution, approve
- the audited annual financial statements for the previous fiscal year.

**Auditor's authority**

- 10.6** (a) In conducting the annual audit, the auditor
- (i) must be given access to all financial records, and
  - (ii) may, by reasonable written notice, require any First Nation official or former First Nation official to
    - (A) meet with the auditor,
    - (B) answer any questions the auditor may have relating to the finances of the First Nation, and

- (C) provide the auditor access to any financial records in his or her custody or control.

#### **Access to audited annual financial statements**

- 10.7** (a) Before the audited annual financial statements are published, distributed or made available for public inspection, they must be
- (i) approved by Council by resolution, and
  - (ii) signed by the signatories authorized by Council by resolution.
- (b) On or before August 15 of each year, the audited annual financial statements must be made available for inspection by First Nation members at the First Nation's administrative offices during regular business hours.

**10.8** Any First Nation member may

- (a) inspect the audited annual financial statements and reports during regular office hours, and
- (b) directly or through an agent, obtain a copy of the audited annual financial statements and reports or any part thereof upon payment of a fee of twenty-five cents (\$.25) per page.

#### **Financial information disclosure**

- 10.9** Council must establish, by resolution, a policy describing the rights, limitations and process by which a First Nation member may obtain access to financial information held by the First Nation.

#### **Preparation and maintenance of financial records**

- 10.10** (a) The band manager must ensure that all necessary financial records are properly prepared, maintained, stored and kept secure.
- (b) All financial records must be kept for at least 10 years after they were created.

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## PART 11 - TANGIBLE CAPITAL ASSETS

### Definitions

11.1 In this Part,

“capital project” means the acquisition, development, construction, rehabilitation or replacement of a tangible capital asset;

“tangible capital asset” means an asset of the First Nation that

- (a) has physical substance,
- (b) is held for use in the production or supply of goods or services, for rental to others, for administrative purposes or for the development, construction, maintenance or repair of other tangible capital assets,
- (c) has an expected useful life of more than one year,
- (d) is intended to be used on a continuing basis, and
- (e) is not intended for sale in the ordinary course of operations;

“register of tangible capital assets” means the register of tangible capital assets as referred to in section 11.3.

### General duties

11.2 The band manager must ensure that

- (a) all tangible capital assets are maintained in a good and safe condition and to the same standard as a prudent owner of those assets, and
- (b) all capital projects are planned, managed, financed and carried out in accordance with this By-law and any applicable building and safety standards.

### Register of tangible capital assets

11.3 The band manager must establish and keep current a register of tangible capital assets that includes the following information for each tangible capital asset:

- (a) a description of the asset including serial number if applicable,
- (b) the date it was acquired or put into service,
- (c) its cost,
- (d) its expected useful life at the time of acquisition,



- (e) an assessment of its present condition and remaining useful life, and
- (f) any other relevant information.

**Annual inspection of tangible capital assets**

11.4 Periodically, and no less than once every six (6) months, the band manager must update the tangible capital asset registry.

**Acquisition of tangible capital assets**

11.5 Acquisition of tangible capital assets must be authorized in the annual budget approved in section 5.7.

**Reports on capital projects**

11.6 At the request of Council, and no less than once each fiscal year, the band manager must report to Council on the status, year to date borrowings, year to date expenditures and budget variance for each capital project in progress or scheduled to commence in the current fiscal year.

**Capital project consultants**

11.7 Council may, by resolution, authorize the band manager to retain the services of an architect, engineer or other consultant to assist Council and the band manager in the performance of their duties under this Part.

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## PART 12 - CONFLICTS OF INTEREST

### Definitions

#### 12.1 In this Part,

“conflict of interest” means

- (a) any circumstance where an individual exercises a power or performs a duty or function and at the same time knows or ought reasonably to have known that in the exercise of the power or performance of the duty or function there is an opportunity to receive a financial benefit for themselves or to provide a financial benefit to a related person, and
- (b) any circumstance where a reasonably well-informed person would perceive that an individual’s ability to exercise a power or perform a duty or function of their office or position must be affected by the individual’s opportunity to receive a financial benefit or to provide a financial benefit to a related person;

“financial benefit” means the personal and business interests of an individual and includes but is not limited to employee benefits, contract benefits, educational, medical, or other social benefits, honoraria, payment of any money, allotment, leasing or other grant of an interest in the First Nation’s lands;

“related person” means a spouse, common law spouse, parent, parent-in-law, sibling, sibling-in-law, child, grandchild, aunt, uncle, dependent, relative permanently residing in the person’s household or an entity over which the person has significant influence.

### General rules

**12.2** An individual who is a councillor, a committee member, or is otherwise employed by the First Nation or one of its departments, must not use that office or employment for his or her own financial benefit, or the financial benefit of a related person or to the detriment of the interests of the First Nation.

**12.3** Despite section 12.2 a conflict of interest will not arise when a financial benefit is intended or extended at the same time to

- (a) a group of members who are identifiable by reference to age, gender, financial circumstances or medical needs,
- (b) the whole community, or
- (c) all councillors as a group.

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**Council conflict of interest**

- 12.4** (a) As soon as a councillor becomes aware of circumstances in which the councillor has a conflict of interest, the councillor must disclose the circumstances of the conflict of interest at the next Council meeting.
- (b) A councillor must leave any part of a Council meeting where the circumstances in which the councillor has a conflict of interest are being discussed or voted on.
- (c) The minutes of a Council meeting must record the councillor's disclosure under subsection (a) and note the councillor's absence from the Council meeting when the circumstances in which the councillor has a conflict of interest were being discussed or voted on.
- (d) A councillor must not take part in any discussions or vote on any decision respecting the circumstances in which the councillor has a conflict of interest.
- (e) A councillor must not influence or attempt to influence in any way before, during or after a Council meeting any discussion or vote on any decision respecting the circumstances in which the councillor has a conflict of interest.

**Undisclosed conflict of interest**

- 12.5** (a) If a councillor has reason to believe that another councillor has a conflict of interest conflict of interest in respect of a matter before the Council, the councillor may request clarification of the circumstances at a Council meeting.
- (b) If, as a result of a clarification discussion under subsection (a), a councillor is alleged to have a conflict of interest and the councillor does not acknowledge the conflict of interest and take the actions required under section 12.4, the Council must determine whether the councillor has a conflict of interest before the Council considers the matter referred to in subsection (a).
- (c) The minutes of the Council meeting must record any determination made by the Council under subsection (b).
- (d) If Council determines under subsection (b) that a councillor has a conflict of interest, the councillor must comply with section 12.4.

**Obligations of committee members**

- 12.6** (a) This section applies to all members of Council committees.
- (b) Sections 12.4 and 12.5 apply to a member of a Council committee and all references in those sections to

- (i) a councillor are considered to be references to a member of a Council committee, and
- (ii) a Council meeting are considered to be references to a committee meeting.

### **Obligations of officers and employees**

- 12.7** (a) An officer or employee must avoid circumstances that could result in the officer or employee having a conflict of interest.
- (b) An officer or employee must avoid placing themselves in circumstances where their ability to exercise a power or perform a duty or function of their office or position could be influenced by the interests of any person to whom they owe a private obligation or who expects to receive some benefit or preferential treatment from them.
- (c) The band manager must ensure that every officer and employee is informed of their obligations under this Part and must take steps to ensure that employees comply with these obligations.
- 12.8** If an officer or employee believes he or she has a conflict of interest, the officer or employee must
- (a) disclose the circumstances in writing as soon as practical to the band manager or, in the case of the band manager, to Council, and
  - (b) refrain from participating in any discussions or decision-making respecting the circumstances of the conflict of interest until advised by the band manager or Council, as the case may be, on actions to be taken to avoid or mitigate the conflict of interest.

### **Contractor acting as officer or employee**

- 12.9** If a contractor is retained to exercise the powers or perform the duties or functions of an officer or employee, the contractor must comply with sections 12.7 and 12.8 as if the contractor were an officer or employee of the First Nation.

## **PART 13 - GENERAL PROVISIONS**

### **Financial policies and procedures**

- 13.1** (a) Subject to subsection (b), Council may, by resolution, adopt policies and procedures that it considers necessary or advisable for purposes under this By-law.
- (b) Council must not adopt policies and procedures relating to the financial administration of the First Nation that are in conflict with this By-law or generally accepted accounting principles.

### **Severability**

- 13.2** If any provision of this By-law is held to be invalid, void, voidable or unenforceable for any reason, then the particular provision will be deemed severed from the remainder of the By-law and all remaining provisions of this By-law must remain in full force and effect.

### **Amendments and repeal**

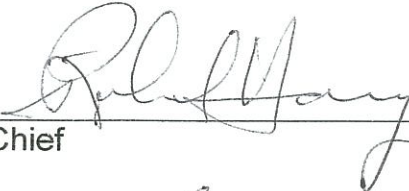
- 13.3** Amendment or repeal of this By-law must be made by by-law enacted by Council.

### **Commencement**

- 13.4** This Act comes into force on \_\_\_\_\_.

### ADOPTION OF THE FINANCIAL ADMINISTRATION BY-LAW

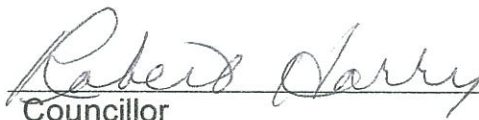
The Council of the Homalco First Nation adopts the Financial Administration By-law as of June 27, 2011. The By-law is to be implemented under the direction of Council. It is the responsibility of the Band Manager to apply, enforce, review, and propose updates of the policies as required. Changes to these policies and procedures require the approval of Council.

  
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Chief

June 27, 2011  
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Date Signed

  
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Councillor


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