KITSELAS FIRST NATION

TREATY BENEFITS

POLICY AND PROCEDURES

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DIVISION I – GENERAL

PART 1 – INTRODUCTION

The Treaty Benefits Policy and Procedures ("Policy") outlines the guidelines for administering two Treaty Benefits to Kitselas Citizens under the Kitselas Treaty, the one-time Treaty Benefit Payments and the Elders Pension.

These benefits are available to Kitselas Citizens and will be administered in a consistent, fair, and transparent manner that is aligned with Kitselas values.

The administration of Treaty Benefits under this Policy will be guided by the following principles:

- fairness, accountability, and transparency;
- respect for Kitselas Citizens; and
- alignment with Kitselas laws, policies, procedures, and values.

PART 2 – PURPOSE

2.1 The purpose of this Division is to set out the rules, procedures and overarching principles that apply to the Treaty Benefits provided under this Policy.

PART 3 – DEFINITIONS

3.1 In this Policy:

(a) **"Appeal"** means a request to have a decision under this Policy reviewed in accordance with Part 6 of this Division.

(b) **"Authorized Representative"** means an individual legally authorized to act on behalf of another person, including, but not limited to executors or administrators of estates, and individuals with power of attorney.

(c) **"Chief and Council"** means the duly elected Chief and Council of Kitselas, who are responsible for oversight and governance of this Policy.

(d) **"Conditional Enrollee"** means an individual enrolled under the Kitselas Treaty, but who is also a member of another First Nation (under the Indian Act) or Treaty First Nation.

(e) **"Direct Deposit"** means the method of payment by which the Finance Department issues Elders Pension payments.

(f) **"Direct Deposit Form"** means a bank-generated form that includes the claimants

(f) **"Direct Deposit Form"** means a bank-generated form that includes the claimants name, transit number, account number, and other information required by the Finance Department to issue payment by direct deposit.

(g) **"Effective Date"** means the date on which the Kitselas Treaty takes effect.

(h) **"Elder"** means a Kitselas Citizen who is 65 years of age or older.

(i) **"Elders Pension"** means the monthly financial payment provided by Kitselas to Elders aged 65 years or older who are enrolled under the Kitselas Treaty.

(j) **"Enrolment Register"** means the enrolment register established under paragraph 20(c) of Chapter 26 Eligibility and Enrolment of the Kitselas Treaty.

(k) **"Estate"** means the legal entity representing assets, rights, and obligations of a deceased Kitselas Citizen, as administered by an executor or administrator under applicable law.

(l) **"Finance Department"** means the Kitselas Finance Department.

(m) **"Incomplete Submission"** means a Treaty Benefit Claim Form or related documentation that is missing required information, which cannot be processed until completed in full.

(n) **"Indemnity"** means the security or protection against a loss or other financial commitment.

(o) **"Kitselas Citizen"** means an individual who is enrolled under the Kitselas Treaty.

(p) **"Top-Up Treaty Benefit"** means the additional one-time payment of $10,000 CAD made to a Kitselas Citizen who previously received a Treaty Benefit Payment under section 5.1(b) and who subsequently reaches the age of 65.

(q) **"Treaty Benefit"** means a financial benefit provided to Kitselas Citizens under the Kitselas Treaty, including a one-time Treaty Benefit Payment and the Elders Pension.

(r) **"Treaty Benefit Claim Form"** means the official form used to verify eligibility and initiate payment, which much be completed, signed, and submitted by a Kitselas Citizen or their legal representative.

(s) **"Treaty Benefit Payment"** means the one-time financial payment made to eligible Kitselas Citizens under the Kitselas Treaty.

PART 4 – AUTHORITY

4.1 Kitselas Chief and Council and support staff will administer this Policy.

4.2 Kitselas Chief and Council are responsible for:

(a) approving the Policy and any amendments to its divisions; and

(b) providing overall governance and oversight.

PART 5 – PAYMENT UNDER COURT ORDER

5.1 Notwithstanding any other provision of this Policy, the Finance Department must pay a Kitselas Citizen's Treaty Benefit Payment as directed in a court order made under the Family Maintenance Enforcement Act, R.S.B.C. 1996, c. 127.

PART 6 – APPEAL PROCESS

6.1 An affected individual may appeal a decision with respect to this Policy in writing describing the decision at issue and setting out the grounds for appeal to the Director of Treaty Transition/Implementation for final decision by Chief and Council.

PART 7 – PAYMENTS AFTER THE ESTABLISHMENT OF THE SETTLEMENT TRUST

7.1 This Policy is intended to be reenacted on or after the Effective Date either by the Legislature or as incorporated into the Settlement Trust.

PART 8 – REVIEW AND AMENDMENT

8.1 This Policy may be amended by Chief and Council.

DIVISON II – ONE-TIME TREATY BENEFIT PAYMENTS

PART 1 – INTRODUCTION

This Division sets out the rules, procedures, and responsibilities for administering the one-time Treaty Benefit Payments available to enrolled Kitselas Citizens under the Kitselas Treaty.

These payments recognize the significance of the implementation of the Kitselas Treaty and will be distributed in accordance with Kitselas laws and policies.

PART 2 – PURPOSE

2.1 The purpose of this Division is to set out the rules and procedures for the distribution of one-time Treaty Benefit Payments to Kitselas Citizens.

PART 3 – ROLES AND RESPONSIBILITIES

3.1 Chief and Council are responsible for:

(a) receiving reports from the Finance Department; and

(b) considering appeals submitted under this Division.

3.2 The Finance Department is responsible for:

(a) processing Treaty Benefit Payments once claims have been verified by the Eligibility and Enrolment Coordinator;

(b) maintaining accurate financial records of all payments issued;

(c) ensuring payments are made in accordance with applicable Kitselas laws, policies and procedures; and

(d) providing an annual report to Chief and Council on disbursements.

3.3 The Eligibility and Enrolment Coordinator is responsible for:

(a) receiving and reviewing Treaty Benefit Claim Forms;

(b) verifying eligibility against the Enrolment Register;

(c) verifying age requirements;

(d) forwarding verified claims to the Finance Department for payment; and

(e) maintaining records of claim forms and supporting documentation.

3.4 Kitselas Citizens are responsible for:

(a) submitting a completed Treaty Benefit Claim Form with required documentation;

(b) providing accurate banking information; and

(c) notifying the Eligibility and Enrolment Coordinator of any changes (e.g. contact and or banking information).

PART 4 – ELIGIBILITY

4.1 To be eligible for the Treaty Benefit Payment, an individual must:

(a) be a Kitselas Citizen enrolled under the Treaty;

(b) meet the age requirements outlined in sections 5.1(a), 5.1 (b) or 5.2; and

(c) have not previously received the one-time payment.

4.2 A conditional enrollee is not entitled to a payment until they comply with the requirements set out in sections 10 to 17 of the Eligibility and Enrolment Chapter of the Kitselas Treaty [attached as Appendix A]

4.3 Individuals who are not enrolled under the Kitselas Treaty are not eligible to receive the Treaty Benefit Payment.

PART 5 – PAYMENT AMOUNTS

5.1 The following one-time Treaty Benefit Payments will be made:

(a) $20,000 CAD for Kitselas Citizens who are 65 years or older; and

(b) $10,000 CAD for Kitselas Citizens who are between the ages of 18 and 64.

5.2 Kitselas Citizens who received $10,000 CAD under section 5.1(b) will be eligible for a one-time Top-Up Treaty Benefit of $10,000 CAD upon turning 65.

5.3 The Top-Up Treaty Benefit described in section 5.2 will be processed after eligibility has been verified after submission of a completed Treaty Benefit Claim Form.

5.4 For greater certainty, the Treaty Benefit Claim Form referred to in section 5.3 is in addition to the Treaty Benefit Claim Form required for the initial payment under Part 7.

5.5 Kitselas Citizens who receive a payment under section 5.1(b), but pass away prior to reaching the age of 65, will not be entitled to the $10,000 CAD Top-Up Treaty Benefit and no payments to the Kitselas Citizen's estate will be made.

PART 6 – PAYMENT TIMING

6.1 Subject to provisions in this Division, the Treaty Benefit Payment will be made on a date after this policy comes into effect.

PART 7 – CLAIM FORM REQUIREMENTS

7.1 In order for a payment to be processed, an individual must submit a completed Treaty Benefit Claim Form [attached as Appendix B] identifying the following:

(a) First, middle, and last name;

(b) Status number (if applicable);

(c) Date of birth;

(d) Current mailing address, e-mail address, and telephone number;

(e) Benefit type;

(f) In cases where a claimant's banking information is not already on file, bank-generated direct deposit information must be submitted (handwritten information is not accepted); and

(g) Signature of claimant.

7.2 Claim forms may be submitted via email to the Eligibility and Enrolment Coordinator or in-person at the Treaty Office at 4562 Queensway, or Gitaus Administration at 2225 Gitaus Road.

7.3 Once verified and signed by the Eligibility and Enrolment Coordinator, all forms, including where applicable, banking details, and in some cases, legal documentation, will be forwarded to the Finance Department for processing and payment.

7.4 Completed forms containing confidential personal information will follow policies and laws regarding the storage of confidential information.

PART 8 – PAYMENT PROCESS

8.1 Payments will be processed after submission of a signed and dated Treaty Benefit Claim Form, including, where applicable:

(a) banking information; and

(b) confirmation that the claimant meets the age requirements outlined in sections 5.1(a), 5.1(b), or 5.2.

8.2 Payments will be processed once the requirements outlined in Part 7 are complete.

8.3 The Treaty Benefit Payments will be processed from a designated bank account used solely for the payment of these benefits.

8.4 Payments will be processed by the Finance Department in the order in which completed and verified claims are received.

PART 9 – INCOMPLETE SUBMISSIONS

9.1 Incomplete Treaty Benefit Claim Forms will not be processed until all required information and documentation is received.

9.2 The Eligibility and Enrolment Coordinator will notify claimants if their claim is incomplete.

PART 10 – DEDUCTIONS

10.1 Where a Kitselas Citizen has an outstanding debt owing to Kitselas, a Treaty Benefit Payment may be subject to deductions, in accordance with the Kitselas Financial Administration Law and Kitselas Human Resources Policies and Procedures Manual, Section 22: Wage Garnishments as amended from time to time, including provisions respecting wage garnishments [attached as Appendix C].

PART 11 – PAYMENT UNDER LEGAL AUTHORITY

11.1 In cases where a claimant is mentally incapacitated, payments under this Division may be made to persons who have the legal authority to manage the claimant's affairs

PART 12 – BENEFIT NON-TRANSFERABLE

12.1 Subject to Part 11, Kitselas will only pay the Treaty Benefit Payment to eligible Kitselas Citizens (or if applicable, their estate), not to any other person.

12.2 In cases where an eligible Kitselas Citizen described in sections 5.1(a) 5.1(b), or 5.2 was alive, enrolled, and met the age requirements described in those sections, but passed away prior to submitting a completed Treaty Benefit Claim Form, payment will be issued to the estate upon submission of a completed Treaty Benefit Claim Form by an executor or administrator of the estate.

PART 13 – INDEMNITY

13.1 In order for an individual to receive a Treaty Benefit Payment, a completed Treaty Benefit Claim Form must be submitted, releasing Kitselas from liability and indemnifying Kitselas from claims related to the benefit.

DIVISION III – ELDERS PENSION

PART 1 – INTRODUCTION

This Division sets out the rules, procedures, and responsibilities for administering the Elders Pension as a Treaty Benefit under the Kitselas Treaty.

This program ensures ongoing recognition and support for Kitselas Elders and is administered separately from the one-time Treaty Benefit Payments, but under the same principles of consistency, fairness, and accountability.

PART 2 – PURPOSE

2.1 The purpose of this Division is to set out the rules and procedures for the administration of the Elders Pension to Kitselas Elders who are enrolled under the Kitselas Treaty.

PART 3 – ROLES AND RESPONSIBILITIES

3.1 The Finance Department is responsible for:

(a) administering the Elders Pension;

(b) issuing monthly payments to eligible Elders by direct deposit;

(c) maintaining accurate financial records of all payments issued;

(d) ensuring payments are made in accordance with applicable Kitselas laws, policies, and procedures; and

(e) providing an annual report to Chief and Council on disbursements.

3.2 Elders are responsible for:

(a) ensuring that accurate banking information is on file with the Finance Department; and

(b) notifying the Finance Department of any changes to their contact or banking information.

PART 4 – ELIGIBILITY

4.1 To be eligible for the Elders Pension, an individual must:

(a) be a Kitselas Citizen enrolled under the Kitselas Treaty; and

(b) be 65 years of age or older.

4.2 A conditional enrollee is not entitled to the Elders Pension until they comply with the requirements set out in sections 10 to 17 of the Eligibility and Enrolment Chapter of the Kitselas Treaty [attached as Appendix A].

4.3 Individuals who are not enrolled under the Kitselas Treaty are not eligible to receive Treaty Benefits, including the Elders Pension.

PART 5 – PAYMENT AMOUNT

5.1 The monthly amount provided to eligible Elders is $200.00 CAD.

PART 6 – PAYMENT PROCESS

6.1 Under this Division, payments are automatic and will begin once an Elder has reached the age requirement outlined in section 4.1(b).

6.2 Payments will be processed by the Finance Department by direct deposit.

6.3 If an Elders banking information is not on file at the time of eligibility, payment will begin once the required documentation is submitted.

6.4 Payments will be processed from a designated bank account used solely for the payment of these benefits.

PART 7 – NON-TRANSFERABLE

7.1 Subject to Part 5 of Division I, Kitselas will only pay the Elders Pension to eligible Kitselas Elders, not to any other person.

7.2 The Elders Pension is non-transferable and ceases upon death.

APPENDIX A – ELIGIBILITY AND ENROLMENT CHAPTER

CHAPTER 26 – ELIGIBILITY AND ENROLMENT

Eligibility Criteria

1. Subject to paragraphs 2 and 3, an individual is eligible for enrolment under this Agreement if that individual is:

   (a) of Kitselas ancestry by matrilineal or patrilineal descent;

   (b) a member or entitled to be a member of the Kitselas Band;

   (c) adopted as a Child under laws recognized in Canada, or by a Kitselas custom, by an individual eligible for enrolment under paragraphs 1(a) or 1(b);

   (d) a descendant or an adopted Child of an individual eligible for enrolment under paragraphs 1(a), 1(b) or 1(c); or

   (e) a spouse, including a common law spouse, of an individual eligible for enrolment under paragraphs 1(a), 1(b) or 1(c) and who is, after the Effective Date, accepted under a community acceptance process set out in Kitselas Law.

2. Except where an individual is eligible for enrolment under paragraph 1(b), to be eligible for enrolment under paragraph 1 individuals must have a Demonstrated Attachment to Kitselas.

3. On the day after the Effective Date, paragraphs 1 and 2 cease to be the source of the Eligibility Criteria and an individual is eligible for enrolment under this Agreement if that individual meets the Eligibility Criteria set out in the Kitselas Constitution.

Changes to Kitselas Eligibility Criteria

4. Kitselas may, after the Effective Date and in accordance with this Agreement, amend the Eligibility Criteria by amending the Kitselas Constitution.

5. The Kitselas Constitution will provide:

   (a) that amendments to the Eligibility Criteria must, in addition to any other steps required to amend the Kitselas Constitution, be authorized by a referendum of Kitselas Citizens who are at least 18 years of age on the last scheduled day of voting in the referendum, in which at least 50 percent plus one of these Kitselas Citizens vote, and at least 50 percent plus one of those who vote, vote in favour of the amendments to the Eligibility Criteria;

   (b) that individuals who are enrolled under this Agreement on the date immediately prior to the date that the amendments to the Eligibility Criteria come into effect will continue to be enrolled;

   (c) that individuals who have applied for enrolment under this Agreement by the date immediately prior to the date that the amendments to the Eligibility Criteria come into effect will have their application determined in accordance with the Eligibility

Criteria that would have applied prior to the date that the amendments to the Eligibility Criteria come into effect; and

(d) that individuals with Kitselas ancestry by matrilineal or patrilineal descent and a Demonstrated Attachment to Kitselas will always be eligible for enrolment.

6. Kitselas may make laws in relation to factors, consistent with the definition of Demonstrated Attachment, according to which an individual's Demonstrated Attachment to Kitselas is to be assessed.

7. Kitselas Law under paragraph 6 prevails to the extent of a Conflict with Federal or Provincial Law.

Applications for Enrolment

8. An individual may:

(a) apply

(i) before the Effective Date, to the Enrolment Committee; or

(ii) on or after the Effective Date, to Kitselas under paragraph 43(a),

for enrolment under this Agreement;

(b) appeal a decision of the Enrolment Committee to the Enrolment Appeal Board; or

(c) seek judicial review of a decision of the Enrolment Appeal Board, or Kitselas under paragraph 43(a), as applicable,

on the individual's own behalf, or on behalf of an individual whose affairs they have the legal authority to manage.

9. Each individual referred to in paragraph 8 has the burden of demonstrating that the Eligibility Criteria are met.

Other Land Claims Agreements

10. Except as provided in this Chapter, an individual who is a beneficiary of, or has applied for enrolment under, another treaty or land claims agreement in Canada will not at the same time be enrolled under this Agreement.

11. Upon submitting an application to be enrolled under this Agreement, an individual must notify the Enrolment Committee, or Kitselas under paragraph 43(a), as applicable, if they are a beneficiary of, or have applied for enrolment under, another treaty or land claims agreement in Canada.

12. Subject to paragraphs 13 to 15, an individual described in paragraph 10 will be enrolled if they meet the Eligibility Criteria.

13. An individual who has been enrolled under paragraph 12 will:

(a) within 120 days after the Effective Date; or

(b) where the decision to accept their application to be enrolled under paragraph 12 is made after the Effective Date, within 120 days of receiving written notification from the Enrolment Committee, or Kitselas under paragraph 43(a), as applicable, that they have been enrolled,

provide written evidence to the Enrolment Committee, or Kitselas under paragraph 43(a), as applicable, to demonstrate that they have ceased to be a beneficiary of, or have withdrawn their application for enrolment under, another treaty or land claims agreement in Canada.

14. If an individual enrolled under paragraph 12 fails to satisfy the requirements of paragraph 13, their name will be removed from the Enrolment Register.

15. An individual enrolled under paragraph 12 is not entitled to exercise any rights or receive any benefits under this Agreement until they have satisfied the requirements of paragraph 13.

Membership in a Band Other Than the Kitselas Band

16. For greater certainty, as of the Effective Date, upon becoming a Kitselas Citizen, an individual ceases to be a member or a registered Indian of any Band in accordance with paragraph 33 of Chapter 1 General Provisions.

17. An individual who was a member or a registered Indian of any Band other than the Kitselas Band will:

(a) within 120 days after the Effective Date; or

(b) where the decision to accept their application to be enrolled is made after the Effective Date, within 120 days of receiving notification from the Enrolment Committee, or Kitselas under paragraph 43(a), as applicable, that they have been enrolled,

do all things necessary to request Canada to change their affiliation to Kitselas and to issue a new status card.

The Enrolment Committee

18. Kitselas will establish an enrolment committee consisting of three individuals appointed by Kitselas.

19. Kitselas will notify Canada and British Columbia of the names of the individuals appointed to the Enrolment Committee as soon as practicable after their appointment.

20. The Enrolment Committee will:

(a) establish enrolment procedures and set time limits, including a time limit for making enrolment decisions;

(b) receive enrolment applications, consider each application, request further information from applicants if required, enrol all applicants who meet the Eligibility Criteria and maintain a record of those decisions;

(c) establish and maintain an enrolment register containing the names of all enrolled individuals;

(d) publish its enrolment procedures and time limits, including a list of the documentation and information required of applicants;

(e) publish the Eligibility Criteria and provide information on the enrolment process and application forms to any individual who wishes to apply for enrolment;

(f) notify in writing each applicant and the Parties of its decision and, where enrolment is refused, provide written reasons;

(g) on request, provide to a Party or the Enrolment Appeal Board, in confidence, information in respect of an individual's enrolment application;

(h) add, delete or amend names from the Enrolment Register in accordance with this Chapter and decisions of the Enrolment Appeal Board;

(i) subject to this Chapter, keep information provided by and about applicants confidential;

(j) provide a true copy of the Enrolment Register to the Parties on request;

(k) take reasonable steps to notify individuals potentially eligible for enrolment of the Eligibility Criteria and application procedures; and

(l) provide a true copy of the Enrolment Register and any other relevant information requested to the Ratification Committee in a timely manner.

21. After a decision by the Enrolment Committee and before any appeal of that decision is commenced, an individual may submit new information to the Enrolment Committee**.**

22. Subject to this Chapter, all decisions of the Enrolment Committee are final and binding.

23. The Enrolment Committee may, before an appeal of a decision is commenced, vary a decision on the basis of new information, if it considers that the decision was in error.

24. If the Enrolment Committee fails to decide upon an application for enrolment within the time established in its enrolment procedures, the application will be deemed to be refused and the deemed refusal will constitute grounds for appeal to the Enrolment Appeal Board.

25. If an individual applies to have their name, or the name of an individual they have legal authority to manage, removed from the Enrolment Register, the Enrolment Committee will remove the name and notify the individual who made the application.

The Enrolment Appeal Board

26. Canada and Kitselas will establish the Enrolment Appeal Board at a date agreed upon by the Parties.

27. Kitselas and Canada will each appoint one member to the Enrolment Appeal Board and

will jointly appoint a third member, and the members will select a chairperson from among themselves.

28. A member of the Enrolment Committee will not be a member of the Enrolment Appeal Board.

29. An applicant or a Party may appeal by written notice to the Enrolment Appeal Board:

(a) any decision of the Enrolment Committee made under paragraph 20(b) or 23; or

(b) any application deemed to be refused under paragraph 24.

30. The Enrolment Appeal Board will:

(a) establish and publish its procedures and time limits, including a time limit for making enrolment decisions;

(b) hear and determine any appeal brought under paragraph 29 and decide whether the individual will be enrolled;

(c) conduct its hearings in public unless it determines in a particular case that there are reasons for confidentiality that outweigh the public interest in having an open hearing;

(d) provide written reasons for its decision to the applicant and the Parties;

(e) maintain a record of its decisions and provide it to the Enrolment Committee; and

(f) report on the appeal process to the Parties on request.

31. As of the Effective Date**,** the Enrolment Appeal Board may:

(a) by summons require any individual to appear before the Enrolment Appeal Board as a witness and produce any relevant document in that individual's possession; and

(b) direct a witness to answer on oath or solemn affirmation any relevant question posed to the witness; and

(c) re-hear an appeal that was completed before the Effective Date on the basis of:

(i) new information; or

(ii) such other factors as the Enrolment Appeal Board considers relevant including its ability to exercise its powers under paragraphs 31(a) and 31(b).

32. A judge of the Supreme Court of British Columbia or other court of competent jurisdiction may, on application by the Enrolment Appeal Board, enforce a summons or direction made under paragraphs 31(a) or 31(b).

33. Any individual appearing before the Enrolment Appeal Board may be represented by counsel or an agent.

34. Subject to paragraphs 31(c) and 36 to 39, all decisions of the Enrolment Appeal Board are final and binding.

Actions Against the Enrolment Committee or Enrolment Appeal Board

35. No action lies or may be commenced against the Enrolment Appeal Board, the Enrolment Committee, any member of the Enrolment Appeal Board or any member of the Enrolment Committee for anything said or done or omitted to be said or done in good faith in the performance, or intended performance, of a duty or in the exercise of a power under this Chapter.

Judicial Review

36. An applicant or a Party may apply to the Supreme Court of British Columbia to review a decision of the Enrolment Appeal Board, or Kitselas under paragraph 43(a), as applicable, on the grounds that the Enrolment Appeal Board, or Kitselas under paragraph 43(a):

    (a) acted without jurisdiction, acted beyond its jurisdiction or refused to exercise its jurisdiction;

    (b) failed to observe procedural fairness;

    (c) erred in law; or

    (d) based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

37. On an application for judicial review, the Supreme Court of British Columbia may either dismiss the application or set aside the decision and refer the matter back to the Enrolment Appeal Board, or Kitselas under paragraph 43(a), as applicable, for determination in accordance with any directions that the Supreme Court of British Columbia considers appropriate.

38. Where the Enrolment Appeal Board, or Kitselas under paragraph 43(a), as applicable, refuses or fails to hear or decide an appeal within a reasonable time, the applicant or a Party may apply to the Supreme Court of British Columbia for an order directing the Enrolment Appeal Board, or Kitselas under paragraph 43(a), to hear or decide the appeal in accordance with any directions that the Supreme Court of British Columbia considers appropriate.

39. An applicant or a Party may apply for judicial review within 60 days of receiving notification of the decision of the Enrolment Appeal Board, or Kitselas under paragraph 43(a), as applicable, or a longer time that may be determined by the Supreme Court of British Columbia.

Costs

40. Canada and British Columbia will, as agreed between them, provide funding for the Enrolment Committee and the Enrolment Appeal Board to carry out the duties and responsibilities of the Enrolment Committee and Enrolment Appeal Board under this Chapter.

41. Kitselas will bear the administrative costs associated with enrolment applications received on or after the Effective Date.

Enrolment as of the Effective Date

42. The Enrolment Committee and the Enrolment Appeal Board will be dissolved when they have rendered decisions in respect of those applications or appeals commenced before the Effective Date, and on dissolution the Enrolment Committee and the Enrolment Appeal Board will provide their records to Kitselas and on request to British Columbia or Canada.

43. As of the Effective Date, Kitselas will:

(a) be responsible for an enrolment process, including the application of the Eligibility Criteria**,** and the administrative costs of that process;

(b) maintain the Enrolment Register;

(c) provide a true copy of the Enrolment Register to Canada and British Columbia on request; and

(d) provide information concerning enrolment to Canada and British Columbia on request.

General

44. Enrolment under this Agreement does not:

(a) confer or deny rights of entry into Canada, Canadian citizenship, the right to be registered as an Indian under the *Indian Act*, or any of the rights or benefits under the *Indian Act*; or

(b) except as set out in this Agreement or in Federal or Provincial Law, impose any obligation on Canada or British Columbia to provide rights or benefits.

APPENDIX B – TREATY BENEFIT CLAIM FORM

KITSELAS
TREATY INFORMATION SOURCE

Treaty Benefit Claim Form
Enrolled Adult Kitselas Members

This form must be completed by each enrolled adult Kitselas Member (Citizen under Treaty) to confirm their eligibility and process the Treaty Benefit Payment. As youth turn 18, they will need to submit a completed Treaty Benefit Claim Form. Please complete all fields and if applicable, attach the required documents listed below.

Please email your completed form to enrolment@kitselas.com or drop it off at the Treaty Office – 4562 Queensway or Gitaus Administration – 2225 Gitaus Road.

Please select the type of benefit you are claiming:

- ☐ Elders 65+ Treaty Benefit - $20,000 CAD
- ☐ Adults 18-64 Treaty Benefit - $10,000 CAD
- ☐ Top-Up Treaty Benefit - $10,000 CAD for individuals who received $10,000 CAD at 18-64 and are now 65.

SECTION 1: INFORMATION

First name: Middle: Last:

Date of Birth: Kitselas Band number:

Address: City/Town:

Street: City:

Province: Postal Code:

Phone Number: Email address:

AUTHORIZED REPRESENTATIVE (IF APPLICABLE)

Note: if you are submitting a claim on behalf of another individual, you must have the legal authority to manage their affairs. Please attach a valid copy either a Power of Attorney, Representation Agreement, if you are named as the Executor in a Will, a copy of the Will, or if applicable, a Grant of Probate or a Grant of Administration or other legal documentation confirming this authority.

Supporting documentation attached (e.g., Power of Attorney, Representation Agreement, copy of Will, Grant of Probate, etc.): ☐ **Yes** ☐ **No**

Continued on next page

SECTION 2: PAYMENT INFORMATION

To discuss alternative payment options, please contact the Treaty Office.

If you have not already provided your direct deposit information to the Finance Department, or if it has changed, please attach a void cheque or bank-generated direct deposit form.

Note: Handwritten information will not be accepted.

Please select one of the options below:

☐ I have previously submitted my direct deposit information

☐ I have not previously submitted my direct deposit information and have attached it with this form

SECTION 3: DECLARATION

I confirm that the information provided is true and complete. I understand that the Treaty Benefit Payment is a one-time payment under the Kitselas Treaty and agree to the terms of the Treaty Benefit Payment Policy and Procedures.

I release Kitselas First Nation from any liability relating to the Treaty Benefit Payment and indemnify Kitselas First Nation from any claims relating to this payment.

Signature: _____ Date: _____

FOR OFFICE USE ONLY:

Verification of enrolment in the Kitselas Treaty:

Date received: _____ Verified: ☐ Yes ☐ No

Benefit Processing:

Date processed: _____

APPENDIX C – KITSELAS FINANCIAL ADMINISTRATION LAW & HR POLICY

KITSELAS FIRST NATION

FINANCIAL ADMINISTRATION LAW,

2020

[April 1, 2019 Standards]

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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 Kitselas First Nation considers it to be in the best interests of the First Nation to make a law for such purposes; and

C. The Council of Kitselas First Nation wishes to repeal and replace the *Kitselas Financial Administration Law, 2012*.

NOW THEREFORE the Council of Kitselas First Nation enacts as follows:

PART I - Citation

Citation

1. This Law may be cited as the *Kitselas First Nation Financial Administration Law, 2020.*

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*;

“annual financial statements” means the annual financial statements of the First Nation referred to in Division 5 of Part IV;

“auditor” means the auditor of the First Nation appointed under section 56;

“borrowing member” means a first nation that is a borrowing member under the Act;

“budget” means the annual budget of the First Nation that has been approved by the Council;

“code” means a code adopted by the First Nation under the *First Nations Oil and Gas and Moneys Management Act* or a land code adopted by the First Nation under the *First Nations Land Management Act*;

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

“Council Chair” means the person appointed or elected to act as the chair of the Council;

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

“Director of Finance” means the person appointed Director of Finance under section 18;

"Finance and Audit Committee" means the Finance and Audit Committee established under section 11;

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

"financial competency" means the ability to read and understand financial statements that present accounting issues reasonably expected to be raised by the First Nation's financial statements;

"financial institution" means the First Nations Finance Authority, a bank, credit union or caisse populaire;

"financial records" means all records respecting the financial administration of the First Nation, including the minutes of meetings of the Council and the Finance and Audit Committee;

"First Nation" means Kitselas First Nation;

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

"First Nations Tax Commission standards" means the standards established from time to time by the Commission under the Act;

"First Nation's financial assets" means all money and other financial assets of the First Nation;

"First Nation law" means any law, including any by-law or code, of the First Nation made by the Council or the membership of the First Nation;

"First Nation's records" means all records of the First Nation respecting its governance, management, operations and financial administration;

"fiscal year" means the fiscal year of the First Nation set out in section 24;

"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;

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

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

"local revenue law" means a local revenue law made by the First Nation under subsection 5(1) of the Act;

"local revenues" means money raised under a local revenue law and payments made to the First Nation in lieu of a tax imposed by a law made under paragraph 5(1)(a) of the Act;

"multi-year financial plan" means the plan referred to in section 26;

“officer” means the Senior Administrative Officer or Band Manager, Director of Finance, Tax Administrator and any other employee of the First 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;

“Senior Administrative Officer or Band Manager” means the person appointed to the most-senior administrative role within the First Nation under section 17;

“special purpose report” means a report described in section 55;

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

“strategic plan” means the plan referred to in section 25; and

“Tax Administrator” means the person appointed Tax Administrator under section 19 or the First 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) 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) words importing female persons include male persons and corporations and words importing male persons include female persons and corporations;

(c) if a word or expression is defined, other parts of speech and grammatical forms of the same word or expressions have corresponding meanings;

(d) the expression “must” is to be construed as imperative, and the expression “may” is to be construed as permissive;

(e) unless the context indicates otherwise, “including” means “including, but not limited to”, and “includes” means “includes, but not limited to”; and

(f) a reference to an enactment includes any amendment or replacement of it and every regulation made under it.

(2) This Law must be considered as always speaking and where a matter or thing is expressed in the present tense, it must be applied to the circumstances as they arise, so that effect may be given to this Law according to its true spirit, intent and meaning.

(3) Words in this Law referring to an officer, by name of office or otherwise, also apply to any person designated by the Council to act in the officer's place or to any person assigned or delegated to act in the officer's place under this Law.

Calculation of Time

4. 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

5.(1) If there is a conflict between this Law and another First Nation law, other than a code or a local revenue law, this Law prevails.

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

(3) If there is a conflict between this Law and a local revenue law, the local revenue law prevails.

Scope and Application

6. This Law applies to the financial administration of the First Nation.

PART III - Administration

DIVISION 1 - Council

Responsibilities of Council

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

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

(a) the approval of Council policies;

(b) the appointment of members, the chair and the vice-chair of the Finance and Audit Committee;

(c) the approval of budgets and financial statements of the First Nation; and

(d) the approval of borrowing of the First Nation.

Council Policies and Procedures

8.(1) Subject to subsection (2), the Council may establish policies and procedures respecting any matter relating to the financial administration of the First Nation.

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

(3) The Council must not establish any policies and procedures relating to the financial administration of the First Nation that are inconsistent with this Law, the Act, or GAAP – except as permitted in subsection 55(2) of this Law.

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

(5) The Council must ensure that all procedures made under this Law are

(a) consistent with, and made under the authority of, a policy approved by the Council, and

(b) approved by the Council or the Senior Administrative Officer.

(6) The Council must document all First Nation policies and procedures referred to in this Law 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

9.(1) In this section,

"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 First Nation in accordance with GAAP;

"expenses" includes the costs of transportation, accommodation, meals, hospitality and incidental expenses; and

"remuneration" means any salaries, wages, commissions, bonuses, fees, honoraria and dividends and any other monetary and non-monetary benefits.

(2) Annually the Director of Finance must prepare a report separately listing the remuneration paid and expenses reimbursed by the First 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

10. In this Division, "Committee" means the Finance and Audit Committee.

Committee Established

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

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

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

(4) The Council must establish policies and procedures that:

(a) set criteria to determine if an individual is eligible to be a member of the Committee and is independent;

(b) require confirmation, before appointment, that each potential member of the Committee is eligible to be a member and is independent; and

(c) require each member of the Committee to annually sign a statement confirming that the member continues to meet the criteria referred to in paragraph (a).

(5) If the Committee consists of

(a) three (3) members, at least one (1) of the Committee members must be a councillor, and

(b) four (4) or more members, at least two (2) of the Committee members must be councillors.

(6) Subject to subsection (7), the Committee members must be appointed to hold office for staggered terms of not less than thirty six (36) consecutive months.

(7) A Committee member may be removed from office by the Council if

(a) the member misses three (3) consecutively scheduled meetings of the Committee, or

(b) the chair of the Committee recommends removal.

(8) If a Committee 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 Committee member to hold office for the remainder of the first member's term of office.

Chair and Vice-chair

12. (1) The Council must appoint a chair and a vice-chair of the Committee, one of whom must be a councillor.

(2) If Council appoints a non-councillor as chair of the Committee,

(a) Council must send to the chair notices and agendas of all Council meetings,

(b) on request of the chair, Council must provide the chair with any materials or information provided to Council respecting matters before it, and

(c) the chair may attend and speak at Council meetings.

Committee Procedures

13.(1) The quorum of the Committee is fifty percent (50%) of the total number of Committee members, including at least one (1) councillor.

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

(3) In the event of a tie vote in the Committee, the chair of the Committee may cast a second tiebreaking vote.

(4) Subject to subsection (5), the Senior Administrative Officer Senior Administrative Officer and the Director of Finance must be notified of all Committee meetings and, subject to reasonable exceptions, must attend those meetings.

(5) The Senior Administrative Officer Senior Administrative Officer or the Director of Finance may be excluded from all or any part of a Committee meeting by a recorded vote if

(a) the subject matter relates to a confidential personnel or performance issue that the Committee is providing advice and recommendations on to support Council's decision making process respecting the Senior Administrative Officer or the Director of Finance as related to the financial administration of the First Nation, or

(b) it is a meeting with the auditor.

(6) The Committee must meet

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

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

(7) The Committee must provide minutes of its meetings to the Council and report to the Council on the substance of each Committee meeting within five (5) business days after each meeting.

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

(9) After consultation with the Senior Administrative Officer and Council, the Committee may retain a consultant to assist in the performance of any of its responsibilities.

Financial Planning Responsibilities

14.(1) The Committee must carry out the following activities in respect of the financial administration of the First Nation:

(a) annually review and recommend to the Council for approval a strategic plan and a multi-year financial plan;

(b) review draft annual budgets and recommend them to the Council for approval;

(c) on an ongoing basis, monitor the financial performance of the First Nation against the budget and report any significant variations to the Council;

(d) review the quarterly financial statements and recommend them to the Council for approval;

(e) review and make 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;

(f) carry out any other activities specified by the Council that are not contrary to the Act or inconsistent with the Committee's duties specified in this Law; and

(g) perform any other duties of the Committee under this Law.

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

Audit and Oversight Responsibilities

15. The Committee must carry out the following audit and oversight activities in respect of the financial administration of the First Nation:

(a) make recommendations to the Council on the selection, engagement and performance of an auditor;

(b) receive assurances on the independence of a proposed or appointed auditor;

(c) review and make recommendations to the Council on the planning, conduct and results of audit activities;

(d) periodically review and make recommendations to the Council on policies and procedures on reimbursable expenses and perquisites of the councillors, officers and employees of the First Nation;

(e) monitor financial reporting risks and risk of fraud and the effectiveness of mitigating controls for those risks taking into consideration the cost of implementing those controls;

(f) conduct a review of this Law under section 80 and, where appropriate, recommend amendments to the Council; and

(g) periodically review and make recommendations to the Council on the terms of reference of the Committee.

Council Assigned Responsibilities

16. Subject to paragraph 14(1)(e), the Council may assign to the Committee or another committee of the Council any other matter respecting the financial administration of the First Nation.

DIVISION 3 - Officers and Employees

Senior Administrative Officer

17.(1) The Council must appoint a person as Senior Administrative Officer of the First Nation and may set the terms and conditions of that appointment.

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

(a) to prepare and recommend to the Council for approval, job descriptions, duties and functions of all employees of the First Nation;

(b) to oversee, supervise and direct the activities of all officers and employees of the First Nation;

(c) to oversee and administer the contracts of the First Nation;

(d) to identify, assess, monitor and report on financial reporting risks and risk of fraud;

(e) to monitor and report on the effectiveness of mitigating controls for the risks referred to in paragraph (d) taking into consideration the cost of implementing those controls;

(f) to perform any other duties of the Senior Administrative Officer under this Law; and

(g) to carry out any other activities specified by the Council that are not contrary to the Act or inconsistent with the Senior Administrative Officer's duties specified in this Law.

(3) Subject to subsections (4) and (5), the Senior Administrative Officer may assign the performance of any of the Senior Administrative Officer's duties or functions (except the approval of procedures made under this Law)

(a) to an officer or employee of the First Nation, and

(b) with the approval of the Council, to a contractor or agent of the First Nation.

(4) The assignee of any duties contemplated under subsection (3) must be notified by the Senior Administrative Officer of any duties or functions assigned to them.

(5) Any assignment of duties or functions under subsection (3) does not relieve the Senior Administrative Officer of the responsibility to ensure that these duties or functions are carried out properly.

Director of Finance

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

(2) Reporting to the Senior Administrative Officer Senior Administrative Officer, the Director of Finance is responsible for the day-to-day management of the systems of the financial administration of the First Nation, including the following duties:

(a) to ensure the financial administration systems, policies, procedures and internal controls are appropriately designed and operating effectively;

(b) to administer and maintain all charts of accounts of the First Nation;

(c) to prepare the draft annual budgets and, with advice and input from the Tax Administrator, to prepare any draft amendments to the component of the budget respecting the First Nation's local revenues;

(d) to prepare the monthly financial information required in section 51, the quarterly financial statements required in section 52 and the draft annual financial statements required in sections 53 and 54;

(e) to prepare the financial components of reports to the Council and of the multi-year financial plan;

(f) to actively monitor compliance with any agreements and funding arrangements entered into by the First Nation;

(g) to administer and supervise the preparation and maintenance of financial records and the financial administration reporting systems;

(h) to actively monitor compliance with the Act, this Law, any other applicable First Nation law, applicable standards and any policies and procedures respecting the financial administration of the First Nation;

(i) to evaluate the financial administration systems of the First Nation and recommend improvements;

(j) to develop and recommend procedures for the safeguarding of assets and to ensure approved procedures are followed;

(k) to develop and recommend procedures to Council for identifying and mitigating financial reporting and risk of fraud and to ensure approved procedures are followed;

(l) to perform any other duties of the Director of Finance under this Law; and

(m) to carry out any other activities specified by the Senior Administrative Officer that are not contrary to the Act or inconsistent with the Director of Finance's duties under this Law.

(3) Subject to subsection (4) and (5), the Director of Finance may assign the performance of any of the duties or functions of the Director of Finance to any officer, employee, contractor or agent of the First Nation, but this assignment does not relieve the Director of Finance of the responsibility to ensure that these duties or functions are carried out properly.

(4) The assignment of any duties by the Director of Finance must be approved by the Senior Administrative Officer.

(5) The assignee of any duties contemplated under subsection (3) must be notified by the Senior Administrative Officer of any duties or functions assigned to them.

Tax Administrator

19.(1) If the First Nation is collecting local revenues, the Council must appoint a person as Tax Administrator of the First Nation and may set the terms and conditions of that appointment.

(2) Reporting to the Director of Finance, the Tax Administrator is responsible for performing the Tax Administrator's duties or functions under the First Nation's local revenue laws, the Act and this Law.

(3) In addition to any duties or functions under the First Nation's local revenue laws and the Act, the Tax Administrator is responsible for the following:

(a) to manage local revenues and the local revenue account on a day-to-day basis;

(b) to recommend to the Director of Finance the draft and amended budgets for the component of the budget respecting local revenues;

(c) to recommend to the Director of Finance the local revenues components of the multi-year financial plan;

(d) on request, to provide advice to the Senior Administrative Officer, Director of Finance, Finance and Audit Committee and the Council respecting local revenues matters;

(e) to monitor compliance with the Act, the First Nation's local revenue laws and this Law in the administration of local revenues and the local revenue account; and

(f) to perform any other duties of the Tax Administrator under this Law.

(4) Subject to subsection (5) and (6), 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 First Nation, but this assignment does not relieve the Tax Administrator of the responsibility to ensure that these duties or functions are carried out properly.

(5) The assignment of any duties by the Tax Administrator must be approved by the Senior Administrative Officer.

(6) The assignee of any duties contemplated under subsection (4) must be notified by the Senior Administrative Officer of any duties or functions assigned to them.

Organizational Structure

20.(1) The Council must establish and maintain a current organization chart for the governance, management and administrative systems of the First Nation.

(2) The organization chart under subsection (1) must include the following information:

(a) all governance, management and administrative systems of the First 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, Finance and Audit Committee and all other committees of the Council and the First Nation,

(ii) the Senior Administrative Officer, the Director of Finance, the Tax Administrator and other officers of the First 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).

(3) On request, the Senior Administrative Officer must provide a copy of the organization chart under subsection (1) to a councillor, a member of a committee referred to in subparagraph (2)(d)(i), an officer, employee or contractor or agent of the First Nation, or a member of the First Nation.

(4) In the course of discharging his or her responsibilities under this Law, the Senior Administrative Officer must recommend to the Council for approval and implementation human resource policies and procedures that facilitate effective internal financial administration controls.

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

DIVISION 4 - Conduct Expectations

Policy/Procedure for Conflicts of Interest

21.(1) The Council must establish policies and procedures for the avoidance, mitigation and disclosure of actual or potential conflicts of interest by councillors, officers, employees, committee members, contractors and agents.

(2) The policies and procedures referred to in subsection (1) must provide for the following:

(a) defining private interests that could result in a conflict of interest;

(b) keeping records of all disclosures and declarations made relating to actual or potential conflicts of interest;

(c) specifying restrictions on the acceptance of gifts and benefits that might reasonably be seen to have been offered in order to influence the making of a decision;

(d) prohibiting any person 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

(e) specifying how any undisclosed or any alleged but not admitted conflicts of interest of councillors are to be addressed.

Conduct of Councillors

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

(a) comply with this Law, the Act, any other applicable First Nation law, policies, procedures and any applicable standards,

(b) act honestly, in good faith and in the best interests of the First 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 applicable policy and procedure made under section 21.

(2) Annually a councillor must file with the Senior Administrative Officer a written disclosure of his or her private interests which could result in a conflict of interest.

(3) If a councillor believes he or she has a conflict of interest, the councillor must disclose the circumstances to the council in writing as soon as practicable.

(4) If it has been determined under this Law or by a court of competent jurisdiction that a councillor has contravened this section, the Council may take any or all of the following actions:

(a) remove the councillor from their assigned administrative responsibilities or portfolio;

(b) withhold the councillor's compensation or honoraria for a period of time;

(c) record the Council's displeasure in the Council minutes;

(d) take any other appropriate action authorized under any other First Nation law, code or policy;

(e) use any legal means available to it to remedy the situation.

Conduct of Officers, Employees, Contractors, etc.

23.(1) This section applies to

(a) an officer, employee, contractor and agent of the First Nation,

(b) a person acting under the delegated authority of the Council or the First Nation, and

(c) a member of a committee of the Council or the First Nation who is not a councillor.

(2) If a person is exercising a power, duty or responsibility relating to the financial administration of the First Nation, that person must

(a) comply with this Law, the Act, any other applicable First Nation law and any applicable standards,

(b) comply with all policies and procedures of the First Nation, and

(c) avoid conflicts of interest and comply with any the applicable policy and procedure made under section 21.

(3) If an officer, employee, committee member, contractor or agent believes he or she has a conflict of interest, that person must disclose the circumstances in writing as soon as practicable to the Senior Administrative Officer or, in the case of the Senior Administrative Officer, to the chair of the Finance and Audit Committee.

(4) The Council must incorporate the relevant provisions of this section into the following:

(a) the terms of employment or appointment of every officer or employee of the First Nation;

(b) the terms of every contract of a contractor of the First 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 First Nation.

(5) If a person contravenes a provision of this subsection, 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;

(d) the appointment of an agent may be revoked; or

(e) the council may use any legal means available to it to remedy the situation.

PART IV - Financial Management

DIVISION 1 - Financial Plans and Annual Budgets

Fiscal Year

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

Strategic Plan

25.(1) The Council must

(a) approve a strategic plan that sets out the long-term vision for the First Nation and its members to help determine the direction of the multi-year financial plan; and

(b) review the strategic plan on a regular, periodic basis and revise it as necessary

(2) The Council must take the strategic plan into account when making financial decisions which will impact members of the First Nation or the First Nation's financial assets.

Multi-year Financial Plan

26.(1) The multi-year financial plan referred to in this section is to be used by the First Nation for the purpose of informing its financial decision-making in a manner that is consistent with and supports the vision of the strategic plan.

(2) The multi-year financial plan must comply with the following:

(a) have a planning period of five (5) years comprised of the current fiscal year and the four (4) succeeding fiscal years;

(b) be based on the projections of revenues, expenditures and transfers between accounts;

(c) set out projected revenues, segregated by significant category;

(d) set out projected expenditures, segregated by significant category; and

(e) indicate 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.

(3) On or before January 31 of each year, the Director of Finance must prepare and submit to the Finance and Audit Committee for review a draft multi-year financial plan for the next fiscal year.

(4) On or before February 15 of each year, the Finance and Audit Committee must review the draft multi-year financial plan prepared by the Director of Finance and recommend a multi-year financial plan to the Council for approval.

(5) No later than March 31 of each year, the Council must approve a multi-year financial plan for the next fiscal year.

Annual Budget

27.(1) The annual budget must encompass all the operations for which the First 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) On or before January 31 of each year, the Director of Finance must prepare and submit to the Finance and Audit Committee for review a draft annual budget for the next fiscal year.

(3) On or before February 15 of each year, the Finance and Audit Committee must review the draft annual budget prepared by the Director of Finance and recommend an annual budget to the Council for approval.

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

(5) On or before June 15 of each year, the Director of Finance must prepare and submit to the Finance and Audit Committee for review a draft amendment of the component of the budget respecting the First Nation's local revenues.

(6) On or before June 30 of each year, the Finance and Audit Committee must review the draft amendment of the component of the budget respecting the First Nation's local revenues and recommend an amendment to the budget to the Council for approval.

(7) No later than July 15 of each year, the Council must approve the amendment of the component of the budget respecting the First Nation's local revenues.

Additional Requirements for Budget Deficits

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

(a) no portion of the proposed deficit originates in or relates to local revenues,

(b) the multi-year financial plan demonstrates how and when the deficit will be addressed and how it will be serviced, and

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

Amendments to Budgets

29.(1) The Council must approve any change to the budget.

(2) Subject to subsection 27(7) and any emergency expenditure referred to in paragraph 35(c), unless there is a substantial and unforeseen change in the forecasted revenues or expenses of the First Nation or in the expenditure priorities of the Council, the Council must not approve a change to the annual budget of the First Nation.

Local Revenues 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 First Nations Tax Commission standards.

Policy for First Nation Information or Involvement

31. The Council must establish policies and procedures respecting the means by which members of the First Nation must be informed about or involved in consideration of

(a) the strategic plan;

(b) the multi-year financial plan;

(c) the proposed annual budget, including

(i) any budget deficits, and

(ii) any component of the annual budget respecting the First Nation's local revenues; and

(d) extraordinary expenditures.

DIVISION 2 - Revenues and Expenditures

Financial Institution Accounts

32.(1) The First Nation must establish a separate local revenue account in a financial institution for money from local revenues.

(2) The First Nation may establish any other accounts not referred to in subsection (1) as may be necessary and appropriate to manage the First Nation's financial assets.

Local Revenue Expenditures

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

Budget Approved Expenditures

34. The First Nation may only expend First Nation funds if the expenditure has been approved in a budget in effect at the time of the expenditure.

Required Policies and Procedures

35. The Council must establish policies and procedures respecting the following matters:

(a) effective management and control of all First Nation cash, funds and revenues, including internal controls for financial institution accounts and asset management;

(b) effective management of all First Nation expenditures, including internal controls for financial institution accounts and the procurement of goods and services;

(c) expenditures for an emergency purpose which was not anticipated in the budget but which is not expressly prohibited by or under this Law or another First Nation law;

(d) management of advances, holdbacks, deposits and refunds;

(e) collection and charging of interest;

(f) writing off and extinguishing debts; and

(g) fiscal year-end surpluses.

DIVISION 3 - Borrowing

Policies/Procedures for Borrowing

36.(1) The Council must establish policies and procedures respecting the incurring of debt, granting security, debt management and use of borrowed funds by the First Nation.

(2) The Council may approve the borrowing of money by the First Nation in accordance with the policies and procedures of the First Nation and this Law.

Borrowing Member Requirements

37.(1) This section applies if the First Nation is a borrowing member.

(2) If the First Nation has obtained long-term financing secured by property taxes from the First Nations Finance Authority, the First Nation must not subsequently obtain long-term financing secured by property tax revenues from any other person.

(3) The First Nation may only obtain long-term financing from the First Nations Finance Authority as permitted under its local revenue law and the Act.

(4) Money borrowed under subsection (2) may only be used for the purposes permitted under the Act.

(5) Money borrowed by the First Nation from the First Nations Finance Authority 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 New Capital Projects

38. The Council must establish policies and procedures respecting the means by which members of the First Nation must be informed about or involved in consideration of borrowing for new capital projects described in Part V.

Execution of Security Documents

39.(1) Subject to subsection (2), a security granted by the First Nation must be signed by a councillor designated by the Council and by either the Senior Administrative Officer or the Director of Finance.

(2) A security granted by the First Nation in respect of local revenues must be signed by a councillor designated by the Council and by the Tax Administrator.

DIVISION 4 - Risk Management

Management of Business Activity

40.(1) If the First Nation intends to carry out for-profit activities, the Council must establish policies and procedures respecting the limitation or management of the risks associated with the First Nation carrying on those activities.

(2) The Council may approve the First Nation carrying on for-profit activities in accordance with the policies and procedures established by the Council.

Guarantees and Indemnities

41.(1) The First Nation must not give a guarantee unless the Council has considered the report of the Director of Finance under subsection (2).

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

(3) The First Nation must not give an indemnity unless it is

(a) authorized under section 76,

(b) necessary and incidental to and included in another agreement to which the First Nation is a party, or

(c) in relation to a security granted by the First Nation that is authorized under this Law or another First Nation law.

(4) Subject to a resolution described in section 76, the Council must make policies and procedures 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 First 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 First Nation.

Investments

42.(1) The First Nation may invest the First Nation's financial assets under the conditions set out in this Law or in another First Nation law.

(2) If the First Nation intends to invest the First Nation's financial assets, the Council must first approve an investment management strategy.

(3) The Council must establish policies and procedures respecting the development, approval and periodic review of an investment management strategy for the First Nation's financial assets.

(4) If the First Nation is authorized to invest the First Nation's financial assets, the Council may authorize the Director of Finance to invest the First Nation's financial assets

(a) as specifically approved by the Council, or

(b) in accordance with the investment management strategy approved by the Council under subsection (2).

(5) Despite any other provision in this Law, the First Nation may only invest the following funds in investments specified in paragraph 82(3)(a), (b), (c) or (d) of the Act and in investments in securities issued by the First Nations Finance Authority or a municipal finance authority established by a province:

(a) government transfer funds; and

(b) local revenues.

(6) The Council must establish policies and procedures identifying the financial institutions or types of financial institutions in which the First Nation may invest its funds.

Loans

43.(1) The Council must establish policies and procedures respecting the First Nation lending First Nation's financial assets including actions to ensure effective management and collection of these loans.

(2) The Council may approve the lending of First Nation's financial assets in accordance with the policies and procedures of the First Nation.

Permitted Loans to First Nation Members

44.(1) The First Nation may make a loan to a member of the First Nation if

(a) the loan is made from a program approved by the Council, and

(b) the program provides for universal accessibility, has published terms and conditions, and is transparent.

(2) If the First Nation intends to make loans to members of the First Nation, the Council must make policies and procedures for the effective management and operation of the program referred to in this section.

(3) The Council may approve the making of loans to members of the First Nation in accordance with the policies and procedures referred to in subsection (2).

Risk Assessment and Management

45.(1) Annually, and more often if necessary, the Senior Administrative Officer must identify and assess any significant risks to the First Nation's financial assets, the First Nation's tangible capital assets as defined in Part V and the operations of the First Nation.

(2) Annually, and more often if necessary, the Senior Administrative Officer must report to the Finance and Audit Committee 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

46.(1) On recommendation of the Finance and Audit Committee, the Council must procure and maintain in force all insurance coverage that is appropriate and commensurate with the risks identified in section 45 and any other risks associated with any assets, property or resources under the care or control of the First Nation.

(2) 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.

Risk of Fraud

47. The Council must establish policy and procedures for the identification and assessment of the risk of fraud in the First Nation.

Operational Controls

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

DIVISION 5 - Financial Reporting

GAAP

49. All accounting practices of the First Nation must comply with GAAP.

Separate Accounting

50.(1) The Director of Finance must account for local revenues of the First Nation separately from other moneys of the First Nation.

(2) If the First Nation has a loan from the First Nations Finance Authority that is secured by other revenues, the Director of Finance must

(a) account for all other revenues of the First Nation separately from other moneys of the First Nation, and

(b) provide the First Nations Finance Authority or the FMB, on its request, with accounting information respecting the other revenues.

Monthly Financial Information

51.(1) The Director of Finance must prepare monthly financial information respecting the financial affairs of the First Nation in the form and with the content approved by the Council on the recommendation of the Finance and Audit Committee.

(2) The Director of Finance must provide the financial information in subsection (1) to the Senior Administrative Officer within a reasonable period of time following the end of the month for which the information was prepared.

Quarterly Financial Statements

52.(1) At the end of each quarter of the fiscal year, the Director of Finance must prepare financial statements for the First Nation for that quarter in the form and with the content approved by the Council on the recommendation of the Finance and Audit Committee.

(2) The Director of Finance must provide the quarterly financial statements in subsection (1) to the Council and the Finance and Audit Committee not more than forty-five (45) days after the end of the quarter of the fiscal year for which they were prepared.

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

(a) reviewed by the Finance and Audit Committee and recommended to Council for approval, and

(b) reviewed and approved by the Council.

Annual Financial Statements

53.(1) This section does not apply to the annual financial statements respecting local revenues referred to in section 54.

(2) At the end of each fiscal year the Director of Finance must prepare the annual financial statements of the First Nation for that fiscal year in accordance with GAAP.

(3) The annual financial statements must be prepared in a form approved by the Council on the recommendation of the Finance and Audit Committee.

(4) The annual financial statements must include all the financial information of the First Nation for the fiscal year.

(5) The Director of Finance must provide draft annual financial statements to the Finance and Audit Committee for review within a reasonable period of time following the end of the fiscal year for which they were prepared.

(6) The Finance and Audit Committee must present draft annual financial statements to the Council for review within a reasonable period of time following the end of the fiscal year for which they were prepared.

(7) For purposes of this section, a reasonable period of time means a period of time which will allow the annual financial statements to be audited within the time required in subsection 58(1).

Local Revenues Annual Financial Statements

54.(1) The Director of Finance must prepare, at least once each calendar year, separate annual financial statements respecting the First Nation's local revenues in accordance with the FMB's *Local Revenue Financial Reporting Standards.*

(2) The council must establish policies and procedures respecting the annual preparation, review, audit and approval of the annual financial statements referred to in subsection (1) including any required deadlines for completing these activities.

(3) The policies and procedures referred to in subsection (2) must be consistent with any requirements of the FMB's *Local Revenue Financial Reporting Standards.*

(4) The provisions of this Law, including this section, respecting separate annual financial statements for local revenues do not apply if FMB's *Local Revenue Financial Reporting Standards* permit the First Nation to report on its local revenues in its audited annual financial statements as a distinct segment of the activities that appear in those statements and the First Nation chooses to report on its local revenues in that manner.

Special Purpose Reports

55.(1) The Director of Finance 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 9;

(c) a report setting out all debts or obligations forgiven by the First Nation; and

(d) any other report required under the Act or an agreement.

(2) The Director of Finance may prepare special purpose reports on the basis of accounting other than GAAP if necessary to comply with any reporting obligations the First Nation has under an agreement.

Appointment of Auditor

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

(a) the end of the Council meeting when the audited annual financial statements for that fiscal year are being considered, 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 Finance and Audit Committee and must include the content required by the Canadian generally accepted auditing standards.

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

(a) be independent of the First 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 its respective counterpart 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 the province or territory in which the majority of the reserve lands of the First Nation are located.

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

(a) advise the First 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

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

(a) all records of the First Nation for examination or inspection and given copies of these records on request, and

(b) any councillor, officer, employee, contractor or agent of the First 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 First Nation as necessary for the performance of the auditor's duties.

(3) The auditor must be given notice of

(a) every meeting of the Finance and Audit Committee, 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 First Nation.

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

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

Assurance Requirements

58.(1) The auditor must provide an audit report on the annual financial statements referred to in section 53 not more than one hundred and twenty (120) days after the fiscal-year end.

(2) The separate annual financial statements respecting local revenues referred to in section 54 must be audited by the auditor at least once every calendar year.

(3) The auditor must conduct the audit of the annual financial statements referred to in both sections 53 and 54 in accordance with Canadian generally accepted auditing standards.

(4) The auditor must provide an audit report or a review engagement report on the special purpose reports referred to in section 55.

Review of Audited Annual Financial Statements

59.(1) This section does not apply to the annual financial statements respecting local revenues referred to in section 54.

(2) The audited annual financial statements must be provided to the Finance and Audit Committee for its review and consideration within a reasonable period of time after the fiscal year-end for which the statements were prepared.

(3) 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

60.(1) Before the annual financial statements referred to in both sections 53 and 54 may be published or distributed, they must

(a) be approved by the Council,

(b) be signed by

(i) the Chief of the First Nation or the Council chair,

(ii) the chair of the Finance and Audit Committee, and

(iii) the Director of Finance, and

(c) include the auditor's audit report of the annual financial statements.

(2) The audited annual financial statements referred to in section 53 must be available for inspection by members of the First Nation at the principal administrative offices of the First Nation during normal business hours.

(3) The following documents must be available for inspection by any person referred to in subsection 14(2) of the Act at the principal administrative offices of the First Nation during normal business hours:

(a) the audited annual financial statements respecting local revenues referred to in section 54; or

(b) the audited annual financial statements referred to in section 53 if those statements include a report on local revenues as a distinct segment of the activities that appear in those statements.

Annual Report

61.(1) No later than one hundred and eighty (180) days after the end of each fiscal year, the Council must publish an annual report on the operations and financial performance of the First Nation for the previous fiscal year.

(2) The annual report referred to in subsection (1) must include

(a) a description of the services and operations of the First Nation, and

(b) a progress report on any established objectives and performance measures of the First Nation.

(3) The annual report referred to in subsection (1) must include or incorporate by reference

(a) the audited annual financial statements referred to in sections 53 and 54 for the previous year, and

(b) any special purpose reports referred to in section 55, including the auditor's report.

(4) The Senior Administrative Officer must provide the annual report referred to in subsection (1)

(a) to a member of the First Nation as soon as practicable after a request is made by the member, and

(b) to the First Nations Finance Authority as soon as practicable after the report's publication, if the First Nation is a borrowing member.

(5) The Council must establish policies and procedures respecting an accessible process and remedy available to members of the First Nation who have requested but have not been provided with the annual report of the First Nation or access to the audited annual financial statements and special purpose reports incorporated by reference in the annual report.

DIVISION 6 - Information and Information Technology

Ownership of Records

62. The Council must establish policies and procedures to ensure that all records that are produced by or on behalf of the First Nation or kept, used or received by any person on behalf of the First Nation are the property of the First Nation.

Record Keeping

63. The Council must establish policies and procedures respecting

(a) the preparation, maintenance, security, storage, access to and disposal of records of the First Nation, and

(b) the confidentiality, control and release of First Nation information that is in the possession of the First Nation, the Council, councillors, committee members, employees, contractors or agents of the First Nation.

Account Records

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

(2) If the First Nation has a loan from the First Nations Finance Authority that is secured by other revenues, the Director of Finance must prepare, maintain, store and keep secure a complete set of all records respecting other revenues of the First 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.*

Information Technology

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

PART V - Tangible Capital Assets

Definitions

66. In this Part,

"First Nation tangible capital assets" means all non-financial assets of the First 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 an accounting period,

(c) are to be used on a continuing basis, and

(d) are not for sale in the ordinary course of operations;

"life-cycle management program" means the program of inspection, planning, maintenance, replacement and oversight for First Nation tangible capital assets as described in section 69; and

"tangible capital asset project" means the acquisition, construction, repair or replacement of a First Nation tangible capital asset, but does not include routine maintenance.

Council General Duties

67. The Council must take reasonable steps to ensure that First Nation tangible capital assets are

(a) recorded in an assets register,

(b) adequately safeguarded,

(c) maintained in accordance with a life-cycle management program described in this Part, and

(d) planned, financed, managed and constructed to acceptable community standards.

Tangible Capital Assets Reserve Fund

68. The Council must establish and manage a tangible capital assets reserve fund to be applied for the purpose of funding expenditures for tangible capital asset projects carried out under this Part.

Life-cycle Management Program

69.(1) The Council must establish a life-cycle management program for First Nation tangible capital assets which includes the following:

(a) the development, maintenance and updating of an assets register for First Nation tangible capital assets;

(b) the regular, periodic inspection of First Nation tangible capital assets;

(c) for routine maintenance of First Nation tangible capital assets, preparation of the following:

(i) a plan for annual scheduling of required maintenance for the next fiscal year;

(ii) short and long-term forecasting of estimated costs; and

(iii) a budget for required annual maintenance for the next fiscal year; and

(d) for tangible capital asset projects, preparation of the following:

(i) a plan for annual scheduling of projects for the next fiscal year; and

(ii) short and long-term forecasting of estimated costs of projects; and

(e) the annual review by the Finance and Audit Committee of the proposed scheduling and budgets for routine maintenance and tangible capital asset projects.

(2) The Council must establish policies and procedures respecting

(a) a life-cycle management program for First Nation tangible capital assets, and

(b) tangible capital asset projects.

Tangible Capital Asset Projects Management

70.(1) The Council must establish policies and procedures respecting procurement, contract and risk management and administration of tangible capital asset projects.

(2) All tangible capital asset projects must be managed in accordance with the policies and procedures referred to in subsection (1).

Policy for Information or Involvement of First Nation Members

71. The Council must establish policies and procedures respecting the means by which First Nation members must be informed about or involved in consideration of tangible capital asset projects.

PART VI - Reporting Breaches

Reports of Breaches and Financial Irregularities, etc.

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

(a) an expenditure, liability or other transaction of the First Nation is not authorized by or under this Law or another First Nation law,

(b) there has been a theft, misappropriation or other misuse or irregularity in the funds, accounts, assets, liabilities and financial obligations of the First Nation,

(c) a provision of this Law has been contravened, or

(d) a person has failed to comply with applicable policies and procedures referred to in section 21,

the person may disclose the circumstances to the chair of the Finance and Audit Committee.

(2) If a councillor becomes aware of any circumstances described under subsection (1), the councillor must report them to the chair of the Finance and Audit Committee.

(3) If an officer, employee, contractor or agent of the First 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 Senior Administrative Officer or the chair of the Finance and Audit Committee.

Inquiry into Report

73.(1) If a report is made to the Senior Administrative Officer under subsection 72(3), the Senior Administrative Officer must inquire into the circumstances reported and report the findings to the Finance and Audit Committee as soon as practicable.

(2) If a report is made to the chair of the Finance and Audit Committee under section 72, the chair must inquire into the circumstances reported and report the findings to the Finance and Audit Committee as soon as practicable.

(3) The Finance and Audit Committee 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 Committee under this section, including the Committee's recommendations, if any.

Protection of Parties

74.(1) All reasonable steps must be taken by the Senior Administrative Officer, the members of the Finance and Audit Committee and the councillors to ensure that the identity of the person who makes a report under section 72 is kept confidential to the extent practicable in all the circumstances.

(2) A person who makes a report in good faith under section 72 must not be subjected to any form of reprisal by the First Nation or by a councillor, officer, employee, contractor or agent of the First Nation as a result of making that report.

(3) The Senior Administrative Officer and the chair of the Finance and Audit Committee 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 and procedures

(a) for the recording and safeguarding of reports made under section 72 and any records prepared during the inquiry or investigation into those reports;

(b) for the inquiry or investigation into reports made under section 72; and

(c) concerning the fair treatment of a person against whom a report has been made under section 72.

Liability for Improper Use of Money

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

(2) Subsection (1) does not apply if the councillor relied on information provided by an officer or employee of the First 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 First Nation under subsection (1) may be recovered for the First Nation by the First Nation, a member of the First Nation or a person who holds a security under a borrowing made by the First Nation.

(4) It is a good defence to any action brought against an officer or employee of the First Nation for unauthorized expenditure, investment or use of the First 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

76.(1) In this section:

"indemnify" means pay amounts required or incurred to

(a) defend an action or prosecution brought against a person in connection with the exercise or intended exercise of the person's powers or the performance or intended performance of the person's duties or functions, or

(b) satisfy a judgment, award or penalty imposed in an action or prosecution referred to in paragraph (a);

"First Nation official" means a current or former councillor, officer or employee of the First Nation.

(2) Subject to subsection (3), the Council may by resolution indemnify or provide for the indemnification of a named First Nation official, a category of First Nation official or all First Nation officials in accordance with the terms specified in the resolution.

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

PART VII - Miscellaneous

FMB Standards

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

(2) If the Council becomes aware that the First 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 First Nation into compliance with the FMB standard.

Delegated Authority for Local Revenues

78.(1) This section applies to the First Nation only if it is

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

(b) using its local revenues to secure a loan from the First Nations Finance Authority.

(2) Without limiting section 53 of the Act, if the FMB gives notice to the First Nation under section 53 of the Act that third-party management of the First Nation's local revenues is required, the Council of the First Nation delegates to the FMB

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

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

Delegated Authority for Other Revenues

79.(1) This section applies to the First Nation only if it is using its other revenues to secure a loan from the First Nations Finance Authority.

(2) Without limiting section 53 of the Act as adapted by the *Financing Secured by Other Revenues Regulations*, if the FMB gives notice to the First Nation under section 53 of the Act that third-party management of the First Nation's other revenues is required, the Council of the First Nation delegates to the FMB

(a) the powers and authorities described in subsection 53(2) of the Act as adapted by the *Financing Secured by Other Revenues Regulations*, and

(b) any other of the Council's powers required to give effect to third-party management of the First Nation's other revenues under the Act.

Periodic Review and Changes of Law

80.(1) On a regular, periodic basis established by a policy of the Council, the Finance and Audit Committee must conduct a review of this Law

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

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

(2) The Council must establish policies and procedures respecting the means by which members of the First Nation must be informed about or involved in consideration of proposed amendments of this Law.

(3) If the First Nation is a borrowing member, it 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.

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

Repeal

81. The *Kitselas Financial Administration Law, 2012* is repealed.

Coming into Force

82. This Law comes into force on the day after it is approved by the FMB under section 9 of the Act.

THIS LAW IS HEREBY DULY ENACTED by Council on the 13 day of October, 2020, at 2225 Gitaus Rd, in the Province of British Columbia at a duly called and conducted Council meeting at which the required quorum of 5 (__) members of Council was present throughout.

Chief Judy Gerow

Councillor Cyril (CJ) Bennett-Nabess

Councillor Ian Chad Gerow

Councillor Lynn Parker

Councillor Harold Lloyd McDames Sr.

Councillor Clarisa Spencer