



TSAWWASSEN FIRST NATION
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2009

FINANCIAL ADMINISTRATION ACT

Date Enacted: 3 April 2009

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Table of Legislative Changes

Name of Act	Bill Number	Date Enacted	Section(s) Amended
Financial Administration Amendment Act	002-2013	29/05/2013	s.47(5) added

Tsawwassen First Nation

2009

FINANCIAL ADMINISTRATION ACT

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The Tsawwassen Legislature enacts as follows:

PART 1 – INTERPRETATION AND APPLICATION

Citation

- 1 This Act may be cited as the *Financial Administration Act*.

Definitions

- 2 In this Act:
 - “**annual audit**” means an audit by an auditor of the consolidated financial statements for the preceding fiscal year according to generally accepted auditing standards;
 - “**annual audited financial statements**” means the consolidated financial statements audited by an auditor as part of conducting the annual audit;
 - “**annual financial statements**” mean the annual financial statements referred to in Division 7[*Financial Reporting*];
 - “**appropriation**” means an allocation of money under a budget to the purposes for which it may be used;
 - “**asset**” means an item of economic value owned by Tsawwassen First Nation, including but not limited to money;
 - “**auditor**” means the auditor appointed under section 71;
 - “**Board**” means the First Nations Financial Management Board established under the *First Nations Fiscal and Statistical Management Act* (Canada);
 - “**Board standards**” mean the standards established from time to time by the Board under the *First Nations Fiscal and Statistical Management Act* (Canada);
 - “**budget**” means the consolidated annual budget of Tsawwassen First Nation that has been approved by the Executive Council;
 - “**capital works**” means major physical assets owned or controlled by Tsawwassen First Nation, including roads, bridges, utilities, water supply and septic systems, ditches and water spillways, buildings, waste control facilities, land, landscaping and fencing;
 - “**chief administrative officer**” means a person appointed as the Chief Administrative Officer under the *Government Organization Act*;
 - “**Commission**” means the First Nations Tax Commission established under the *First Nations Fiscal and Statistical Management Act* (Canada);
 - “**Commission standards**” mean the standards established from time to time by the Commission under the *First Nations Fiscal and Statistical Management Act* (Canada);
 - “**contract**” means any agreement or undertaking providing for the expenditure of money or the giving of any other consideration in exchange for goods and services, and includes purchase orders, service contracts, construction contracts, employment contracts, and any agreement or undertaking providing for the payment of money or the giving of any consideration;
 - “**department**” means an administrative division or agency of the Tsawwassen Government as established from time to time, and includes
 - (a) internal organizational administration units,

- (b) any board, tribunal, commission or committee, and
- (c) any corporate entity controlled by Tsawwassen First Nation, including a partnership, that is designated by the Executive Council as a department.

“director of finance” means the person appointed as Director of Finance of Tsawwassen First Nation under section 16;

“employee” means any person employed by the Tsawwassen Government and includes, for the purposes of this Act, any contractors who administer, manage or control Tsawwassen First Nation financial assets;

“Executive Council” means the Executive Council of Tsawwassen First Nation established under the *Government Organization Act*;

“finance and audit committee” means the Finance and Audit Committee established under section 10;

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

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

“financial institution” means the First Nations Finance Authority, a bank listed in schedule I or II of the *Bank Act* (Canada), a credit union, a caisse populaire, or an investment management company selected through a competitive process;

“financial records” mean all records respecting the financial administration of Tsawwassen First Nation, including the minutes of meetings of the Executive Council and the finance and audit committee;

“fiscal year” means April 1 of one year to March 31 of the following year;

“funding agreement” means any written contract between Tsawwassen First Nation and another party or parties, pursuant to which money is to be paid to Tsawwassen First Nation;

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

“local revenue account” means a special account established in the General Revenue Fund for moneys raised under the *Property Taxation Act* minus

- (a) any amounts requisitioned by Provincial Taxation Authorities, and
- (b) the education equivalency amount raised for general Tsawwassen purposes that would have otherwise been received by British Columbia if British Columbia were collecting taxes on Tsawwassen Lands under the *School Act* (British Columbia);

“local revenues” means money raised under the *Property Taxation Act*;

“money” means all money of Tsawwassen First Nation and includes

- (a) negotiable instruments received, held, or collected by, for, or on behalf of the government,
- (b) revenues of the Tsawwassen government, including interest on investments,
- (c) money in funds designated as funds under this Act or by the Executive Council unless they are excluded under this Act,

- (d) money borrowed by the Tsawwassen government or received through the issue and sale of securities,
- (e) money in sinking funds,
- (f) money paid to or held by a court or its registry as payment of a fee or as payment of a fine, costs or other penalty imposed in respect of an offence under an Act of Parliament of Canada or the Legislature of British Columbia or the Tsawwassen Legislature,
- (g) money in revolving funds, and
- (h) money in trust funds.

“multi-year financial plan” means the plan referred to in section 19;

“officer” means the director, chief administrative officer, director of finance, tax administrator and any other employee designated by the Executive Council as an officer;

“officer of the Executive Council” means the Chief, the Chairperson of the finance and audit committee or any other officer of the Executive Council who is appointed or elected to office by the Executive Council;

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

“related body” means

- (a) an agency of Tsawwassen First Nation,
- (b) a corporation in which Tsawwassen First Nation has a material interest or that is controlled by Tsawwassen First Nation,
- (c) a partnership in which the Tsawwassen Government or another related body of Tsawwassen First Nation is a partner, or
- (d) a trust of Tsawwassen First Nation;

“special purpose report” means a report described in section 69 (4).

“tax administrator” means the tax administrator appointed under the *Property Taxation Act*.

“Tsawwassen Assets” means all assets of Tsawwassen First Nation, including money;

“Tsawwassen First Nation’s records” mean all records of Tsawwassen First Nation respecting its governance, management, operations and financial administration;

“Tsawwassen Lands” means those lands set out in Appendix C-4 of Tsawwassen First Nation Final Agreement, as amended from time to time;

“Tsawwassen Law” means a law made by Tsawwassen Government and includes the Tsawwassen Constitution, regulations and any bylaw or code.

Posting of public notice

- 3** (1) If public notice may be or is required to be given under this Act or the regulations, public notice may be given in any one or more of the following ways:
- (a) by publishing the notice in Tsawwassen First Nation community newsletter;
 - (b) by posting the notice in one or more visible locations in the Tsawwassen administration office;
 - (c) by delivering the notice to each person who may be affected;

- (d) by publishing the notice on Tsawwassen First Nation website.
- (2) Unless expressly provided otherwise, if a public notice of a meeting must be posted under this Act the notice must be posted at least 15 days before the date of the meeting.

Conflict of laws

- 4 If there is a conflict between this Act and any other Act of the Tsawwassen Legislature, then this Act prevails to the extent of the conflict.

Scope and application

- 5 (1) This Act applies to the financial administration of Tsawwassen First Nation.
- (2) This Act applies to all of Tsawwassen Government, including departments, Tsawwassen institutions, Tsawwassen corporations or partnerships and other Tsawwassen entities unless exempted by regulations under this Act.

PART 2 – ADMINISTRATION

Division 1 – Executive Council

Responsibilities of Executive Council

- 6 (1) Subject to this Act, the Executive Council is responsible for all matters relating to the financial administration of Tsawwassen First Nation whether or not they have been assigned or delegated to an officer, employee, committee, contractor or agent by or under this Act.
- (2) Subject to any other applicable Tsawwassen law, the Executive Council may delegate to any of its officers, employees, committees, contractors or agents any of its functions under this Act except the following:
 - (a) the approval of Executive Council policies, procedures or directions;
 - (b) the appointment of members and chairperson of the finance and audit committee;
 - (c) the approval of budgets and financial statements;
 - (d) the approval of borrowing.

Executive Council policies, procedures and directions

- 7 (1) Subject to subsection (2), the Executive Council may establish policies and procedures and give directions respecting any matter relating to the financial administration of Tsawwassen First Nation.
- (2) The Executive Council must establish policies or procedures or give directions respecting the acquisition, management and safeguarding of Tsawwassen First Nation assets.
- (3) The Executive Council must not establish any policies or procedures or give any directions relating to the financial administration of Tsawwassen First Nation that are in conflict with this Act or GAAP.
- (4) The Executive Council must ensure that all human resources policies and procedures are designed and implemented to facilitate effective internal financial administration controls.

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

Reporting of remuneration, expenses and contracts

- 8** (1) Annually, the director of finance must prepare a report separately listing the following:
 - (a) the total amount of remuneration, expenses and benefits, including coverage under policies for insurance or medical, dental or related services, paid or provided by Tsawwassen First Nation to a member of Executive Council and the dependents of the member of Executive Council;
 - (b) any contracts between Tsawwassen First Nation and a member of Executive Council and between Tsawwassen First Nation and a dependent of the member of Executive Council for the supply of goods or services, including a general description of the nature of the contracts;
 - (c) the total amount of remuneration, expenses and benefits, including coverage under policies for insurance or medical, dental or related services, paid or provided by Tsawwassen First Nation to the chief administrative officer and the dependents of the chief administrative officer;
 - (d) any contracts between Tsawwassen First Nation and the chief administrative officer and between Tsawwassen First Nation and a dependent of the chief administrative officer for the supply of goods or services, including a general description of the nature of the contracts.
- (2) The Executive Council may establish in regulations a threshold creating minimum dollar amounts for the reporting of amounts required under this section.

Exceptions to reporting requirements

- 9** Section 8 (1) does not require the reporting of remuneration, expenses or benefits received
 - (a) in common by all members of Tsawwassen First Nation,
 - (b) under a program or service universally accessible to all members of Tsawwassen First Nation on published terms and conditions, or
 - (c) from a trust arrangement according to the terms of the trust.

Division 2 – Finance and Audit Committee

Committee established

- 10** (1) The Finance and Audit Committee is established as a committee of the Executive Council.
- (2) The Executive Council must appoint not less than 3 members of the committee, and a majority of all the members so appointed must have financial competency.
- (3) One member of the committee must be the Chief.
- (4) One member of the committee must be the chief administrative officer.
- (5) At least 25% of the committee members must also be members of the Executive Council.

- (6) The committee members hold office for terms that expire when a new Executive Council takes office after a general election.
- (7) A committee member may be removed from office by the Executive Council if
 - (a) the member misses 3 consecutively scheduled meetings of the committee, or
 - (b) the chairperson of the committee recommends removal.

Chairperson and vice-chairperson

- 11**
- (1) The Executive Council must appoint a member of the Executive Council as the chairperson of the finance and audit committee.
 - (2) The committee members may appoint one of their number who is a member of Executive Council as vice-chairperson of the committee.
 - (3) The chairperson may appoint another of the committee members to serve as chairperson in place of the chairperson
 - (4) The chairperson must
 - (a) supervise and direct the work of the committee,
 - (b) report to the Executive Council on activities and decisions of the committee, and
 - (c) preside at committee meetings.
 - (5) The chief administrative officer is the secretary and senior administrative officer of the committee.
 - (6) The chief administrative officer must
 - (a) assist the finance and audit committee in carrying out its duties,
 - (b) create and maintain records of committee minutes, resolutions, decisions and other proceedings,
 - (c) direct the implementation of committee minutes, resolutions, decisions and other proceedings,
 - (d) oversee the work of the director of finance and prepare an annual evaluation for review by the committee;
 - (e) assess the state of the finances of Tsawwassen First Nation and report annually to the committee and the Executive Council,
 - (f) monitor contracts and funding agreements for compliance and report any non-compliance to the committee, and
 - (g) carry out any task assigned by the committee.

Committee procedures

- 12**
- (1) The quorum of the finance and audit committee is 50% of the total number of its members, including at least one member of the Executive Council.
 - (2) Unless a committee member is not permitted to participate in a decision because of a conflict of interest, every committee member has one vote in all committee decisions.
 - (3) In the event of a tie vote in the committee, the chairperson may cast a second tie breaking vote.

- (4) Subject to subsection (5), the chief administrative officer and the director of finance must be notified of all committee meetings and must attend those meetings, unless excused by the chairperson from attending.
- (5) The chief 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 respecting the chief administrative officer or the director of finance, or
 - (b) it is a meeting with the auditor.
- (6) The committee must meet
 - (a) at least once every 3 months in each fiscal year as necessary to conduct the committee's business, and
 - (b) as soon as practical after the committee receives the audited annual financial statements and report from the auditor.
- (7) Minutes, including, but not limited to, a record of votes, must be kept of committee proceedings and the committee must provide these minutes to the Executive Council and report to the Executive Council on the substance of each committee meeting as soon as practicable after each meeting.
- (8) Subject to this Act and any directions given by the Executive Council, the committee may make rules for the conduct of its meetings.
- (9) After consultation with the chief administrative officer, the committee may retain a consultant to assist in the performance of any of its responsibilities.

Financial planning responsibilities

- 13** (1) The finance and audit committee must carry out the following activities in respect of the financial administration of Tsawwassen First Nation:
- (a) annually develop, and recommend to the Executive Council for approval, strategic plans, projections and priorities, operational plans, projections and priorities, and financial plans, projections and priorities;
 - (b) direct and monitor the investment of Tsawwassen First Nation money;
 - (c) undertake evaluations of government programs as to economy, efficiency, and effectiveness;
 - (d) oversee and direct the management and disposition of assets;
 - (e) establish financial management, accounting and reporting policies and procedures;
 - (f) establish allowable travel allowances for employees;
 - (g) manage the administration of contracts and funding agreements;
 - (h) review draft annual budgets and recommend them to the Executive Council for approval;
 - (i) on an ongoing basis, monitor the financial performance against the budget and report any significant variations to the Executive Council;
 - (j) review the quarterly financial statements and recommend them to the Executive Council for approval.
 - (k) establish a Financial Management Manual;
 - (l) provide direction to the director of finance;

- (m) manage the preparation of the Annual Budget for review by Executive Council;
 - (n) undertake other responsibilities assigned to it by the Executive Council.
- (2) The Committee may make a report or recommendations to the Executive Council on any matter respecting the financial administration of Tsawwassen First Nation that is not otherwise specified to be its responsibility under this Act.

Audit responsibilities

- 14** (1) The finance and audit committee must carry out the following audit activities in respect of the financial administration:
- (a) direct and review internal audits;
 - (b) undertake and review the annual audit;
 - (c) make recommendations to the Executive Council on the selection, engagement and performance of an auditor;
 - (d) receive assurances on the independence of a proposed or appointed auditor;
 - (e) review, and make recommendation to the Executive Council on, the planning, conduct and results of audit activities;
 - (f) review, and make recommendations to the Executive Council, on the audited annual financial statements, including the audited local revenue account financial statements and any special purpose reports;
 - (g) periodically review, and make recommendations to the Executive Council, on policies, procedures and directions on reimbursable expenses and prerequisites of the Members of Executive Council, officers and employees;
 - (h) monitor financial reporting risks and fraud risks and the effectiveness of mitigating controls for those risks taking into consideration the cost of implementing those controls;
 - (i) conduct a review of this Act under section 91 and, where appropriate, recommend amendments to the Executive Council;
 - (j) periodically review, and make recommendations to the Executive Council on, the terms of reference of the committee.

Executive Council may assign responsibilities

- 15** The Executive Council may assign to the finance and audit committee the following activities in respect of the financial administration of Tsawwassen First Nation:
- (a) to develop, and recommend to the Executive Council for approval, performance measurements and goals designed to confirm that management activities, including financial management, occur as planned;
 - (b) to prepare, and recommend to the Executive Council for approval, cash management plans;
 - (c) to review, and report to the Executive Council on, the financial content of any reports;
 - (c) to review, monitor and report to the Executive Council on, the appropriateness of accounting and financial reporting systems, policies and practices;

- (d) to review, and recommend to the Executive Council for approval, any proposed significant changes in Tsawwassen First Nation's accounting or financial reporting systems, policies, procedures or directions;
- (e) to monitor the collection and receipt of financial assets, including debts owed;
- (f) to review, and report to the Executive Council on, risk management policies and control and information systems and, where appropriate, recommend improvements to the Executive Council;
- (g) to review the adequacy of security of information, information systems and recovery plans and, where appropriate, recommend improvements to the Executive Council;
- (h) to monitor compliance with the legal obligations of Tsawwassen First Nation, including legislative, regulatory and contractual obligations, and report to the Executive Council;
- (i) to review, and report to the Executive Council on, the adequacy of financial administration personnel and resources;
- (j) to review, monitor, and report to the Executive Council on, the adequacy and appropriateness of insurance coverage respecting significant Tsawwassen First Nation risks;
- (k) to review, monitor, and report to the Executive Council on, material litigation and its impact on financial administration and reporting;
- (l) to carry out other specified activities.

Division 3 – Officers and Employees

Director of finance

- 16** (1) The Executive Council must appoint a person as Director of Finance of Tsawwassen First Nation on recommendation of the finance and audit committee and may set the terms and conditions of that appointment.
- (2) Reporting to the chief administrative officer, the director of finance is responsible for the day-to-day management of the systems of the financial administration including the following duties:
- (a) managing the finances;
 - (b) ensuring that the financial administration systems, policies, procedures, directions and internal controls are appropriately designed and are operating effectively;
 - (c) establishing and enforcing internal controls and audits;
 - (d) ensuring that all accounts payable are paid in accordance with this Act and the regulations;
 - (e) rendering a statement of account to all debtors of Tsawwassen First Nation on a monthly basis and take measures to collect arrears in a timely manner.
 - (f) establishing the method by which the accounts of the government are to be kept and the method by which any employee or other person must account for money which comes into their hands;
 - (g) ensuring

- (i) the proper collection, receipt, recording and disposition of money, and
 - (ii) that proper authority exists for the disbursement of money;
- (h) in a timely manner,
 - (i) receiving, recording and depositing, or
 - (ii) administering the receipt, recording and deposit of all money received;
- (i) administering and maintaining the accounts including the local revenue account;
- (j) administering and maintaining adequate and timely financial records and reporting systems, including monthly statements for review by the finance and audit committee;
- (k) prepare the draft annual budgets and any draft amendments to the component of the annual budget respecting the local revenue account;
- (l) preparing the monthly financial information required under section 67, the quarterly financial statements required under section 68 and the draft annual financial statements required under section 69;
- (m) preparing the financial components of reports to the Executive Council;
- (n) actively monitoring compliance with any agreements and funding arrangements under this Act;
- (o) administering and supervising the preparation and maintenance of financial records and the financial administration reporting systems;
- (p) administering and supervising the maintenance of the records of all receipts and expenditures to facilitate the annual audit;
- (q) in respect of financial administration, actively monitoring compliance with
 - (i) this Act,
 - (ii) other applicable Tsawwassen law,
 - (iii) applicable standards, and
 - (iv) policies, procedures and directions of the Executive Council,
 other than those matters that are the responsibility of the tax administrator under this Act or another Tsawwassen law;
- (r) prepare or provide any documentation and financial information required by the Executive Council or the finance and audit committee to discharge its responsibilities;
- (s) evaluating the financial administration systems of the Tsawwassen Government and recommending improvements;
- (t) developing and recommending procedures for the safeguarding of assets and to ensure approved procedures are followed;
- (u) developing and recommending procedures for identifying and mitigating financial reporting and fraud risks and to ensure approved procedures are followed;
- (v) performing any other duties of the director of finance under this Act;
- (w) carrying out any other activities specified by the chief administrative officer that are not inconsistent with the director of finance's duties under this Act;
- (x) maintaining a detailed inventory of Tsawwassen First Nation assets;

- (y) directing staff responsible for financial administration;
 - (z) undertaking any other task assigned by the finance and audit committee or the chief administrative officer;
 - (z.1) preparing financial statements and reports including those required by the Executive Council and the committee.
- (3) With the approval of the chief administrative officer, 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 Tsawwassen Government.
 - (4) An assignment under subsection (3) does not relieve the director of finance of the responsibility to ensure that the duties or functions are carried out properly.

Tax administrator

- 17 (1) The tax administrator reports to the chief administrative officer in respect of the performance of any of the tax administrator's duties or functions under this Act.
- (2) With the approval of the chief administrative officer, the tax administrator may assign the performance of any of the duties or functions of the tax administrator under this Act to any officer, employee, contractor or agent of the Tsawwassen Government.
- (3) An assignment under subsection (2) does not relieve the tax administrator of the responsibility to ensure that the duties or functions are carried out properly.

Mandatory terms of contracts

- 18 (1) It is mandatory to include in the contracts of officials, employees, and committee members, that they must
 - (a) act in accordance with this Act, and any other applicable Tsawwassen law and any applicable standards made under this Act,
 - (b) comply with all policies, procedures and directions of the Executive Council, and
 - (c) avoid conflicts of interests and comply with provisions in the *Conflict of Interest Act*, or policies and procedures established by the Executive Council, for the avoidance and mitigation of conflicts of interest.
- (2) All contracts and agreements with agents must include terms requiring avoidance of conflict of interest by contractors and agents and the terms must be substantially equivalent to those provisions of the *Conflict of Interest Act* that apply to employees.

PART 3 – FINANCIAL MANAGEMENT

Division 1 – Financial Plans and Annual Budgets

Multi-year financial plan

- 19 No later than March 31 of each year, the Executive Council must approve a consolidated multi-year financial plan that
 - (a) has a planning period of three years comprised of the current fiscal year and the 2 succeeding fiscal years,

- (b) is based on the projections of revenues, expenditures and transfers between accounts,
- (c) in respect of projected revenues, sets out separate amounts for income from taxes, fees and charges, transfers from Canada or a provincial or territorial government, grants and business operations, and proceeds from borrowing,
- (d) in respect of projected expenditures, sets out separate amounts for payments including payments of principal and interest on debt, payments required for capital projects as defined in Capital Projects section of this Act payments required to address any deficits and payments for all other purposes,
- (e) in respect of transfers between accounts, sets out the amounts from the tangible capital asset reserve account,
- (f) shows all categories of restricted cash, and
- (g) indicates whether in any of the three years of the plan a deficit or surplus is expected from the projection of revenues and expenditures for that year.

Content of annual budget

- 20** (1) The annual budget must be prepared on a consolidated basis and must encompass all the operations for which the Tsawwassen Government is responsible and must identify
- (a) each anticipated source of revenue and estimate the amount of revenue from each of these sources including taxes, fees and charges, transfers from Canada or a provincial or territorial government, grants and business operations, and proceeds from borrowing,
 - (b) each anticipated category of expenditure and estimate the amount of expenditure for each category including those for payments of principal and interest on debt, payments required for capital projects as defined in Part 4, payments required to address any deficits and payments for all other purposes, and
 - (c) any anticipated annual and accumulated surplus or annual and accumulated deficit and the application of year end surplus.
- (2) The revenues of the Tsawwassen Government must be set out in categories by source and the categories must include, but not be limited to, revenues derived from
- (a) Tsawwassen lands and other Tsawwassen lands,
 - (b) natural resources,
 - (c) taxation by type of tax, and
 - (d) fees and licenses.
- (3) In subsection (2), “**natural resources**” means any material on or under the Tsawwassen lands and other Tsawwassen lands in their natural state which when extracted has economic value.

Budget and planning process schedule

- 21** (1) On or before January 15 of each year, the director of finance must prepare and submit to the finance and audit committee for review a draft annual budget and a draft multi-year financial plan for the next fiscal year.
- (2) On or before January 31 of each year, the committee must review

- (a) the draft annual budget and recommend an annual budget to the Executive Council for approval, and
 - (b) the draft multi-year financial plan and recommend a multi-year financial plan to the Executive Council.
- (3) No later than the second Monday in February of each year the Executive Council must review and approve the annual budget for the next fiscal year.
- (4) The annual budget must be submitted to the Tsawwassen Legislature before the third Monday in February.

Initiation of spending proposal

- 22** A member of the Tsawwassen Legislature may not introduce any vote, resolution or bill for the creation of a financial obligation or for the spending of any part of money unless the spending has been recommended first to the Tsawwassen Legislature by the Executive Council.

Additional requirements for budget deficits

- 23** If a draft annual budget contains a proposed deficit, the Executive Council must ensure that the multi-year financial plan demonstrates how and when this deficit will be addressed and how it will be serviced.

Approval and amendments to annual budgets

- 24** (1) The annual budget comes into effect on approval of the Tsawwassen Legislature, including amendments approved by the Tsawwassen Legislature
- (2) The Tsawwassen Legislature must approve the annual budget on or before March 15 of each year.
- (3) An appropriation must not be changed without the approval of the Executive Council.
- (4) An appropriation may be amended by the Executive Council, provided that the amendments are reported to the Tsawwassen Legislature at the next session of the Tsawwassen Legislature, subject to remedies, if any, established by the Tsawwassen Legislature at that time.

Local revenue account budget requirements

- 25** Other than as provided for in this Act, any part of a budget relating to the local revenue account must be prepared, approved and amended in accordance with the applicable regulations prescribed by the Executive Council under the *Property Taxation Act*.

Policy for information or involvement

- 26** (1) The Tsawwassen Legislature must establish policies or procedures or give directions respecting the means by which Tsawwassen Members must be informed about or involved in consideration of
- (a) the annual budget, including any component of the annual budget respecting the local revenue account and
 - (b) the multi-year financial plan.
- (2) The annual budget must be available during regular working hours at the administrative offices of Tsawwassen First Nation for inspection by any Tsawwassen Member or resident of Tsawwassen Lands.

- (3) Copies of the annual budget must be made available to any Tsawwassen Member or resident of Tsawwassen Lands for a fee prescribed by regulation of the Executive Council.

Division 2 - Funds and Accounts

General funds

- 27** A general revenue fund must be established into which all money must be deposited, except money held in trust in a trust fund.

Deposit accounts

- 28** (1) The director of finance must open a deposit account for the receipt and deposit of money under section 27.
- (2) No deposit account may be opened for the receipt and deposit of money unless the account is
 - (a) in the name of the Tsawwassen Government,
 - (b) opened in a financial institution, and
 - (c) authorized by the chief administrative officer or the director of finance.

Accounts management

- 29** (1) The director of finance must ensure the safekeeping of all money received.
- (2) The director of finance
 - (a) must deposit all money received as soon as practicable into an account described in section 28, and
 - (b) must not authorize payment of money from an account unless the payment relates to the subject matter for which the account was established and is otherwise authorized or permitted under this Act.
- (3) Dividends from Tsawwassen First Nation corporations must be paid into the general revenue fund or a trust fund.

Division 3 – Expenditures

Prohibited expenditures

- 30** (1) Money or financial assets in a trust fund must not be used for a purpose other than that permitted under the terms of the trust.
- (2) Money in the general revenue fund must not be used for any purpose other than that set out in the annual budget.
- (3) Money in a tangible capital asset reserve account must not be used for any purpose other than that described in Part 4.

Funding agreements

- 31** (1) Executive Council may approve any funding agreement with another government or any other third party.
- (2) When a sum of money is received from Canada or British Columbia to defray expenses for a specified public service, the power of the Tsawwassen Legislature

to authorize payments of that sum is subject to the specified purpose for which it is provided.

- (3) Expenditures provided for under a Fiscal Financing Agreement must be in accordance with that agreement.

Prohibited agreements

- 32** No agreement or undertaking may be made that
- (a) requires the expenditure of money that is not authorized under this Act, or
 - (b) that contravenes this Act.

No expenditure without appropriation

- 33** (1) Subject to section 34 (1), money must not be paid out of the general revenue fund unless the expenditure is authorized under an appropriation.
- (2) Subsection (1) does not apply to expenditures from a trust fund where the expenditure is authorized under the terms of the trust.

Emergency expenditures

- 34** (1) Subject to section 33 (2) the chief administrative officer may approve an expenditure for an emergency purpose that was not anticipated in the budget if the expenditure is not expressly prohibited by or under this Act or another Tsawwassen law.
- (2) The Executive Council must establish policies and procedures to authorize expenditures under subsection (1).
- (3) The expenditure under subsection (1) must be reported to the Executive Council as soon as practicable and the Executive Council must amend the budget to include the expenditure.
- (4) Subsection (1) does not give the chief administrative officer the authority to borrow for the purpose of making an expenditure for an emergency purpose.

Appropriations

- 35** (1) An amount that is appropriated in a budget must not be expended for any purpose other than that described in the appropriation.
- (2) Other than as set out in section 24, the total amount expended in relation to an appropriation must not exceed the amount specified in the budget for that appropriation.
- (3) Every person who is responsible for managing an appropriation must establish and maintain a current record of commitments chargeable to that appropriation.

Payments after fiscal year end

- 36** (1) Money appropriated in a budget for a fiscal year must not be expended after the end of the fiscal year except to discharge a liability incurred in that fiscal year.
- (2) If the liabilities for an appropriation under subsection (1) exceed the unexpended balance of the appropriation at the end of the fiscal year, the excess must be
- (a) charged against a suitable appropriation for the following fiscal year, and
 - (b) reported in the financial statements for the fiscal year in which the liability was incurred.

Requisitions for payment

- 37**
- (1) No money may be paid out of the general revenue fund or a trust fund without a requisition for payment as required under this section.
 - (2) No requisition may be made or given for a payment of money unless it is a lawful charge against an appropriation or an authorized use of money in a trust.
 - (3) No requisition may be made or given for payment of money that results in expenditures from a trust fund in excess of the unexpended balance of the trust fund.
 - (4) No requisition may be made or given for payment of money that reduces the balance available under an appropriation or trust fund so that it is not sufficient to meet the commitments chargeable against it.
 - (5) A requisition may apply to one or more expenditures chargeable against one or more appropriations.
 - (6) A requisition must identify the appropriation or trust fund out of which payment is to be made and must include a statement certifying that the expenditure is not prohibited under this section and that it is
 - (a) in accordance with the appropriation identified in the certified statement, or
 - (b) allowed without the authority of an appropriation under this Act.
 - (7) If a requisition is for the payment of performance of work or services or the supply of goods, the requisition must include a statement certifying that
 - (a) the work or services have been performed or the goods supplied, any conditions in an agreement respecting the work, services or goods have been met and the price charged or amount to be paid is in accordance with an agreement or, if not specified by agreement, is reasonable, or
 - (b) if payment is to be made before completion of the work or services, delivery of the goods or satisfaction of any conditions in an agreement, the payment is in accordance with the agreement.
 - (8) The chief administrative officer or the director of finance must authorize payment out of, or sign a requisition for payment from, a trust fund.
 - (9) The tax administrator must authorize payment out of a local revenue account.
 - (10) Subject to subsection (9), the chief administrative officer or director of finance may authorize a payment out of, or sign a requisition for, payment from any appropriation.
 - (11) Subject to subsections (8) and (9), a person who is responsible for managing an appropriation may authorize payment out of, or sign a requisition for, payment from the appropriation.

Form of payment

- 38**
- Payments may be made by cheque, draft, electronic transfer or other similar instrument signed by the chief administrative officer and one member of the Executive Council, including the Chief.

Division 4 – General Matters

Advances

- 39** (1) The chief administrative officer or the director of finance may approve an advance to prepay expenses that are chargeable against an appropriation in the current fiscal year or an appropriation in the next fiscal year.
- (2) The tax administrator may approve an advance to prepay expenses that are chargeable against an appropriation from the local revenue account in the current fiscal year or an appropriation from that account in the next fiscal year.

Holdbacks

- 40** If an amount payable under an agreement is withheld, the payment of the amount withheld must be charged to the appropriation from which amounts under the agreement must be paid even if the fiscal year for which it was appropriated has ended.

Deposit money

- 41** (1) Money received as a deposit to ensure the doing of any act or thing must be held and disposed of in accordance with
- (a) the agreement under which the deposit has been paid, and
 - (b) in the absence of any provisions respecting that matter, any policy or directions of the Executive Council.
- (2) The Executive Council must make policies or procedures, or give directions, in respect of the disposition of deposit money referred to in subsection (1).

Interest

- 42** (1) All interest earned on assets, other than a trust fund, must be deposited in the general revenue fund.
- (2) All interest earned on:
- (a) a trust fund must be retained in that fund;
 - (b) the local revenue account must be retained in that account;
- (3) Interest at a rate set in regulation from time to time by the Executive Council may be charged on any debts or payments owed that are overdue.

Refunds

- 43** (1) Money received that is paid or collected in error or for a purpose that is not fulfilled may be refunded in full or in part as circumstances require.
- (2) The Executive Council must establish policies and procedures respecting the refund of money under subsection (1).

Write off of debts

- 44** All or part of a debt or obligation owed may be written off
- (a) if approved by the Executive Council, or
 - (b) if done under the authority of a policy or direction of the Executive Council.

Extinguishment of debts

- 45** All or part of a debt or obligation owed may be forgiven only

- (a) if approved by the Executive Council, or
- (b) if done under the authority of a policy or direction of the Executive Council.

Year end surplus

- 46** (1) Subject to subsections (2) and (3), an operating surplus at the end of the fiscal year must be retained in the general revenue fund.
- (2) An operating surplus in the local revenue account at the end of the fiscal year must be retained in that account.
- (3) An operating surplus in the tangible capital asset reserve account at the end of the fiscal year must be retained in that account.

Division 5 – Borrowing

Limitations on borrowing

- 47** (1) Except as specifically authorized in this Act, Tsawwassen First Nation must not borrow money or grant security.
- (2) Subject to subsection (3) and (4) and this Act, if an authorization is provided under this Act to borrow money or grant security, the Executive Council may authorize the director of finance to borrow money or grant security in the name of Tsawwassen First Nation
- (a) as specifically approved by the Executive Council, or
 - (b) in accordance with the policies, procedures or directions made by the Executive Council.
- (3) No authorization to borrow money or grant security may be provided where the total obligation exceeds the authorized amount set out in the annual budget.
- (4) The total amount of all such obligations, including guarantees and indemnities must not exceed \$15 million.
- (5) Notwithstanding subsection (4), the borrowing limit established in subsection (4) may, by order of Executive Council, be exceeded in relation to projects listed in Tsawwassen First Nation’s Capital Plan, provided that the borrowing limit in no circumstances exceeds \$70 million, and provided that any borrowing authorized under this subsection must be reported back to the Tsawwassen Legislature at the first Legislative session following the borrowing.

[Amended by Bill 002-2013; Enacted on May 29, 2013]

Borrowing for ordinary operations

- 48** (1) The Tsawwassen Government may incur and the Executive Council may authorize trade accounts or other current liabilities payable within normal terms of trade for expenditures provided for in the budget for the fiscal year if the debt
- (a) will be repaid from money appropriated under an appropriation for the fiscal year, or
 - (b) is in respect of an expenditure that may be made without the authority of an appropriation under this Act.
- (2) Subject to the this Act, the Tsawwassen Government may enter into agreements with financial institutions for overdrafts or lines of credit and, for the purpose of securing any overdrafts or lines of credit, may grant security to the financial

institution in a form, amount and on terms and conditions that the Executive Council approves.

- (3) The Tsawwassen Government may enter into
 - (a) a general security agreement, or
 - (b) a leasefor the use or acquisition of lands, materials or equipment required for the operation, management or administration of Tsawwassen First Nation.

Executive Council borrowing

- 49** The Executive Council may
- (a) issue bonds, debentures, and other debt obligations either outright, or as security, for any liability or obligation of the First Nation or any other person, and
 - (b) mortgage, charge by way of specific or floating charge, or give other security on the undertaking, or on the whole or any part of the property and assets, of the First Nation,
- (in this section described collectively as “the obligations”) if the total of the obligations does not exceed any maximum established in the annual budget.

Financial agreements

- 50** (1) The Executive Council may enter into the following agreements in the name of Tsawwassen First Nation:
- (a) for the purpose of efficient management of financial assets, agreements with financial institutions or investment institutions;
 - (b) for the purpose of reducing risks or maximizing benefits in relation to the borrowing, lending or investing financial assets, agreements with financial institutions respecting currency exchange, spot and future currency, interest rate exchange and future interest rates.
- (2) Unless otherwise specified by the Executive Council, the director of finance may enter into any agreements referred to in subsection (1).

Borrowing for authorized expenditures

- 51** (1) If the general revenue fund
- (a) is not sufficient to meet the expenditures authorized to be made from it, and
 - (b) the director of finance recommends that money be borrowed temporarily to ensure that the general revenue fund is sufficient for these purposes,
- the Executive Council may authorize the borrowing of an amount not exceeding a maximum amount specified by the Tsawwassen Legislature and to be repaid within a specified period of time.

Borrowing requirements

- 52** (1) Where Tsawwassen First Nation is subject to the *First Nations Fiscal and Statistical Management Act* (Canada) then the Tsawwassen Government may only secure long-term financing secured by property tax revenues from the First Nations Finance Authority as permitted under that Act.

- (2) Money borrowed under subsection (1) may only be used for the purposes permitted under the *First Nations Fiscal and Statistical Management Act* (Canada).

Borrowing for new capital projects

- 53** (1) Borrowing for new capital projects must be consistent with the approved annual capital plan in the annual budget.
- (2) The Executive Council must
 - (a) establish policies or procedures, or
 - (b) give directionsrespecting the means by which members of Tsawwassen First Nation must be informed about or involved in consideration of borrowing for new capital projects described in section 85 (2).

Borrowing for repayment of debts

- 54** The Executive Council may authorize the borrowing of money that is required for the repayment or refinancing of any debt of Tsawwassen First Nation, other than a debt in relation to money borrowed under an authorization referred to in section 51 (1) or a debt owed to the First Nations Finance Authority.

Use of borrowed money

- 55** (1) Subject to this section, money borrowed for a specific purpose must not be used for any other purpose.
- (2) All or some of the money borrowed for a specific purpose and not required to be used immediately for that purpose may be temporarily invested under section 60 (1) until required for that purpose.
- (3) If some of the money borrowed for a specific purpose is no longer required for that purpose, that money must be applied to repay the debt from the borrowing.

Execution of security documents

- 56** (1) Subject to subsection (2), a security granted in the name of Tsawwassen First Nation must be signed by a member of Executive Council designated by the Executive Council and by the chief administrative officer or the director of finance.
- (2) A security granted in respect of local revenues must be signed by a member of Executive Council designated by the Executive Council and by the tax administrator.

Operational controls

- 57** The Executive Council must
 - (a) establish policies or procedures, or
 - (b) give directionsrespecting the establishment and implementation of an effective system of internal controls that ensures the orderly and efficient conduct of Tsawwassen First Nation's operations.

Division 6 - Risk Management

Limitation on business activity

- 58** (1) Subject to subsections (2) and (3), the Tsawwassen Government must not
- (a) carry on business as a proprietor,
 - (b) acquire an interest in a partnership as a general partner, or
 - (c) act as a trustee respecting property used for, or held in the course of, carrying on a business
- unless the Executive Council determines that the activity, business or interest is a prudent investment.
- (2) The Executive Council may provide that the Tsawwassen Government will carry on a business that
- (a) is ancillary or incidental to the provision of programs or services or other functions of the Tsawwassen Government, or
 - (b) derives income from the granting of a lease or license of or is in respect of
 - (i) an interest in, or natural resources on or under, Tsawwassen First Nation's
 - (A) lands, or
 - (B) lands owned in fee simple by or in trust for Tsawwassen First Nation, or
 - (ii) any other property of Tsawwassen First Nation.
- (3) The Executive Council may impose terms and conditions on the conduct of any business activity permitted under this section in order to manage any risks associated with that activity.

Guarantees and indemnities

- 59** (1) The Executive Council must not provide a guarantee unless it has considered the report of the director of finance under subsection (2).
- (2) Before the Executive Council authorizes a guarantee under subsection (1), the director of finance must prepare a report for the Executive Council
- (a) identifying any risks associated with giving the guarantee, and
 - (b) assessing the ability of Tsawwassen First Nation to honour the guarantee should it be required to do so.
- (3) No indemnity may be provided without the approval of the Executive Council and an indemnity must not give an indemnity unless it is
- (a) authorized under a Tsawwassen Act,
 - (b) necessary and incidental to and included in another agreement to which Tsawwassen First Nation is a party, or
 - (c) in relation to a security granted that is authorized under this Act or another Tsawwassen Act.

- (4) Subject to applicable provisions of Tsawwassen Law, the Executive Council, in respect of guarantees and indemnities, must establish policies, directions or both, as follows:
- (a) specifying circumstances under which an indemnity may be given without Executive Council approval;
 - (b) designating the persons who may give an indemnity 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;
 - (d) specifying the records to be maintained of all guarantees and indemnities.

Authority to invest

- 60** If any person is authorized in this Act to invest financial assets, then the Executive Council may authorize the director of finance to invest the financial assets
- (a) as specifically approved by the Executive Council, or
 - (b) in accordance with the policies, procedures or directions of the Executive Council,

Approved investments

- 61** (1) Money in an account that is not immediately required for expenditures may be invested in one or more of the following:
- (a) securities issued or guaranteed by Canada, a province or the United States of America;
 - (b) fixed deposits, notes, certificates and other short term paper of, or guaranteed by a financial institution including swaps in United States of America currency;
 - (c) securities issued by the First Nations Finance Authority or by a local, municipal or regional government in Canada;
 - (d) commercial paper issued by a Canadian company that is rated in the highest category by at least two recognized security-rating institutions;
 - (e) any class of investments permitted under an Act of a province relating to trustees;
 - (f) any other investments or class of investments prescribed by a regulation under this Act, provided that
 - (i) the risk of such investments have been evaluated, and
 - (ii) the investments involved are rated in the highest category by at least 2 recognized security rating institutions.
- (2) Subject to the terms of the trust, money held in trust that is not immediately required for expenditures may be invested as permitted under the terms of the trust or under the laws of British Columbia.
- (3) If a special investment account has been established, money may be invested in that account in
- (a) a company that is incorporated under the laws of Canada or of a province or territory and in which the Tsawwassen First Nation is a shareholder,
 - (b) a trust in which Tsawwassen First Nation is a beneficiary,
 - (c) a limited partnership in which Tsawwassen First Nation is a partner, or

- (d) a member investment program described in section 62.

Permitted investments in Tsawwassen Member activities

- 62** (1) A loan may be made to
- (a) a Tsawwassen Member, or
 - (b) an entity in which a Tsawwassen member has an interest
- if the loan is made under a member investment program that has been recommend by the Executive Council and approved by the Tsawwassen Legislature and that complies with this section.
- (2) Before the Executive Council recommends a program under this section, the director of finance must prepare a report for Executive Council and the Tsawwassen Legislature identifying any risks associated with the program and the costs of administering the program.
- (3) A program referred to in subsection (1) must satisfy the following criteria:
- (a) the program must be universally available to all Tsawwassen Members;
 - (b) the terms and conditions of the program must be published and accessible to all Tsawwassen Members;
 - (c) all loans made from the program and all payments received from those loans must be set out in an annual report that includes
 - (i) details about the amounts loaned,
 - (ii) the purposes of the loans,
 - (iii) the names of those receiving a loan, and
 - (iv) repayments of principal and interest on the loans;
 - (d) all loans must be recorded in a written agreement that provides for proper security for repayment and sets out the terms for repayment of principal and interest.
- (4) The Executive Council must make policies or procedures, or give directions for, the operation of a program referred to in this section.
- (5) The Executive Council may make regulations for the operation of a program referred to in this section.

Administration of investments and loans

- 63** (1) If an investment or loan is authorized under this Act the director of finance may do all things necessary or advisable for the purpose of making, continuing, exchanging or disposing of the investment or loan.
- (2) If a loan is authorized under this act, the Executive Council must establish policies or procedures, or give directions, respecting the terms and conditions under which loans may be made, including a requirement that all loans be recorded in a written agreement that
- (a) provides for proper security for repayment, and
 - (b) sets out the terms for repayment of principal and interest.

Risk assessment and management

- 64** (1) Annually, and more often if necessary, the chief administrative officer must identify and assess

- (a) any significant risks to Tsawwassen First Nation's financial assets,
 - (b) Tsawwassen First Nation's tangible capital assets as defined in Part 4, and
 - (c) the operations of Tsawwassen First Nation.
- (2) Annually, and more often if necessary, the chief administrative officer must report to the finance and audit committee on proposed plans
- (a) to mitigate the risks identified in subsection (1), or,
 - (b) where appropriate, to manage or transfer those risks by agreement with others or by purchasing insurance.

Insurance

- 65** (1) On recommendation of the finance and audit committee, the Executive Council must procure and maintain in force all liability, loss or other insurance coverage that is appropriate and commensurate with
- (a) the risks identified in section 64, and
 - (b) any other risks associated with any assets, property or resources under the care or control of Tsawwassen First Nation
- sufficient to protect Tsawwassen First Nation and its assets from risk of loss or default.
- (2) The Executive Council may purchase and maintain insurance for the benefit of a member or officer of the Executive Council or any personal representatives of either of them, against any liability arising from being or having been a member or officer of the Executive Council.

Division 7 – Financial Reporting

GAAP

- 66** The Tsawwassen Government must comply with GAAP.

Monthly financial information

- 67** (1) At the end of each month, the director of finance must prepare financial information respecting the financial affairs of Tsawwassen First Nation in the form and with the content approved by the Executive 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 Executive Council and the committee not more than 30 days following the end of the month for which the information was prepared.

Quarterly financial statements

- 68** (1) At the end of each quarter of the fiscal year the director of finance must prepare financial statements for Tsawwassen First Nation for that quarter in the form and with the content approved by the Executive 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 Executive Council and the committee not more than 30 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 committee, and
 - (b) reviewed and approved by the Executive Council.

Annual financial statements

- 69**
- (1) At the end of each fiscal year the director of finance must prepare the annual financial statements of Tsawwassen First Nation for that fiscal year in accordance with GAAP.
 - (2) The annual financial statements must be prepared in a form approved by the Executive Council on the recommendation of the finance and audit committee.
 - (3) The annual financial statements must include the following information:
 - (a) the financial information of Tsawwassen First Nation and its related bodies for the fiscal year;
 - (b) the financial information for the local revenue account that is required to meet any applicable Board standards respecting audit of the local revenue account;
 - (c) the revenue categories referred to in section 20 (2).
 - (4) The annual financial statements must include 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 8;
 - (c) a report setting out all debts or obligations forgiven by Tsawwassen First Nation;
 - (d) a report setting out the information required in section 62 (3) (c);
 - (e) any other report required under the Act or an agreement.
 - (5) The Executive Council may make regulations setting minimum dollar thresholds for the information contained in special purpose reports.
 - (6) The director of finance must provide draft annual financial statements to the finance and audit committee for review within 45 days following the end of the fiscal year for which they were prepared.
 - (7) The finance and audit committee must present draft annual financial statements to the Executive Council for review within 60 days following the end of the fiscal year for which they were prepared.

Audit requirements

- 70**
- (1) The annual financial statements must be audited by the auditor.
 - (2) The auditor must conduct the audit of the annual financial statements, and in accordance with GAAP.
 - (3) The audit must include a review of the adequacy of the accounting procedures and systems of control employed.
 - (4) The auditor must conduct that part of the annual financial statements respecting the local revenue account in accordance with Board standards for the audit of

local revenue accounts and must report on that account separately from other accounts.

- (5) When conducting the audit, the auditor must provide
 - (a) an audit opinion of the annual financial statements, and
 - (b) an audit opinion or review comments on the special purpose reports referred to in section 69 (4).

Appointment of auditor

- 71**
- (1) The Executive Council must appoint an auditor for each fiscal year to hold office until the later of
 - (a) the end of the Executive Council meeting when the audited annual financial statements for that fiscal year are being considered, and
 - (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 auditor's obligation to confirm that the annual financial statements and the audit of them comply with this Act, the *First Nations Fiscal and Statistical Management Act* (Canada), and Board standards.
 - (3) To be eligible for appointment as the auditor, an auditor must
 - (a) be a member in good standing of an association of accountants or auditors incorporated under the laws of BC and authorized to do the audit.
 - (b) be independent of the Tsawwassen Government, its related bodies, members of the Tsawwassen Legislature and Executive Council, officers and Tsawwassen members.
 - (4) If the auditor ceases to be independent, the auditor must as soon as practicable after becoming aware of the circumstances:
 - (a) advise the chief administrative officer in writing of the circumstances, and
 - (b) eliminate the circumstances that resulted in loss of independence or resign as the auditor.

Auditor's authority

- 72**
- (1) To conduct an audit of the annual financial statements, the auditor must be given access to:
 - (a) all records for examination or inspection and given copies of these records on request; and
 - (b) any member of Executive Council, officer, employee, contractor or agent of the Tsawwassen Government to ask any questions or request any information.
 - (2) On request of the auditor, every person referred to in subsection (1) (b) must:
 - (a) make available all records referred to in subsection (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 Tsawwassen 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,
 - (b) every Executive Council meeting where matters relating to the annual audit, including the approval of the annual financial statements, will be considered, and
 - (c) every meeting of Tsawwassen members where the financial administration of Tsawwassen First Nation will be considered.
- (4) Subject to subsection (6), the auditor may attend any meeting for which he or she must be given notice under this section and must be given the opportunity to be heard at those meetings on any subject that concerns the auditor as auditor.
 - (5) The auditor may call a meeting of the committee to discuss any subject that concerns the auditor.
 - (6) The auditor may be excluded from all or any part of a meeting of the committee or the Executive Council by a recorded vote if the subject matter relates to the retaining or dismissal of the auditor.
 - (7) The director of finance must provide any assistance to the auditor that is required for the completion of the audit.

Review of audited annual financial statements

- 73** (1) The audited annual financial statements must be provided to the finance and audit committee for its review and consideration by July 15 after the fiscal year end for which the statements were prepared.
- (2) The Executive Council must review and approve the audited annual financial statements by July 31 after the fiscal year end for which the statements were prepared and may determine any actions that are to be taken.

Access to annual financial statements

- 74** (1) Before the annual financial statements may be published or distributed, they must
 - (a) be approved by the Executive Council,
 - (b) be signed by:
 - (i) the Chief,
 - (ii) the Chairperson 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 and the auditor's audit opinion or review comments of the special purpose reports referred to in section 69 (4).
- (2) The audited annual financial statements and special purpose reports must be available for inspection by members at the administrative offices of Tsawwassen First Nation during normal business hours.

Annual Report

- 75** (1) Not later than August 15 after the end of each fiscal year, the Executive Council must prepare an annual report on the operations and financial performance of Tsawwassen First Nation for the previous fiscal year.
- (2) The annual report referred to in subsection (1) must include the following:
 - (a) a description of the services and operations of the Tsawwassen Government;

- (b) a progress report on any established financial objectives and performance measures of the Tsawwassen Government;
 - (c) the audited annual financial statements of the Tsawwassen Government for the previous fiscal year including special purpose reports.
- (3) The Chief must present the approved annual report to the Tsawwassen Legislature in the presence of the auditor at the session of the Tsawwassen Legislature following its approval by the Executive Council.
- (4) The annual report referred to in subsection (1)
- (a) must be made available and posted in a public place at the administrative offices of Tsawwassen First Nation so that any Tsawwassen Member may
 - (i) inspect the statements and reports during regular business hours, and
 - (ii) directly, or through an agent, make a copy of the statements, the reports or any part thereof, upon payment of a fee prescribed by regulation of the Executive Council and
 - (b) must be provided to the Board and the First Nations Finance Authority.

Local revenue account records

- 76 The tax administrator must prepare, maintain, store and keep secure a complete set of all records respecting the local revenue account.

Information technology

- 77 The Executive Council must
- (a) establish policies or procedures, or
 - (b) give directions respecting information technology used by the Tsawwassen Government in its operations
- to ensure the integrity of Tsawwassen First Nation’s financial administration system and its data base.

Ownership of Records

- 78
- (1) All records that are produced by or on behalf of Tsawwassen First Nation or kept, used or received by any person on behalf of Tsawwassen First Nation are the property of Tsawwassen First Nation.
 - (2) The Executive Council must establish policies or procedures, or give directions, to ensure that the records referred to in subsection (1) remain the property of Tsawwassen First Nation.
 - (3) The Executive Council must establish policies and procedures, or give directions, to provide for the maintenance of records and the destruction of records.

PART 4 – CAPITAL PROJECTS

Definitions

- 79 In this Part:
- “capital project” means the construction, rehabilitation or replacement of Tsawwassen First Nation’s tangible capital assets and any other major capital projects in which Tsawwassen First Nation or its related bodies are investors;

“Tsawwassen tangible capital assets” mean all non-financial assets of Tsawwassen 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, review and planning for management of Tsawwassen First Nation’s tangible capital assets as described in section 83;

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

“replacement” includes substitution, in whole or in part, with another of Tsawwassen First Nation’s tangible capital assets.

Executive Council general duties

80 The Executive Council must take reasonable steps to ensure that

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

Tangible capital assets reserve account

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

Reports on capital projects

82 At each finance and audit committee meeting, the chief administrative officer must report on the following subjects:

- (a) year to date borrowings, loans and payments in respect of each capital project;
- (b) the status of a capital project including
 - (i) a comparison of expenditures to date with the project budget;
 - (ii) a detailed description of any identified legal, financial, technical, scheduling or other problems;
 - (iii) the manner in which a problem identified in subparagraph (ii) has been or will be addressed;
- (c) steps taken to ensure compliance with section 85 for every capital project.

Life-cycle management program

- 83 (1) The chief administrative officer must establish and keep current a register of all tangible capital assets that identifies each of these assets and includes the following information:
- (a) location and purpose of the asset;
 - (b) ownership and restrictions over ownership of the asset;
 - (c) year of acquisition;
 - (d) last inspection date of the asset;
 - (e) expected life of the asset at the time of acquisition;
 - (f) assessment of condition of the asset and its remaining useful life;
 - (g) estimated residual value of the asset;
 - (h) insurance coverage for the asset;
 - (i) any other information required by the Executive Council.
- (2) On or before November 30 of each year, the chief administrative officer must arrange for the inspection and review of the state of each of the tangible capital assets to establish or update information respecting the following matters:
- (a) its present use;
 - (b) its condition and state of repair;
 - (c) its suitability for its present use;
 - (d) its estimated remaining life;
 - (e) its estimated replacement cost;
 - (f) estimated dates and costs of its required future rehabilitation;
 - (g) a comparison of annual operating and maintenance costs, other than rehabilitation costs, for the last 5 fiscal years;
 - (h) maintenance records for all periods up to the date of inspection;
 - (i) property and liability insurance covering the capital asset and its use or operation.
- (3) On or before December 31 of each year, the director of finance must prepare the following:
- (a) a schedule of annual routine maintenance, other than rehabilitation, for each of the tangible capital assets for the next fiscal year;
 - (b) 5, 10 and 30 year forecasts of the estimated cost for rehabilitation or replacement of the tangible capital assets;
 - (c) the proposed budget for rehabilitation of the tangible capital assets for the next fiscal year, setting out
 - (i) each proposed rehabilitation project and its schedule,
 - (ii) the estimated cost, including contingencies of each proposed rehabilitation project, and
 - (iii) the estimated amounts and timing of money that is required to carry out each proposed rehabilitation project;
 - (d) the proposed budget for replacement of the tangible capital assets for the next fiscal year setting out
 - (i) each proposed replacement project and its schedule,

- (ii) the description of each asset to be replaced,
- (iii) the estimated cost, including contingencies, of each proposed replacement project, and
- (iv) the reasons why each proposed acquisition should be regarded as a replacement for the capital asset to be replaced.

Review by finance and audit committee

- 84** (1) On or before January 15 of each year, the finance and audit committee must review the information, schedules and budget prepared under section 83 for the following purposes:
- (a) to identify any means to reduce the costs of each rehabilitation or replacement project included in the proposed budgets;
 - (b) to know the effect that each rehabilitation or replacement project included in the proposed budgets will have on the annual operating costs and routine maintenance costs in future years, and
 - (c) to determine whether any significant savings might be effected by coordinating the scheduling of projects, deferring any projects or carrying out rehabilitation projects rather than replacement projects.
- (2) On or before January 15 of each year, the finance and audit committee must review any plans for new construction of tangible capital assets including the proposed schedule, budget and impact on annual operating costs and routine maintenance costs in future years.

Capital projects – contracts and tenders

- 85** (1) The Executive Council must establish policies or procedures or give directions respecting the management of capital projects including the following:
- (a) project planning, design, engineering, safety and environmental requirements;
 - (b) project costing, budgeting, financing and approval;
 - (c) project and contractor bidding requirements;
 - (d) tender, contract form and contract acceptance;
 - (e) course of construction insurance;
 - (f) project performance guarantees and bonding;
 - (g) project control, including contract management;
 - (h) holdbacks, work approvals, payment and audit procedures.
- (2) All capital projects must be managed in accordance with the policies, procedures or directions referred to in subsection (1).

Policy for information or involvement of members

- 86** The Executive Council must establish policies or procedures, or give directions, for
- (a) the provision of information to members of Tsawwassen First Nation respecting capital projects, or
 - (b) the involvement of Tsawwassen Members in consideration of capital projects.

PART 5 – MISCELLANEOUS

Reports of breaches and financial irregularities, etc.

- 87** (1) Subject to subsections (2) and (3), if any person has reason to believe that:
- (a) an expenditure, liability or other transaction of Tsawwassen First Nation is not authorized by or under this Act or another Tsawwassen law,
 - (b) there has been a theft, misappropriation or other misuse or irregularity in the funds, accounts, assets, liabilities and financial obligations of Tsawwassen First Nation,
 - (c) a provision of this Act has been contravened, or
 - (d) a person has failed to comply with any provisions of Tsawwassen law respecting conflict of interest,
- then the person may disclose the circumstances to the chairperson of the finance and audit committee.
- (2) If a member of Executive Council becomes aware of any circumstances described in subsection (1), the member of Executive Council must report them to the chairperson of the committee.
- (3) If an officer, employee, contractor or agent of the Tsawwassen Government becomes aware of any circumstances described in subsection (1), the officer, employee, contractor or agent, as the case may be, must report them to the chief administrative officer or the chairperson of the committee.

Inquiry into report

- 88** (1) If a report is made to the chief administrative officer under section 87 (3), the chief 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 chairperson of the committee under section 87, the Chairperson 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 Executive Council respecting any circumstances reported to the committee under this section including the committee's recommendations, if any.

Protection of parties

- 89** (1) All reasonable steps must be taken by the chief administrative officer, the members of the finance and audit committee and the members of Executive Council to ensure that the identity of the person who makes a report under section 87 is kept confidential to the extent practicable in all the circumstances.
- (2) A person who makes a report in good faith under section 87 must not be subjected to any form of reprisal by a member of the Tsawwassen Legislature, Executive Council, officer, employee, contractor or agent of Tsawwassen First Nation as a result of making that report.
- (3) The chief administrative officer and the chairperson of the committee must take all necessary steps to ensure that subsection (2) is not contravened and must report any contravention or suspected contravention to the Executive Council.

- (4) The Executive Council must establish policies or procedures, or give directions,
 - (a) for the recording and safeguarding of reports made under section 87 and any records prepared during the inquiry or investigation into those reports,
 - (b) for the inquiry or investigation into reports made under section 87, and
 - (c) the fair treatment of a person against whom a report has been made under section 87.

Liability for improper use of money

- 90**
- (1) A member of Executive Council who knowingly votes for a resolution authorizing an amount to be expended, invested or used contrary to this Act is personally liable for that amount.
 - (2) Subsection (1) does not apply if the member of Executive Council relied on information provided by an officer or employee of Tsawwassen 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 under subsection (1) may be recovered by the Executive Council, a Tsawwassen Member or a person who holds a security under a borrowing made by Tsawwassen First Nation.
 - (4) It is a good defence to any action brought against an officer or employee for unauthorized expenditure, investment or use of Tsawwassen First Nation financial assets if it is proved that the officer or employee gave a written and signed warning to the Executive Council that in his or her opinion, the expenditure, investment or use would be unlawful.

Periodic review of Act

- 91**
- On a regular, periodic basis established by a policy of the Executive Council, the finance and audit committee must conduct a review of this Act
- (a) to determine if it facilitates effective and sound financial administration of Tsawwassen First Nation, and
 - (b) to identify any amendments to this Act that may better serve this objective.

Division 10 – Special Accounts and Trusts

Special accounts

- 92**
- (1) The Executive Council has the authority to create special accounts within the General Revenue Fund and these special accounts must be listed in a regulation of the Executive Council.
 - (2) The Executive Council must establish in the regulations one or more requirements respecting contributions to, and the terms and conditions of, disbursements from special accounts.
 - (3) Unless otherwise provided for in regulation under this Act, the interest and other earnings from special accounts must be paid to the general revenue fund.

Settlement Trust

- 93**
- (1) The Tsawwassen Settlement Trust is established.

- (2) The Tsawwassen Settlement Trust is established in accordance with Clause 9 of the *Canada-British Columbia-Tsawwassen First Nation Tsawwassen Tax Treatment Agreement*.
- (3) The Tsawwassen Settlement Trust is not part of general revenue.
- (4) Any payment from the Tsawwassen Settlement Trust to the Tsawwassen Government is deemed to be Tsawwassen money and must be credited to general revenue.

Other trust funds

- 94**
- (1) The Executive Council by regulation may establish trust funds.
 - (2) Trust money must be paid into trust funds established under subsection (1) and maintained in those trust funds.
 - (3) Trust funds may be excluded from general revenue.

Fees

- 95**
- (1) The Executive Council may establish fees or other charges on such terms and conditions as it may determine.
 - (2) The Executive Council may authorize the remission of any fee, or other sum payable to the Tsawwassen Government if
 - (a) the remission is in the public interest, or
 - (b) the fee or other sum is likely to result in greater inconvenience, injustice or hardship to a person.

Liens in interests in land

- 96**
- (1) Any unpaid debt to Tsawwassen First Nation is to be registered in the land title office as a lien against the interest in land to which the unpaid debt pertains.
 - (2) A lien referred to in subsection (1) attaches to the interest in land and binds subsequent holders of that interest in land.
 - (3) The chief administrative officer must register the lien in accordance with the *Land Title Act* (British Columbia) as a charge on title in favour of Tsawwassen First Nation.
 - (4) The chief administrative officer must register priority agreements with the lien in accordance with the *Land Title Act* (British Columbia) to ensure that the lien has priority over any other charges, claims, privileges, liens or security interests of any other party in respect to the interest in land to which the lien is attached.
 - (5) The chief administrative officer must maintain an internal list of all registered liens.
 - (6) The tax administrator may apply to the Supreme Court to protect or enforce a lien under subsection (1) if the chief administrative officer determines such action is necessary or advisable.
 - (7) On receiving payment in full of the amount owing in respect of which a lien was created, the chief administrative officer must register a discharge of the lien in accordance with the *Land Title Act* (British Columbia).

- (8) Discharge of a lien by the chief administrative officer is evidence of payment of the debt with respect to the interest in land.
- (9) A lien is not deemed lost or impaired by reason of any technical error or omission in its creation or recording in the internal list of liens.

Regulations

- 97**
- (1) The Executive Council may make regulations it considers necessary or advisable
 - (a) respecting the administration, management and control of the finances of the Tsawwassen Government, and
 - (b) generally, for purposes under this Act.
 - (2) Without prejudice to the generality of subsection (1), the Executive Council may make regulations
 - (a) for any purpose in relation to which regulations are provided for in this Act,
 - (b) prescribing any matter or thing referred to in this Act as prescribed or to be prescribed,
 - (c) defining words and expressions that are used but not defined in this Act, and
 - (d) generally for the purpose of giving effect to this Act.
 - (3) Without prejudice to subsection (1), the Executive Council may make regulations respecting the following:
 - (a) Tsawwassen First Nation guaranteeing mortgages provided by financial institutions to Tsawwassen Members on Tsawwassen Lands, subject to specific mortgage limits and any conditions on types of mortgages guaranteed, as approved by the Executive Council;
 - (b) establishing credit facilities with financial institutions to provide for Tsawwassen First Nation mortgage guarantees on Tsawwassen Lands;
 - (c) applying to other governments for specific grants on behalf of members, or supporting grants by individual members, relating to housing and housing-related expenditures;
 - (4) A regulation under subsection (2) does not oblige Tsawwassen First Nation to guarantee mortgages on Tsawwassen Lands.
 - (5) After the Effective Date, Tsawwassen First Nation will continue to honour obligations of the Tsawwassen Government with respect to Ministerial Guarantees granted and approved by the Government of Canada prior to the Effective Date.
 - (6) Without prejudice to the generality of subsection (1), the Executive Council may make regulations respecting social housing on Tsawwassen Lands, including but not limited to regulations respecting
 - (a) building and maintaining houses for social housing on Tsawwassen Lands,
 - (b) setting and collecting rents,
 - (c) inspecting social housing properties, and
 - (d) evicting tenants of social housing on Tsawwassen Lands for non-compliance with lease agreements or failure to pay rent

Interpretation

98 The *Interpretation Act* (British Columbia) applies to this Act and the regulations, unless the context or another Tsawwassen enactment otherwise requires.

Commencement

99 This Act comes into force on the date of its enactment by the Tsawwassen Legislature.

