**“DRAFT'”**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Indian Band

Financial Administration By-Law

By-Law # 2010 – \_\_\_\_\_\_\_\_\_\_.

A by-law to regulate the receipt, management and expenditure of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Indian Band funds and establish the administrative structure of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ lndian Band, which manages the funds;

WHEREAS the lndian Act, R.S.C. '1985, c.l-5, provides that Council may, subject to the approval of the Minister of Indian Affairs and Northern Development, make by-laws for the following purposes:

* the appropriation and expenditure of moneys of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band to defray the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band expenses;
* the appointment of officials to conduct the business of the Council and prescribing their duties; and
* with respect to any matter arising out of or ancillary to the exercise of the aforementioned power;

And WHEREAS the Membership of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band has determined that it is desirable and necessary that a financial management by-law be established for the purposes set out in subsection 83(1) of the Indian Act and for the better administration of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band's business;

NOW THEREFORE the Council of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band at a duly convened meeting of the Membership enacts the following by-law:

**TITLE**

1. This By-law may be called the **Financial Administration By-Law**.

**DEFINITIONS**

2. In this By-law,

“**agency**" means any board, tribunal, commission, and committee of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band or any corporate body controlled by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band including a society, non-profit corporation or business corporation;

"**annual budget**" means the forecast of planned expenditures for the forthcoming fiscal year by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band;

“**Finance Committee**” shall mean the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band Finance Committee established pursuant to this By-law;

“**agreement**" means any written contract between the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band and another party or parties, including the Federal Government, the Provincial Government or a third party, pursuant to which money is to be paid to the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ lndian Band;

"**Council**" shall mean the Chief and Council of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band;

"**department**" means an administrative division of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band Government as established from time to time by Council and includes service centers, administrative units and other internal organizational units of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band administration;

"\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Indian Band funds**" means all moneys belonging to the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band and includes:

 a) all revenues of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Indian Band;

 b) money borrowed by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band;

 c) money received or collected on behalf of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band; and

d) all moneys that are received or collected by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band pursuant to any agreement or funding arrangement and is to be disbursed for a purpose specified by council or

pursuant to that agreement or funding arrangement; but does not include

e) money received by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band on behalf of an individual or corporate entity, where council has approved an alternative arrangement for the managing of the money pursuant to section 68 of this By-law;

"**resolution**" means a decision made at a meeting of a quorum of Membership.

"**Band Administrator**” means the individual who oversees the day-to-day operations of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Indian Band.

"**Financial Director**” means the individual who oversees the day to-day financial operations.

"**Member**” means a registered individual on the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band Member list.

**APPLICATION**

3. This By-law governs the receipt, management and expenditure of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band funds and the administrative organization of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band to manage the funds.

4. The provisions of this By-law apply to all \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band departments and agencies in receipt of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band funds, except where otherwise provided for pursuant to an agreement made under section 68 of this By-law.

**FINANCE COMMITTEE**

5. Finance Committee of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band is hereby established and shall continue in existence notwithstanding changes in its membership from time to time.

6. The Finance Committee shall consist of five (5) members; one (1) Council member, one (1) elder, one (1) young person, as appointed or replaced from time to time by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Membership, the Finance Director and the Band Administrator.

7. The chairperson shall be elected by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Membership and serve as Chairperson for a term of two (2) years.

8. The Chairperson shall preside over the meetings of the Finance Committee and shall, between meetings of the Finance Committee, exercise or perform such of the powers, duties or functions of the Finance committee as the Finance Committee may determine.

9. The Finance committee has the following responsibilities but may, in its discretion and subject to any contrary direction from Council, delegate certain of these responsibilities to the Band Administrator, Finance director, managers of departments or agencies, auditors or any combination of them:

a) management and control of the collection of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band funds;

b) management and control of expenditures and disbursements of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band;

c) maintenance of records of the financial activities of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band;

d) preparation of the annual budget in accordance with the priorities approved by Council and the process described in the By-law;

e) preparation of the annual audit of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band;

f ) reports and recommendations to Council on financial matters;

g) all other matters relating to the financial affairs of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band not assigned by another by-law or council resolution to any department or agency

10. The Finance Committee shall prepare or cause to be prepared any amendment to the annual budget for the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band, which shall be submitted, to the council for review and approval.

11. The Finance Committee shall maintain or cause to be maintained the financial records of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band through the Office of the Finance director and the managers of the departments of agencies.

12. The Finance Committee may prescribe the form and content of the financial records and establish the accounting systems of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band.

13. A member of the Finance Committee may be removed from office

1. by the Chairperson if the member has missed three (3) consecutive scheduled meetings of the Finance Committee;
2. by a majority of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Membership on the recommendation of the Chairperson for the member's removal; or

c) by a unanimous vote of Council

14. The Band Administrator shall act as the senior administration officer of the Finance Committee and shall assist the Finance Committee in carrying out its duties. The Council will articulate the specific nature of the duties of the Band Administrator and these will include the planning, organizing, implementing and

evaluating of these functions.

15. A Finance Director shall be appointed by the Council and is responsible to the Band Administrator for the following:

1. the conduct of the administration necessary to discharge the administrative responsibilities of the Finance Committee including staff supervision for the Finance Department;

b) the administrative supervision of the compilation and preparation of the overall annual budget;

c) the preparation of annual financial statements and long-term financial projections and cash flows as required from time to time by the Committee;

d) monitoring adherence to any agreement and funding arrangements entered into by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band or any department oi agency;

e) administration and supervision of the financial records and reporting systems;

f) the maintenance of records of all receipts and expenditures in such-a manner so as to facilitate the annual audit; and

g) any other task assigned by the Finance Committee.

16. The Finance committee shall be responsible for the hiring of the Finance Director subject to ratification of the council and dismissal of the Finance Director shall be in accordance with the personnel policies of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band.

**COUNCIL'S ROLE**

17. The council shall appoint one (1) councillor to serve as a member of the Finance Committee for a period consistent with the term of office of the Band Council.

18. The Council shall approve the annual budgets of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band and any amendments thereto.

19. The Council shall receive and approve the annual audit of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band.

20. The council may, upon the recommendation of the Finance committee or upon its own motion, approve of an exception to this By-law by amending by-law in accordance with section 83 of the Indian Act.

**DELEGATION OF AUTHORITY**

21. On the recommendation of the Finance Committee, the Council may approve the delegation of authority to approve expenditures on behalf of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band within the annual budgets and consistent with the financial organization of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band.

**ANNUAL BUDGETS**

22. The Finance Committee shall prepare estimates of the revenues of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band for the purpose of preparing the annual budgets.

23. Each Department Manager shall prepare the department annual budget for the operation of the department and shall submit the budget prepared to the Band Administrator who along with the Department Manager, present the budget to Chief and Council.

24. The annual department budgets for the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band shall be submitted by the Finance Committee to Council for consideration and approval.

25. The annual department budgets become official upon approval by the Council by motion.

26. Council may amend the annual budget at any time before or after its implementation.

27. The annual budget shall be made available during regular working hours for review by any registered member of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band, and copies are to be provided to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Indian Band registered members, at their expense, on written request to Council.

**FINANCIAL MANAGEMENT – DEPOSITS**

28. There shall be bank accounts established by the Financial Director at the direction of the Finance Committee into which all \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band funds shall be deposited.

Funds in the Bank Accounts shall be administered by the Finance Director or the Band Administrator.

29. The Financial Director shall ensure the safekeeping of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band funds received and shall forthwith deposit all \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band funds to the credit of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band Accounts.

30. The Finance Committee may authorize the Finance Director to relocate funds from the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band Bank Accounts to other accounts for investment purposes or program and services delivery.

31. The Interest earned on the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band funds shall be paid on the bank accounts in which such funds are deposited.

32. Operating surpluses as of the end of the fiscal year shall remain within the department and allocated or expended in accordance with the direction of the funding guidelines.

**FINANCIAL MANAGEMENT – EXPENDITURES**

33. All payments and financial commitments shall be in accordance with the annual budget or in accordance with Council resolution.

34. At the beginning of each fiscal year, some departments may require an advance as determined by the funding agreement and the cash flow approved annual budget.

35. Where funds have been advanced to a department, the department managers shall report to the funding agency as required.

36. A request for an advance will be submitted to the Finance Committee. lt shall be reviewed and approved by the Finance Committee if funds are available. Upon such approval further advance for the next month shall be made to the department if funds are available.

37. The Finance Committee shall deduct from the current month' advance any amounts advanced in prior months which exceed the amount of the expenditures.

38. The Finance Committee may make such adjustments as are required in the last month of the fiscal year to close out the final payment for the year.

**FINANCIAL REPORTING - INVOICING**

39. No payment shall be made for the performances of work, supply of goods or rendering of services unless the charge in respect of such work, goods or services has been authorized;

a) pursuant to a Council Resolution;

 b) by a person delegated to authorize such payment; or

c) pursuant to an agreement entered into between the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ lndian Band and the person providing such work, goods or services which establishes the amount, or a method of calculating the amount, to be charged for such work, goods or services.

40. For all work, goods or services that are provided by or through the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band or any other person on behalf of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band for a fee or other charge, an invoice shall be rendered for payment for the work, goods or services.

41. The Finance Director, Band Administrator and every manager of a department or agency each have a role in ensuring invoices are rendered pursuant to this Bylaw.

**AWARDING OF CONTRACTS**

42. The Council may appoint by resolution the department manager and other persons as authorized to approve the purchase of goods and services. Ay expenditures in the awarding of contracts must receive the prior approval of the Band council.

43. All orders for work, goods or services provided to the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band must be recommended to Council by the department manager authorized to approve the purchase of goods or services.

44. Each order for work, goods or services over three thousand dollars ($3000) or such greater amount as approved by Council, unless pre approved in the annual budget, shall in addition to the signature of the department manager, require verification by the Finance Director as to availability of funds.

**TENDERS**

45. Capital purchases up to fifteen thousand dollars ($15,000) or such greater amounts as approved by Council may be made by a department manager if approved in the annual budget without going to tender.

46. Capital purchases over fifteen thousand dollars ($15,000) and under five hundred thousand dollars ($500,000) or in such amounts as approved by Council may be made by invitations to tender.

47. Capital purchases in excess of five hundred thousand dollars ($500,000) or such greater amounts as approved by Council must be made by public tender.

48. In *emergency situations* three (3) telephone bids up to twenty thousand dollars ($20,000) or such greater amount as approved by Council may be accepted by a department manger providing a written confirmation follows from the bidder and a record of telephone bids is filed.

49. Invitations to tender shall include

1. the time and date of closing;
2. sufficient details from which comparable bids can be made;
3. the time, date and place tenders are to be opened; and

d) amount of security deposit if required.

50. The tendering period is not to be less than five (5) working days, unless in an *emergency situation*.

51. All tenders are to returned sealed and addressed to the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ lndian Band clearly marked 'Tendered for ... ... .' And the time and date of receipt is to be recorded on the unopened envelope of tender when received.

52. All tenders received shall be opened in public in the presence of the department manger or other person responsible for the tender process.

53. The name of the tender, project, date of bid and amount shown must be recorded.

54. The lowest tender received shall normally be accepted unless the Department Manager deems it in the best interest of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band to do otherwise.

55. Where the lowest tender is not accepted, the reasons are to be recorded in the document by the Department Manager accepting the contract.

56. Upon acceptance of a tender for the performance of work, goods or services, a contract is to be signed by both parties and shall be kept as a portion of the records of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band.

57. In the event that an official or employee of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band has a personal interest in the contract, he or she shall signify the interest and thereafter refrain from taking part in the discussion or participating in the awarding of the contract.

58. No disbursements or payment on any contract shall be made without supporting documentation as determined by the policies of the Finance Committee.

59. A fifteen per cent (15%) hold-back of final payment or in such amount as may be determined by Finance Committee policy shall not be released to a contractor until all work is certified as complete and satisfactory to the Department Manager.

60. The Finance Committee may establish policies and procedures for the tender process.

**CONFLICT OF INTEREST**

61. Any person who holds an office, including that of Chief or Councillor, or employment with the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ lndian Band, its departments or agencies, shall not use that office or employment for personal gain to the detriment of the interests of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band.

62. "Personal gain" shall mean financial benefit for the individual or for the member of his or her immediate family.

63. "Family” shall mean a spouse, including a common-law spouse, children, parent, brother, sister, father-in-law, mother-in-law, uncle, aunt, grandparent, son-in-law, daughter-in law, and also includes any relative permanently residing in the person's household.

64. A person may avoid a conflict of interest by disclosing his or her interest prior to the making of a decision and by not participating in the decision. lf a person violates the conflict of interest provision they will be treated in accordance with the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band Personnel Policy. An appeal of suspension or dismissal may be made in accordance with the conflict of interest rules developed by the Finance Committee.

66. The Finance Committee may develop detailed conflict of interest rules, which shall govern the administration of financial affairs of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band, which shall take effect upon approval by Council. These detailed conflict of interest rules would support those included under the By-law.

**AGREEMENTS**

67 . The Council may approve on behalf of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ lndian Band such agreements of funding arrangements with the federal and provincial governments or with any other party for the provision of funding for the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ lndian Band, its agencies and other bodies.

68. Where an agreement or arrangement has been approved under section 73 and on the recommendation of the Finance Committee, the Council may approve an alternative arrangement for the management of money received.

**FISCAL YEAR**

69. The fiscal year of the Halfway River Indian Band shall be from April 1 of each year to March 31 in the following year.

**AUDIT**

70. Council shall appoint by resolution an auditor or auditors annually to audit the books and records of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ lndian Band.

71. The auditor or auditors shall be a member of a recognized professional accounting association.

72. The auditor or auditors shall report to Council.

73. The audit shall include all transactions involving the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band funds.

74. The Auditor or auditors are entitled to access

1. all books, records, accounts and vouchers;
2. information from any department manager necessary for the completion of the audit;
3. Council resolutions, by-laws and minutes;

d) administration and financial regulations;

e) agreements, contracts and other related documents.

75. The audit shall be in accordance with generally accepted accounting procedures and shall include a general review of the adequacy of the accounting procedures and systems of control, employed to preserve and protect the assets of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band.

76. The Finance Committee shall provide the auditors with instructions concerning the annual audit and, through the Finance Director, shall assist the auditor or auditors in the completion of the audit.

77. After the review of the annual audit by the Finance Committee, the auditor or auditors shall present the annual audit to the Council upon completion of the annual audit.

78. The audited financial statement shall be accepted by the Council by resolution at an audit review meeting and signed by Council.

**PUBLIC**

79. Upon receipt of the auditor's report by council, copies of the report are distributed to all registered \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band members by delivery and / or mail. Copies of the report shall be posted in such public places as determined by Council.

80. The Finance Director shall retain the written report of the auditor, together with the related financial statements and any registered member of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Indian Band may inspect them during regular office hours and copies will be provided to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Indian Band registered members at their own expense on written request to Council.

**AMENDMENTS AND REPEAL**

81. A decision made in contravention of this By-law is voidable by vote of a majority of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Membership.

82. Amendment or repeal of this By-law shall be in the manner stipulated by the Indian Act.

THIS BY-LAW IS HEREBY ENACTED by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Membership at a duly convened meeting held on the \_\_\_\_th day of \_\_\_\_\_20\_\_\_.

A quorum of Council is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (\_\_\_) members of Council.

Chief \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Councillor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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