

**ST. MARY'S INDIAN BAND
FINANCIAL ADMINISTRATION LAW**

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WHEREAS:

A. Pursuant to section 9 of the *First Nations Fiscal and Statistical Management Act* the council of a first nation may make laws respecting the financial administration of the first nation; and

B. The Council of the St. Mary's Indian Band considers it to be in the best interests of the St. Mary's Indian Band to make a law for such purposes;

NOW THEREFORE the Council of the St. Mary's Indian Band enacts as follows:

PART I - Citation

Citation

1. This Law may be cited as the St. Mary's Indian Band *Financial Administration Law, 2013*.

PART II - Interpretation and Application

Definitions

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

"Act" means the First Nations Fiscal and Statistical Management Act;

"annual budget" means the projection for the current fiscal year which sets out overall anticipated revenues and expenditures for each department of the St. Mary's Indian Band that have been approved by the Council;

"annual financial statements" means the annual financial statements of the St. Mary's Indian Band referred to in Division 7 of Part IV;

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

"auditor" means the auditor of the St. Mary's Indian Band appointed under section 71;

"Board" means the First Nations Financial Management Board established under the Act;

"Board standards" means the standards established from time to time by the Board under the Act;

"chief operating officer" means the person appointed as chief operating officer under section 18;

"code" means a code adopted by the St. Mary's Indian Band under the *First Nations Oil and Gas and Moneys Management Act* or a land code adopted by the St. Mary's Indian Band under the *First Nations Land Management Act*;

"Commission" means the First Nations Tax Commission established under the Act;

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

“Council” means the Council of the St. Mary’s Indian Band;

“councillor” means a member of the Council of the St. Mary’s Indian Band;

“dependent” means, in relation to an individual,

(a) the individual’s spouse,

(b) a person under the age of majority in respect of whom the individual or the individual’s spouse is a parent or acting in a parental capacity,

(c) a person in respect of whom the individual or the individual’s spouse is acting as guardian, or

(d) a person, other than an employee, who is financially dependent upon the individual or the individual’s spouse;

“emergency expenditure” means an expenditure of an exceptional nature which was not anticipated in the annual budget and which cannot, without serious prejudice to the best interests of St. Mary’s Indian Band, be postponed to allow for a budget amendment.

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

“financial administration” means the management, supervision, control and direction of all matters relating to the financial affairs of the St. Mary’s Indian Band;

“financial controller” means the person appointed financial controller under section 19;

“financial institution” means the First Nations Finance Authority, a bank, or credit union;

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

“financial records” means all records respecting the financial administration of the St. Mary’s Indian Band, including the minutes of meetings of the Council and the Finance and Audit Committee;

“fiscal year” means the fiscal year of the St. Mary’s Indian Band set out in section 24;

“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 the local revenue account referred to in section 13 of the Act;

“local revenue law” means a local revenue law made by the St. Mary’s Indian Band under the Act;

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

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

“officer” means the chief operating officer, financial controller, tax administrator and any other employee of the St. Mary’s Indian Band designated by the Council as an officer;

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

“related body” means

- (a) any agency of the St. Mary’s Indian Band,
- (b) any corporation in which the St. Mary’s Indian Band has a material interest or that is controlled by the St. Mary’s Indian Band,
- (c) any partnership in which the St. Mary’s Indian Band or another related body of the St. Mary’s Indian Band is a partner, or
- (d) a trust of the St. Mary’s Indian Band;

“representative agent” means a person who is authorized by St. Mary’s Indian Band to act for and under the control of St. Mary’s Indian Band through employment or by contract;

“St. Mary’s Indian Band’s financial assets” means all money and other financial assets of the St. Mary’s Indian Band;

“St. Mary’s Indian Band’s lands” means all reserves of the St. Mary’s Indian Band within the meaning of the Indian Act;

“St. Mary’s Indian Band law” means any law, including any by-law or code, of the St. Mary’s Indian Band made by the Council or the membership of the St. Mary’s Indian Band;

“St. Mary’s Indian Band’s records” means all records of the St. Mary’s Indian Band respecting its governance, management, operations and financial administration;

“special purpose report” means a report described in subsection 69(3);

“spouse” means, in relation to an individual, a person to whom the individual is married or with whom the individual has lived as a common law partner for at least one (1) year in a marriage-like relationship;

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

“tax administrator” means the tax administrator appointed under the St. Mary’s Indian Band local revenue laws;

“trustee” means a person appointed by an instrument creating a trust who holds or manages the assets of another;

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

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

(4) All references to named enactments in this Law are to enactments of the Government of Canada.

Interpretation

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

- (a) words in the singular include the plural, and words in the plural include the singular;
- (b) words importing female persons include male persons and corporations and words importing male persons include female persons and corporations;
- (c) if a word or expression is defined, other parts of speech and grammatical forms of the same word or expressions have corresponding meanings;
- (d) the expression “must” is to be construed as imperative, and the expression “may” is to be construed as permissive;
- (e) unless the context indicates otherwise, “including” means “including, but not limited to”, and “includes” means “includes, but not limited to”; and
- (f) a reference to an enactment includes any amendment or replacement of it and every regulation made under it.

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

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

Posting of Public Notice

4.(1) If a public notice must be posted under this Law, the public notice is properly posted if a written notice is placed in a conspicuous and accessible place for public viewing at the St. Mary’s Indian Band’s administrative office.

(2) Unless expressly provided otherwise, if a public notice of a meeting must be posted under this Law the notice must be posted at least ten (10) days before the date of the meeting.

Calculation of Time

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

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

(b) where the time limited for taking an action ends or falls on a date that the St. Mary's Indian Band principal administrative offices are closed, that action may be taken on the next day that the principal administrative offices are open;

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

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

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

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

Conflict of Laws

6.(1) If there is a conflict between this Law and another St. Mary's Indian Band law, other than a code or a local revenue law, this Law prevails.

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

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

Scope and Application

7. This Law applies to the financial administration of the St. Mary's Indian Band.

PART III - Administration

DIVISION 1 - Council

Responsibilities of Council

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

(2) Subject to paragraph 5(1)(f) of the Act, this Law and any other applicable St. Mary's Indian Band law, the Council may delegate to any of its officers, employees, committees, contractors or representative agents any of its functions under this Law except the following:

- (a) the approval of Council policies, procedures or directions;
- (b) the appointment of members, chair and vice-chair of the Finance and Audit Committee;
- (c) the approval of budgets and financial statements of the St. Mary's Indian Band;

- (d) the approval of borrowing of the St. Mary's Indian Band;
- (e) the approval of new capital projects; and
- (f) the approval of the acquisition or disposition of tangible capital assets.

(3) Council must obtain advice, assistance and training in order to achieve financial competency in relation to decision-making under this Law.

Council Policies, Procedures and Directions

9.(1) Subject to subsection (2), the Council may establish policies and procedures and give directions respecting any matter relating to the financial administration of the St. Mary's Indian Band.

(2) The Council must establish policies or procedures respecting the acquisition, management, disposal, disposition and safeguarding of St. Mary's Indian Band assets.

(3) The Council must not establish any policies or procedures or give any directions relating to the financial administration of the St. Mary's Indian Band that are in conflict with this Law, the Act or GAAP.

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

(5) The Council must 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

10.(1) Subject to applicable provincial and federal privacy laws, annually the financial controller 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 the St. Mary's Indian Band to a councillor and to each of the dependents of the councillor;
- (b) any contracts between the St. Mary's Indian Band and a councillor and between the St. Mary's Indian Band and a dependent of the councillor 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 the St. Mary's Indian Band to the chief operating officer and to each of the dependents of the chief operating officer;
- (d) any contracts between the St. Mary's Indian Band and the chief operating officer and between the St. Mary's Indian Band and a dependent of the chief operating officer for the supply of goods or services, including a general description of the nature of the contracts;
- (e) the total amount of remuneration, expenses and benefits, including coverage under policies for insurance or medical, dental or related services, paid or provided by the St. Mary's Indian Band to the financial controller and to each of the dependents of the financial controller; and

(f) any contracts between the St. Mary's Indian Band and the financial controller and between the St. Mary's Indian Band and a dependent of the financial controller for the supply of goods or services, including a general description of the nature of the contracts.

(2) Subsection (1) does not require the reporting of remuneration, expenses or benefits received

(a) in common by all members of the St. Mary's Indian Band;

(b) under a program or service universally accessible to all members of the St. Mary's Indian Band on published terms and conditions; or

(c) from a trust arrangement according to the terms of the trust.

(3) If the financial controller becomes aware of any information contained in a report completed under this section which may indicate a contravention of this Law, the financial controller must report this information under section 95.

DIVISION 2 - Finance and Audit Committee

Interpretation

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

Committee Established

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

(2) The Council must appoint not less than three(3) members of the Committee, a majority of whom must have financial competency and, subject to subsection (5), all of whom must have independence.

(3) At least two(2) of the Committee members must be councillors.

(4) Subject to subsection (5), the Committee members must be appointed to hold office for staggered terms of not less than three (3) complete fiscal years.

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

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

(b) the chair of the Committee recommends removal.

(6) The Council must establish policies or procedures

(a) specifying that an individual has independence if the individual does not have a direct or indirect relationship with the St. Mary's Indian Band government that could, in the opinion of

Council, reasonably interfere with the individual's exercise of independent judgment as a member of the Committee;

(b) specifying that the independence of each member of the Committee be tracked, including the annual documented confirmation by each member of their independence;

(c) ensuring that all members of the Committee have independence including specifying that the following individuals do not have independence:

(i) an individual who is an employee of the St. Mary's Indian Band,

(ii) an individual whose immediate family member is an officer of the St. Mary's Indian Band, and

(iii) an individual who has a direct or indirect relationship with the St. Mary's Indian Band by which the individual may accept any consulting, advisory, or other compensatory fee paid by the St. Mary's Indian Band to the individual (other than remuneration paid for acting in his or her capacity as a councillor or as a member of any committee or as fixed retirement compensation), to a dependent of the individual or to an entity in which the individual is a partner, owner, member or officer and which provides accounting, consulting, legal or any financial services to the St. Mary's Indian Band or to a related body of the St. Mary's Indian Band.

(7) The Council may exempt an individual from the application of the policy referred to in paragraph (6)(c) but only under the following circumstances:

(a) an exemption may be given on one occasion only for a particular individual and the term of appointment of the individual must not be more than three consecutive years; and

(b) the Council, in temporary and exceptional circumstances, determines in its reasonable opinion that

(i) the individual is able to exercise the independent judgment necessary for the individual to fulfill his or her responsibilities as a member of the Committee regardless of the individual's relationship with the St. Mary's Indian Band, and

(ii) the appointment of the individual to the Committee is considered to be in the best interests of the St. Mary's Indian Band and its members.

Chair and Vice-chair

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

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

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

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

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

Committee Procedures

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

(2) Where quorum is impossible to obtain due to conflict of interest or exclusion of a member from a meeting, the decision must be referred to Council.

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

(4) In the event of a tie vote in the Committee, the chair of the Committee may cast a second tiebreaking vote unless they are in a position of a conflict, in which case Council must cast the second tiebreaking vote.

(5) Subject to subsection (6), the chief operating officer and the financial controller must be notified of all Committee meetings and, subject to reasonable exceptions, must attend those meetings.

(6) The chief operating officer or the financial controller 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 operating officer or the financial controller; or

- (b) it is a meeting with the auditor.

(7) The Committee must meet

- (a) at least once every three (3) months in each fiscal year as necessary to conduct the business of the Committee; and

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

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

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

(10) After consultation with the financial controller, the Committee may retain a consultant to assist in the performance of any of its responsibilities.

Financial Planning Responsibilities

15.(1) The Committee must carry out the following activities in respect of the financial administration of the St. Mary's Indian Band:

(a) Annually develop, and recommend to the Council for approval, short, medium and long-term financial

- (i) strategic plans, projections and priorities,
- (ii) operational plans, projections and priorities,
- (iii) business plans, projections and priorities, and
- (iv) plans, projections and priorities;

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

(c) on an ongoing basis, monitor the financial performance of the St. Mary's Indian Band against the budget and report any significant variations to the Council; and

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

(2) The Committee may assign the performance of any of the Committee's duties or functions in paragraph(1)(a)

(a) to an officer or employee of the St. Mary's Indian Band; and

(b) with the approval of the Council, to a contractor or representative agent of the St. Mary's Indian Band.

(3) Any assignment of duties or functions under subsection (2) does not relieve the Committee of the responsibility to ensure that these duties or functions are carried out properly.

(4) The Committee may make a report or recommendations to the Council on any matter respecting the financial administration of the St. Mary's Indian Band that is not otherwise specified to be its responsibility under this Law.

Audit responsibilities

16. The Committee must carry out the following audit activities in respect of the financial administration of the St. Mary's Indian Band:

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

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

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

(d) review and make recommendations to the Council on the audited annual financial statements, including the audited local revenue account financial statements and any special purpose reports;

- (e) periodically review and make recommendations to the Council on policies, procedures and directions on reimbursable expenses and perquisites of the councillors, officers and employees of the St. Mary's Indian Band;
- (f) 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;
- (g) conduct a review of this Law under section 100 and, where appropriate, recommend amendments to the Council; and
- (h) periodically review and make recommendations to the Council on the terms of reference of the Committee.

Council Assigned Responsibilities

17. The Council may assign to the Committee or another committee of the Council the following activities in respect of the financial administration of the St. Mary's Indian Band:

- (a) to develop, and recommend to the 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 Council for approval, cash management plans;
- (c) to review and report to the Council on the financial content of any St. Mary's Indian Band reports;
- (d) to review, monitor and report to the Council on the appropriateness of the St. Mary's Indian Band accounting and financial reporting systems, policies and practices;
- (e) to review, and recommend to the Council for approval, any proposed significant changes in the St. Mary's Indian Band accounting or financial reporting systems, policies, procedures or directions;
- (f) to monitor the collection and receipt of the St. Mary's Indian Band financial assets, including debts owed to the St. Mary's Indian Band;
- (g) to review and report to the Council on the St. Mary's Indian Band risk management policies and control and information systems and, where appropriate, recommend improvements to the Council;
- (h) to review the adequacy of security of information, information systems and recovery plans and, where appropriate, recommend improvements to the Council;
- (i) to monitor compliance with the legal obligations of the St. Mary's Indian Band, including legislative, regulatory and contractual obligations, and report to the Council;
- (j) to review and report to the Council on the adequacy of financial administration personnel and resources;

(k) to review, monitor and report to the Council on the adequacy and appropriateness of the St. Mary's Indian Band's insurance coverage respecting significant St. Mary's Indian Band risks; and

(l) to review, monitor and report to the Council on material litigation and its impact on financial administration and reporting.

DIVISION 3 - Officers and Employees

Chief Operating Officer

18.(1) The Council must appoint a person as chief operating officer of the St. Mary's Indian Band and may set the terms and conditions of that appointment.

(2) Reporting to the Council, the chief operating officer is responsible for leading the planning, organization, implementation and evaluation of the overall management of all the day-to-day operations of the St. Mary's Indian Band in accordance with the St. Mary's Indian Band strategic plans, including the following duties:

(a) to develop and recommend to the Council for approval, human resources policies and procedures for the hiring, management and dismissal of officers and employees of the St. Mary's Indian Band;

(b) to prepare and recommend to the Council for approval, descriptions of the powers, duties and functions of all employees of the St. Mary's Indian Band;

(c) to hire the employees of the St. Mary's Indian Band, as the chief operating officer considers necessary, and to set the terms and conditions of their employment;

(d) to oversee, supervise and direct the activities of all officers and employees of the St. Mary's Indian Band;

(e) to dismiss the employees of the St. Mary's Indian Band, other than the financial controller, in accordance with human resource policies and procedures;

(f) to oversee and administer the contracts of the St. Mary's Indian Band;

(g) to prepare, recommend to the Council and maintain and revise as necessary the organization chart referred to in section 21;

(h) to identify, assess, monitor and report on financial reporting risks and fraud risks;

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

(j) to perform any other duties of the chief operating officer under this Law; and

(k) to carry out any other activities specified by the Council that are not contrary to the Act or inconsistent with the chief operating officer's duties specified in this Law.

(3) The chief operating officer may assign the performance of any of the chief operating officer's duties or functions

- (a) to an officer or employee of the St. Mary's Indian Band; and
- (b) with the approval of the Council, to a contractor or representative agent of the St. Mary's Indian Band.

(4) Any assignment of duties or functions under subsection (3) does not relieve the chief operating officer of the responsibility to ensure that these duties or functions are carried out properly.

Financial Controller

19.(1) The Council must appoint a person as financial controller of the St. Mary's Indian Band and may set the terms and conditions of that appointment.

(2) Reporting to the chief operating officer, the financial controller is responsible for the day-to-day management of the systems of the financial administration of the St. Mary's Indian Band, including the following duties:

- (a) to ensure the financial administration systems, policies, procedures, directions and internal controls are appropriately designed and operating effectively;
- (b) to administer and maintain the accounts of the St. Mary's Indian Band, including the local revenue account;
- (c) to prepare the draft annual budgets and any draft amendments to the component of the annual budget respecting the St. Mary's Indian Band's local revenue account;
- (d) to prepare the monthly financial information required in section 67, the quarterly financial statements required in section 68 and the draft annual financial statements required in section 69;
- (e) to prepare the financial components of reports to the Council and of any short, medium and long-term plans, projections and priorities referred to in subsection 15(1);
- (f) to prepare the draft multi-year financial plan for review by the Finance and Audit Committee;
- (g) to actively monitor the compliance with any agreements and funding arrangements entered into by the St. Mary's Indian Band;
- (h) to actively monitor the financial administration of capital projects;
- (i) to administer and supervise the preparation and maintenance of financial records and the financial administration reporting systems;
- (i) to administer and supervise the maintenance of the records of all receipts and expenditures of the St. Mary's Indian Band to facilitate the annual audit;
- (j) to actively monitor compliance with the Act, this Law, any other applicable St. Mary's Indian Band law, applicable standards and any policies, procedures and directions of the Council

respecting the financial administration of the St. Mary's Indian Band, other than those matters that are the responsibility of the tax administrator under this Law, another St. Mary's Indian Band law or the Act;

(k) to prepare or provide any documentation and financial information required by the Council or the Finance and Audit Committee to discharge its responsibilities;

(l) to evaluate the financial administration systems of the St. Mary's Indian Band and recommend improvements;

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

(n) to develop and recommend procedures for identifying and mitigating financial reporting and fraud risks and to ensure approved procedures are followed;

(o) to perform any other duties of the financial controller under this Law; and

(p) to carry out any other activities specified by the chief operating officer that are not contrary to the Act or inconsistent with the financial controller's duties under this Law.

(3) With the approval of the chief operating officer, the financial controller may assign the performance of any of the duties or functions of the financial controller to any officer, employee, contractor or representative agent of the St. Mary's Indian Band, but this assignment does not relieve the financial controller of the responsibility to ensure that these duties or functions are carried out properly.

Tax Administrator

20.(1) The tax administrator reports to the chief operating officer in respect of the performance of any of the tax administrator's duties or functions under this Law.

(2) With the approval of the chief operating officer, the tax administrator may assign the performance of any of the duties or functions of the tax administrator under this Law to any officer, employee, contractor or representative agent of the St. Mary's Indian Band, but this assignment does not relieve the tax administrator of the responsibility to ensure that these duties or functions are carried out properly.

Organizational Structure

21.(1) The Council must establish and maintain a current organization chart for the governance, management and administrative systems of the St. Mary's Indian Band.

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

(a) all governance, management and administrative systems of the St. Mary's Indian Band;

(b) the organization of the systems described in paragraph (a), including the linkages between them;

(c) the specific roles and responsibilities of each level of the organization of the systems described in paragraph (a); and

(d) all governance, management and administrative positions at each level of the organization of the systems described in paragraph (a), including

(i) the membership on the Council, Finance and Audit Committee and all other committees of the Council and the St. Mary's Indian Band,

(ii) the chief operating officer, the financial controller, the tax administrator and other officers of the St. Mary's Indian Band, and

(iii) the principal lines of authority and the responsibility between the Council, the committees referred to in subparagraph (i) and the officers referred to in subparagraph (ii).

(3) On request, the chief operating officer must provide a copy of the organization chart under subsection (1) to a councillor, a member of a committee referred to in subparagraph (2)(d)(i), an officer, employee or contractor or representative agent of the St. Mary's Indian Band and a member of the St. Mary's Indian Band.

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

(5) The Council must take all reasonable steps to ensure that the St. Mary's Indian Band hires or retains qualified and competent personnel to carry out the financial administration activities of the St. Mary's Indian Band.

DIVISION 4 - Conduct Expectations

Conduct of Councillors

22.(1) When exercising a power, duty or responsibility relating to the financial administration of the St. Mary's Indian Band, a councillor must

(a) comply with this Law, the Act, any other applicable St. Mary's Indian Band law and any applicable standards;

(b) act honestly, in good faith and in the best interests of the St. Mary's Indian Band;

(c) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances; and

(d) avoid conflicts of interest and comply with the requirements of the Schedule: Avoiding and Mitigating Conflicts of Interest, including required disclosures of private interests.

(2) If it has been determined by independent investigation or by a court of competent jurisdiction that a councillor has contravened this section, the Council must post a public notice of the details of the

determination for a period of not less than thirty-one (31) days as soon as practicable after the contravention was determined.

(3) Council may, in accordance with St. Mary's Indian Band laws, take further disciplinary action against a councillor who has contravened this section.

(4) The Council must make policies or procedures in respect of disciplinary action taken against a councillor under this section by a councillor.

(5) The Council must make policies or procedures in respect of the independent investigation of an alleged contravention of this section by a councillor.

Conduct of Officers, Employees, Contractors, etc.

23.(1) This section applies to

- (a) an officer, employee, contractor and representative agent of the St. Mary's Indian Band;
- (b) a person acting under the delegated authority of the Council or the St. Mary's Indian Band; or
- (c) a member of a committee of the Council or the St. Mary's Indian Band who is not a councillor.

(2) If a person is exercising a power, duty or responsibility relating to the financial administration of the St. Mary's Indian Band, that person must

- (a) comply with this Law, the Act, any other applicable St. Mary's Indian Band law and any applicable standards;
- (b) comply with all policies, procedures and directions of the Council; and
- (c) avoid conflicts of interest and comply with any applicable requirements of the Schedule: Avoiding and Mitigating Conflicts of Interest, including required disclosure of potential conflicts of interest.

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

- (a) the terms of employment or appointment of every officer or employee of the St. Mary's Indian Band;
- (b) the terms of every contract of a contractor of the St. Mary's Indian Band;
- (c) the terms of appointment of every member of a committee who is not a councillor; and
- (d) the terms of appointment of every representative agent of the St. Mary's Indian Band.

(4) If a person contravenes subsection (2), the following actions may be taken:

- (a) an officer or employee may be disciplined, including dismissal;

- (b) a contractor's contract may be terminated;
- (c) the appointment of a member of a committee may be revoked; or
- (d) the appointment of a representative agent may be revoked.

PART IV - Financial Management

DIVISION 1 - Financial Plans and Annual Budgets

Fiscal Year

24. The fiscal year of the St. Mary's Indian Band is April 1 to March 31 of the following year.

Multi-year Financial Plan

25. No later than April 30 of each year, the Council must approve a multi-year financial plan that

- (a) has a planning period of five (5) years comprised of the current fiscal year and the four (4) succeeding fiscal years;
- (b) is based on the projections of revenues, expenditures and transfers between accounts;
- (c) 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 Part V, payments required to address any deficits and payments for all other purposes;
- (e) in respect of transfers between funds, the amounts required for capital purposes including from the tangible capital asset reserve account;
- (f) indicates whether in any of the five (5) years of the plan a deficit or surplus is expected from the projection of revenues and expenditures for that year.

Content of Annual Budget

26.(1) The annual budget for the current fiscal period must encompass all the operations for which the St. Mary's Indian Band 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 V, 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 revenue category of moneys derived from the St. Mary's Indian Band's lands must be shown separately in the annual budget from other revenues and must include a sub-category for revenues from natural resources obtained from the St. Mary's Indian Band's lands.

(3) In subsection (2), "natural resources" means any material on or under the St. Mary's Indian Band's lands in their natural state which when extracted has economic value.

Budget and Planning Process Schedule

27.(1) On or before March 15 of each year, the financial controller must prepare and submit to the Finance and Audit Committee for review a draft annual budget for the next fiscal year.

(2) On or before March 15 of each year, the Finance and Audit Committee must review

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

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

(3) On or before March 31 of each year, the Council must review and approve the annual budget for the St. Mary's Indian Band for the next fiscal year.

(4) On or before June 1 of each year, the financial controller must prepare and submit to the Finance and Audit Committee for review a draft amendment of the component of the annual budget respecting the St. Mary's Indian Band's local revenue account.

(5) On or before June 15 of each year, the Finance and Audit Committee must review the draft amendment of the component of the annual budget respecting the St. Mary's Indian Band's local revenue account and recommend an amendment to the annual budget to the Council for approval.

(6) No later than July 15 of each year, the Council must approve the amendment of the component of the annual budget respecting the St. Mary's Indian Band's local revenue account.

Additional Requirements for Budget Deficits

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

(a) the multi-year financial plan of the St. Mary's Indian Band demonstrates how and when this deficit will be addressed and how it will be serviced beginning the year following the year the deficit was incurred; and

(b) the deficit does not cause St. Mary's Indian Band to default on existing financial and legal obligations.

Amendments to Annual Budgets

29.(1) The annual budget of the St. Mary's Indian Band must not be changed without the approval of the Council.

(2) Subject to subsection 27(6) and section 39, unless there is a substantial change in the forecasted revenues or expenses of the St. Mary's Indian Band or in the expenditure priorities of the Council, the Council must not approve a change to the annual budget of the St. Mary's Indian Band.

Local Revenue Account Budget Requirements

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

Policy for Member Information or Involvement

31.(1) The Council must establish policies or procedures respecting the means by which members of the St. Mary's Indian Band must be informed about or involved in consideration of

- (a) the annual budget, including any component of the annual budget respecting the St. Mary's Indian Band's local revenue account;
- (b) the multi-year financial plan; and
- (c) budget deficits or extraordinary expenditures.

(2) The Council must post a public notice of each Council meeting when each of the following is presented for approval:

- (a) the multi-year financial plan;
- (b) the annual budget; and
- (c) an amendment to the annual budget.

DIVISION 2 - Financial Institution Accounts

Financial Institution Accounts

32.(1) No account may be opened for the receipt and deposit of money of the St. Mary's Indian Band unless the account is

- (a) in the name of the St. Mary's Indian Band;
- (b) opened in a financial institution; and
- (c) authorized by the chief operating officer or the financial controller.

(2) The St. Mary's Indian Band must establish the following accounts in a financial institution:

- (a) a general account for money from any sources other than those described in paragraphs (b) and (c);
- (b) a local revenue account for money from local revenues; and
- (c) a trust account if the St. Mary's Indian Band has money held in trust.

(3) The St. Mary's Indian Band may establish any other accounts not referred to in subsection (2) as may be necessary and appropriate to manage the St. Mary's Indian Band's financial assets.

Accounts Management

33.(1) The financial controller must ensure the safekeeping of all money received by the St. Mary's Indian Band.

(2) The financial controller

- (a) must deposit all money received by the St. Mary's Indian Band as soon as practicable into the appropriate accounts described in section 32; and
- (b) must not authorize payment of money from an account described in section 32 unless the payment relates to the subject matter for which the account was established and is otherwise authorized or permitted under this Law.

DIVISION 3 - Expenditures

Prohibited Expenditures

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

(2) Money in a local revenue account must not be used for any purpose other than that permitted under a local revenue law.

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

Prohibited Agreements

35. The St. Mary's Indian Band must not enter into an agreement or undertaking that requires the St. Mary's Indian Band to expend money that is not authorized by or that contravenes this Law.

Payments from Accounts

36.(1) Subject to subsection 39(1), money must not be paid out of any account unless the expenditure is authorized under an appropriation.

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

- (3) Council must establish policies and procedures for the authorization of payments from accounts.

Expenditures

37.(1) An amount that is authorized to be spent in the annual budget must not be expended for any purpose other than that described in the annual budget.

(2) The total amount expended by the St. Mary's Indian Band in relation an appropriation must not exceed the amount specified in the annual budget for that appropriation.

(3) The Council must establish policies and procedures for the effective internal control of the authorization and management of expenditures.

No Expenditure without Appropriation

38.(1) Subject to subsection 39(1), money must not be paid out of any account unless the expenditure is authorized under an appropriation.

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

Emergency Expenditures

39.(1) The chief operating 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 Law or another St. Mary's Band law.

(2) The Council must establish policies and procedures to authorize expenditures under subsection (1).

(3) The expenditure under subsection (1) must be reported to the Council as soon as practicable and the Council must amend the budget to include the expenditure.

(4) Subsection (1) does not give the chief operating officer the authority to borrow for the purpose of making an expenditure for an emergency purpose.

Appropriations

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

(2) A sufficient unencumbered balance must be available in an appropriation before any contact or other arrangement is entered into by the St. Mary's Indian Band.

(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

41.(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

42.(1) No money may be paid out of any account 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 account in excess of the unexpended balance of the trust account.

(4) No requisition may be made or given for payment of money that reduces the balance available in an appropriation or trust account so that it is not sufficient to meet the commitments chargeable against it.

(5) A requisition may apply to one or more expenditures chargeable against one or more appropriations.

(6) A requisition must identify the appropriation or trust account out of which payment is to be made 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 Law.

(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 operating officer or the financial controller must authorize payment out of, or sign a requisition for payment from, a trust account pursuant to their level of authorization as set by Council from time to time.

(9) The tax administrator must authorize payment out of a local revenue account.

(10) Subject to subsection (9), the chief operating officer or financial controller 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 pursuant to their level of authorization set by the Council.

Form of Payment

43.(1) Payments by the St. Mary's Indian Band may be made by credit card, cheque, draft, electronic transfer or other similar instrument.

(2) The Council must establish policies and procedures for the authorization of payments by credit card, cheque, draft, electronic transfer or other similar instrument.

DIVISION 4 - General Matters

Advances

44. 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.

Write Off of Debts

45. All or part of a debt or obligation owed to St. Mary's Indian Band may be written off if done under the authority of a policy or direction of the Council.

Extinguishment of Debts

46. All or part of a debt or obligation owed to St. Mary's Indian Band may be forgiven only if approved by Council.

Year-end Surplus

47. An operating surplus in the local revenue account must not be comingled with other St. Mary's Indian Band funds and must not be used for purposes not authorized in a local revenue law.

DIVISION 5 - Borrowing

Limitations on Borrowing

48.(1) Except as specifically authorized in this Law or in a local revenue law, the St. Mary's Indian Band must not borrow money or grant security.

(2) Subject to this Law, if the St. Mary's Indian Band is authorized in this Law to borrow money or grant security, the Council may authorize the financial controller to borrow money or grant security in the name of the St. Mary's Indian Band

(a) as specifically approved by the Council; or

(b) in accordance with the policies and procedures made by the Council.

(3) There must a secured funding source to service the debt.

Borrowing for Ordinary Operations

49.(1) The St. Mary's Indian Band may incur 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 will be repaid from money appropriated under an appropriation for the fiscal year or is in respect of an expenditure that may be made without the authority of an appropriation under this Law.

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

(3) The St. Mary's Indian Band may enter into a general security agreement or a lease for the use or acquisition of lands, materials or equipment required for the operation, management or administration of the St. Mary's Indian Band.

Financial Agreements

50.(1) The St. Mary's Indian Band may enter into the following agreements in the name of the St. Mary's Indian Band:

(a) for the purpose of efficient management of the St. Mary's Indian Band's financial assets, agreements with financial institutions and related services agreements; and

(b) for the purpose of reducing risks or maximizing benefits in relation to the borrowing, lending or investing of the St. Mary's Indian Band's financial assets, agreements with financial institutions respecting currency exchange, spot and future currency, interest rate exchange and future interest rates.

(2) Council may enter into any agreements referred to in subsection (1) on behalf of the St. Mary's Indian Band.

Borrowing for Authorized Expenditures

51.(1) If the general account described in paragraph 32(2)(a) is not sufficient to meet the expenditures authorized to be made from it and the financial controller recommends that money be borrowed to ensure that the general account is sufficient for these purposes, the St. Mary's Indian Band may borrow an amount not exceeding a maximum amount specified by the Council and to be repaid within a specified period of time.

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

Borrowing Member Requirements

52.(1) This section applies if the St. Mary's Indian Band is a borrowing member.

(2) The St. Mary's Indian Band must not obtain long-term financing secured by property tax revenues from any person other than the First Nations Finance Authority.

(3) The St. Mary's Indian Band may only obtain long-term financing referred to in subsection (2) as permitted under its local revenue law and the Act.

Borrowing for New Capital Projects

53.(1) The Council must establish policies or procedures respecting the means by which members of the St. Mary's Indian Band must be informed about or involved in consideration of borrowing for new capital projects described in subsection 87(2).

(2) The Council must post a public notice of each Council meeting when borrowing for new capital projects described in subsection 87(2) is presented for approval.

(3) Borrowing for new capital work and infrastructure must be repaid within the reasonable life expectancy of the activity, work or service for which the money was borrowed.

Borrowing for Repayment of Debts

54. Subject to this Law and a local revenue law, the St. Mary's Indian Band may borrow money that is required for the repayment or refinancing of any debt of the St. Mary's Indian Band, other than a debt in relation to money borrowed under subsection 49(1), or a debt owed to the First Nations Finance Authority.

Use of Borrowed Money

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

(2) All or some of the money borrowed for a specific purpose by the St. Mary's Indian Band and not required to be used immediately for that purpose may be temporarily invested under subsection 61(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 by the St. Mary's Indian Band must be signed by a councillor designated by the Council and by the chief operating officer or the financial controller.

(2) A security granted by the St. Mary's Indian Band in respect of local revenues must be signed by a councillor designated by the Council and by the tax administrator.

Operational Controls

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

DIVISION 6 - Risk Management

Limitation on Business Activity

58.(1) Subject to subsections (2) and (3), the St. Mary's Indian Band must not

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

(2) The St. Mary's Indian Band may carry on a business that

- (a) is ancillary or incidental to the provision of programs or services or other functions of St. Mary's Indian Band governance; 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, the St. Mary's Indian Band's lands or lands owned in fee simple by or in trust for the St. Mary's Indian Band, or
 - (ii) any other property of the St. Mary's Indian Band.

(3) The St. Mary's Indian Band may carry on business activities for the primary purpose of profit if the Council determines that the business activities

- (a) do not result in a material liability for the St. Mary's Indian Band; or
- (b) do not otherwise expose the St. Mary's Indian Band's financial assets, property or resources to significant risk.

Guarantees and Indemnities

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

(2) Before the Council authorizes a guarantee under subsection (1), the financial controller must prepare a report for the Finance and Audit Committee to review and provide to Council identifying any risks associated with giving the guarantee and assessing the ability of the St. Mary's Indian Band to honour the guarantee should it be required to do so.

- (3) The St. Mary's Indian Band must not give an indemnity unless it is
- (a) authorized under section 99;
 - (b) necessary and incidental to and included in another agreement to which the St. Mary's Indian Band is a party; or
 - (c) in relation to a security granted by the St. Mary's Indian Band that is authorized under this Law or another St. Mary's Indian Band law.
- (4) Subject to a resolution described in section 99, the Council must make policies and directions respecting guarantees and indemnities as follows:
- (a) specifying circumstances under which an indemnity may be given without Council approval;
 - (b) designating the persons who may give an indemnity on behalf of the St. Mary's Indian Band and specifying the maximum amount of any indemnity which may be given by them;
 - (c) specifying any terms or conditions under which a guarantee or indemnity may be given; and
 - (d) specifying the records to be maintained of all guarantees and indemnities given by the St. Mary's Indian Band.

Authority to Invest

60.(1) Except as specifically authorized in this Law or another St. Mary's Indian Band law, the St. Mary's Indian Band must not invest the St. Mary's Indian Band's financial assets.

(2) If the St. Mary's Indian Band is authorized in this Law to invest the St. Mary's Indian Band's financial assets, the Council may authorize the financial controller to invest the St. Mary's Indian Band's financial assets

- (a) as specifically approved by the Council; or
- (b) in accordance with the policies, procedures or directions made by the Council.

Approved Investments

61.(1) Money in an account described in section 32 that is not immediately required for expenditures may be invested by the St. Mary's Indian Band 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 (2) recognized security-rating institutions;

(e) any class of investments permitted under an Act of a province relating to trustees; or

(f) any other investments or class of investments prescribed by a regulation under the Act.

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

(3) If the St. Mary's Indian Band has established an investment account under section 32, the St. Mary's Indian Band may invest money in that account in

(a) a company that is incorporated under the laws of Canada or of a province or territory and in which the St. Mary's Indian Band is a shareholder;

(b) a trust in which the St. Mary's Indian Band is a beneficiary; or

(c) a limited partnership in which the St. Mary's Indian Band is a partner.

(4) Despite any other provision in this section, government transfer funds and local revenue funds may only be invested in investments specified in subsection 82(3) of the Act and in investments in securities issued by the First Nations Finance Authority.

Loans for St. Mary's Indian Band Member Activities

62.(1) The St. Mary's Indian Band may only make a loan to a member of the St. Mary's Indian Band or to an entity in which a member of the St. Mary's Indian Band has an interest if the loan is made from a program of the St. Mary's Indian Band that has been approved by the Council and that meets the requirements of this section.

(2) Before the Council establishes a program under this section, the financial controller must prepare a report for Council identifying any risks associated with the program and the costs of administering the program.

(3) A program referred to in subsection (1) must, subject to provincial and federal privacy laws, satisfy the following criteria:

(a) the program must be universally available to all members of the St. Mary's Indian Band;

(b) the terms and conditions of the program must be published and accessible to all members of the St. Mary's Indian Band;

(c) all loans made from the program and all payments received from those loans must be set out in an annual report that includes details about the amounts loaned, the purposes of the loans, the names of those receiving a loan and repayments of principal and interest on loans; and

(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 Council must make policies or procedures or give directions for the operation of the program referred to in this section.

Administration of Investments and Loans

63.(1) If the St. Mary's Indian Band is authorized to make an investment or loan under this Law, the financial controller may do all things necessary or advisable for the purpose of making, continuing, exchanging or disposing of the investment or loan.

(2) If the St. Mary's Indian Band is authorized to make a loan under this Law, the Council must establish policies or procedures respecting the terms and conditions under which loans may be made, including a requirement that all loans be recorded in a written agreement that provides for proper security for repayment and sets out the terms for repayment of principal and interest.

Risk Assessment and Management

64.(1) Annually, and more often if necessary, the financial controller must identify and assess any significant risks to the St. Mary's Indian Band's financial assets, the St. Mary's Indian Band's tangible capital assets as defined in Part V and the operations of the St. Mary's Indian Band.

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

Insurance

65.(1) On recommendation of the Finance and Audit Committee, the Council must procure and maintain in force all insurance coverage that is appropriate and commensurate with the risks identified in section 64 and any other risks associated with any assets, property or resources under the care or control of the St. Mary's Indian Band.

(2) On the recommendation of the Finance and Audit Committee, the Council must purchase and maintain insurance for the benefit of a councillor or an officer or their personal representatives against any liability arising from that person being or having been a councillor or an officer.

DIVISION 7 - Financial Reporting

GAAP

66. All accounting practices of the St. Mary's Indian Band must comply with GAAP.

Monthly Financial Information

67.(1) At the end of each month the financial controller must prepare financial information respecting the financial affairs of the St. Mary's Indian Band.

(2) The financial controller must provide the financial information in subsection (1) to the Council and the Finance and Audit Committee not more than forty-five (45) 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 financial controller must prepare financial statements for the St. Mary's Indian Band for that quarter in compliance with GAAP.

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

(3) The quarterly financial statements in subsection (1) must be reviewed by the Finance and Audit Committee and must be reviewed and approved by the Council.

Annual Financial Statements

69.(1) At the end of each fiscal year the financial controller must prepare the annual financial statements of the St. Mary's Indian Band for that fiscal year in accordance with GAAP and to a standard that is at least comparable to that generally accepted for governments in Canada.

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

(a) the financial information of the St. Mary's Indian Band for the fiscal year;

(b) the financial information for the local revenue account that is required to meet the Board standards respecting audit of the local revenue account; and

(c) the revenue categories for the St. Mary's Indian Band's lands referred to in subsection 26(2).

(3) 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 10;

(c) a report setting out the information required in paragraph 62(3)(c);

(d) a report setting out all debts or obligations forgiven by the St. Mary's Indian Band;

(e) if St. Mary's has a land code in force, a report setting out moneys of the St. Mary's Indian Band derived from St. Mary's Indian Band lands, categorized and shown separately from other revenues and that includes a sub-category respecting revenues from natural resources obtained from St. Mary's Indian Band lands; and

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

(4) The financial controller must provide draft annual financial statements to the Finance and Audit Committee for review within seventy-five (75) days following the end of the fiscal year for which they were prepared.

(5) The Finance and Audit Committee must present draft annual financial statements to the Council for review within ninety (90) days following the end of the fiscal year for which they were prepared.

Audit Requirements

70.(1) The annual financial statements of the St. Mary's Indian Band must be audited by the auditor.

(2) The auditor must conduct the audit of the annual financial statements in accordance with generally accepted auditing standards established by the Canadian Institute of Chartered Accountants.

(3) 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.

(4) 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 subsection 69(3).

Appointment of Auditor

71.(1) The St. Mary's Indian Band must appoint an auditor for each fiscal year to hold office until the later of

(a) the end of the Council meeting when the audited annual financial statements for that fiscal year are being considered; or

(b) the date the auditor's successor is appointed.

(2) The terms and conditions of the appointment of the auditor must be set out in an engagement letter approved by the Finance and Audit Committee and must include the auditor's obligation to confirm that the annual financial statements and the audit of them comply with this Law, the Act, and Board standards.

(3) To be eligible for appointment as the auditor of the St. Mary's Indian Band, an auditor must

(a) be independent of the St. Mary's Indian Band, its related bodies, councillors and officers and members; and

(b) be a public accounting firm or public accountant

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

- (ii) licensed or otherwise authorized to practice public accounting in the province or territory in which the majority of the reserve lands of the St. Mary's Indian Band are located.
- (4) If the auditor ceases to be independent, the auditor must as soon as practicable after becoming aware of the circumstances
 - (a) advise the St. Mary's Indian Band 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 of the St. Mary's Indian Band, the auditor must be given access to

- (a) all records of the St. Mary's Indian Band for examination or inspection and given copies of these records on request; and
 - (b) any councillor, officer, employee, contractor or representative agent of the St. Mary's Indian Band to ask any questions or request any information.
- (2) On request of the auditor, every person referred to in paragraph (1)(b) must
- (a) make available all records referred to in paragraph (1)(a) that are in that person's care or control; and
 - (b) provide the auditor with full information and explanation about the affairs of the St. Mary's Indian Band as necessary for the performance of the auditor's duties.
- (3) The auditor must be given notice of
- (a) every meeting of the Finance and Audit Committee; and
 - (b) the Council meeting where the annual audit, including the annual financial statements, will be considered and approved.
- (4) Subject to subsection (6), the auditor may attend any meeting for which he or she must be given notice under this section or to which the auditor has been invited and must be given the opportunity to be heard at those meetings on issues that concern the auditor as auditor of the St. Mary's Indian Band.
- (5) The auditor may communicate with the Finance and Audit Committee, as the auditor considers appropriate, to discuss any subject that the auditor recommends be considered by the Committee.
- (6) The auditor may be excluded from all or any part of a meeting of the Finance and Audit Committee or the Council by a recorded vote if the subject matter relates to the retaining or dismissal of the auditor.

(7) If the auditor may attend or call a meeting of the Finance and Audit Committee or a Council meeting, he or she may do so by telephone or by other communications medium if all the participants in the meeting are able to communicate with each other.

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 not more than one hundred and five (105) days after the fiscal year-end for which the statements were prepared.

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

Access to Annual Financial Statements

74.(1) Before the annual financial statements may be published or distributed, they must

(a) be approved by the Council;

(b) be signed by

(i) the Chief of the St. Mary's Indian Band, and

(ii) the Chair of the Finance and Audit Committee;

(iii) the financial controller; 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 subsection 69(3).

(2) The audited annual financial statements and special purpose reports must be available for inspection by members of the St. Mary's Indian Band at the principal administrative offices of the St. Mary's Indian Band during normal business hours.

(3) The audit report relating to the local revenue account must be available for inspection by any person referred to in subsection 14(2) of the Act at the principal administrative offices of the St. Mary's Indian Band during normal business hours.

Annual Report

75.(1) Not later than one hundred and eighty(180) days after the end of each fiscal year, the Council must prepare an annual report on the operations and financial performance of the St. Mary's Indian Band and related bodies 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 St. Mary's Indian Band;

(b) a progress report on any established financial objectives and performance measures of the St. Mary's Indian Band; and

(c) the audited annual financial statements of the St. Mary's Indian Band for the previous fiscal year, including special purpose reports.

(3) The annual report referred to in subsection (1) must

(a) be made available to the members of the St. Mary's Indian Band at the principal administrative offices of the St. Mary's Indian Band; and

(b) be provided to the Board and the First Nations Finance Authority.

DIVISION 8 - Information and Information Technology

Ownership of Records

76.(1) All records that are produced by or on behalf of the St. Mary's Indian Band or kept, used or received by any person on behalf of the St. Mary's Indian Band are the property of the St. Mary's Indian Band.

(2) The Council must establish policies or procedures to ensure that the records referred to in subsection (1) remain the property of the St. Mary's Indian Band.

Policy and Law Manual

77.(1) The chief operating officer must prepare and maintain a current policy and law manual respecting every policy and law related the St. Mary's Indian Band's administrative systems, including any financial administration systems referred to in this Law.

(2) The policy and law manual under subsection (1) must be made available to councillors, members of the Finance and Audit Committee and all other Council committees and officers and employees of the St. Mary's Indian Band.

(3) If any part of the policy and law manual under subsection (1) is relevant to the services being provided by a contractor or representative agent of the St. Mary's Indian Band, that part of the policy and law manual must be made available to the contractor or representative agent.

Record Keeping and Maintenance

78.(1) The chief operating officer must ensure that the St. Mary's Indian Band prepares, maintains, stores and keeps secure all of the St. Mary's Indian Band's records that are required under this Law or any other applicable law.

(2) The St. Mary's Indian Band's records may not be destroyed or disposed of except as permitted and in accordance with the policies, procedures or directions of the Council.

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

(4) The Council must establish policies and procedures or give directions respecting access of any persons to St. Mary's Indian Band's records.

Local Revenue Account Records

79. The tax administrator must prepare, maintain, store and keep secure a complete set of all records respecting the local revenue system of the St. Mary's Indian Band, including all records referred to in section 5 of the *Local Revenue Management Implementation Regulations*.

Confidentiality of Information

80. No person may be given access to the St. Mary's Indian Band's records containing confidential information except in compliance with applicable provincial and federal privacy laws and all policies and procedures of the Council respecting the confidentiality, control, use, copying or release of that record or information contained in those records.

Information Technology

81. The Council must establish policies or procedures respecting information technology used by the St. Mary's Indian Band in its operations to ensure the integrity of the St. Mary's Indian Band's financial administration system and its database.

PART V - Capital Projects

Definitions

82. In this Part:

"capital project" means the construction, rehabilitation or replacement of the St. Mary's Indian Band's tangible capital assets and any other major capital projects in which the St. Mary's Indian Band or its related bodies are investors;

"St. Mary's Indian Band's tangible capital assets" means all non-financial assets of the St. Mary's Indian Band having physical substance that

- (a) have a current value of over ten thousand dollars (\$10,000),
- (b) 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,
- (c) have useful economic lives extending beyond an accounting period,
- (d) are to be used on a continuing basis, and
- (e) 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 the St. Mary's Indian Band's tangible capital assets as described in section 86;

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

“replacement” includes substitution, in whole or in part, with another of the St. Mary’s Indian Band’s tangible capital assets.

Council General Duties

83. The Council must take reasonable steps to ensure that

- (a) prior to approval of a capital project, a forecast is prepared for estimating annual operations, maintenance and replacement costs;
- (b) the St. Mary’s Indian Band’s tangible capital assets are maintained in a good and safe condition and to the same standard as a prudent owner of those assets;
- (c) the rehabilitation or replacement of the St. Mary’s Indian Band’s tangible capital assets is in accordance with a life-cycle management program described in this Part; and
- (d) capital projects for the construction of buildings or other improvements are financed, planned and constructed in accordance with procedures and to standards that generally apply to the financing, planning and construction of public buildings and other improvements of organized communities in the region in which the majority of the St. Mary’s Indian Band’s lands are located.

Tangible Capital Assets Reserve Fund

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

Reports on Capital projects Projects

85. At each Finance and Audit Committee meeting, the chief operating officer or financial controller, or both, 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, and
 - (iii) the manner in which a problem identified in subparagraph (ii) has been or will be addressed; and
- (c) steps taken to ensure compliance with section 88 for every capital project.

Life-cycle Management Program

86.(1) The financial controller must establish and keep current a register of all the St. Mary’s Indian Band’s tangible capital assets that identifies each of these assets and includes the following information:

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

(2) On or before November 30 of each year, the financial controller must arrange for the inspection and review of the state of each of the St. Mary's Indian Band's tangible capital assets to establish or update information respecting the following matters:

- (a) its present use;
- (b) its condition and state of repair;
- (c) its suitability for its present use;
- (d) its estimated remaining life;
- (e) its estimated replacement cost;
- (f) estimated dates and costs of its required future rehabilitation;
- (g) a comparison of annual operating and maintenance costs, other than rehabilitation costs, for the last five (5) fiscal years;
- (h) maintenance records for all periods up to the date of inspection; and
- (i) property and liability insurance covering the capital asset and its use or operation.

(3) On or before January 31 of each year, the financial controller must prepare the following:

- (a) a schedule of annual routine maintenance, other than rehabilitation, for each of the St. Mary's Indian Band's tangible capital assets for the next fiscal year;
- (b) five (5), ten (10) and twenty-five (25) year forecasts of the estimated cost for rehabilitation or replacement of the St. Mary's Indian Band's tangible capital assets;

- (c) the proposed budget for rehabilitation or disposal of the St. Mary's Indian Band's tangible capital assets for the next fiscal year, setting out
 - (i) each proposed rehabilitation or disposal 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 or disposal project; and
- (d) the proposed budget for replacement of the St. Mary's Indian Band's tangible capital assets for the next fiscal year setting out
 - (i) each proposed replacement project and its schedule,
 - (ii) the description of each asset to be replaced,
 - (iii) the estimated cost, including contingencies, of each proposed replacement project, and
 - (iv) the reasons why each proposed acquisition should be regarded as a replacement for the capital asset to be replaced.

Review by Finance and Audit Committee

87.(1) On or before February 15 of each year, the Finance and Audit Committee must review the information, schedules and budget prepared under section 88 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 February 15 of each year, the Finance and Audit Committee must review any plans for new construction of the St. Mary's Indian Band's tangible capital assets, including the proposed schedule, budget and impact on annual operating costs and routine maintenance costs in future years.

Capital Projects – Contracts and Tenders

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

- (a) project planning, design, engineering, safety and environmental requirements;
- (b) project costing, budgeting, financing and approval;

- (c) project and contractor bidding requirements;
- (d) tender, contract form and contract acceptance;
- (e) course of construction insurance;
- (f) project performance guarantees and bonding;
- (g) project control, including contract management; and
- (h) holdbacks, work approvals, payment and audit procedures.

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

Capital Project Consultants

89. The chief operating officer may retain the services of a professional engineer or other consultant to assist the chief operating officer, Finance and Audit Committee and Council to carry out their obligations under this Part.

Involvement of Members

90. The Council must post a public notice describing each proposed capital project and each Council meeting when a proposed capital project is presented for approval.

PART VI - Borrowing Member Requirements

Application

91. This Part applies to the St. Mary's Indian Band if it is a borrowing member as defined in the Act.

Compliance with Standards

92.(1) The St. Mary's Indian Band must comply with all the applicable Board standards.

(2) If the Council becomes aware that the St. Mary's Indian Band is not complying with a Board standard referred to in subsection (1), the Council must as soon as practicable take the required actions to bring the St. Mary's Indian Band into compliance with the Board standard.

PART VII - Land Management

Application

93. This Part applies to the St. Mary's Indian Band if it has a land code under the *First Nations Land Management Act*.

Obligations

94.(1) The St. Mary's Indian Band must comply with the *First Nations Land Management Act* and any land code made by the St. Mary's Indian Band as required or permitted under that Act.

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

PART VIII - Miscellaneous

Reports of Breaches and Financial Irregularities, etc.

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

(a) an expenditure, liability or other transaction of the St. Mary's Indian Band is not authorized by or under this Law or another St. Mary's Indian Band law,

(b) there has been a theft, misappropriation or other misuse or irregularity in the funds, accounts, assets, liabilities and financial obligations of the St. Mary's Indian Band,

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

(d) a person has failed to comply with the Schedule that forms part of this Law,

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

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

(3) If an officer, employee, contractor or representative agent of the St. Mary's Indian Band becomes aware of any circumstances described under subsection (1), the officer, employee, contractor or representative agent, as the case may be, must report them to the chief operating officer or the chair of the Finance and Audit Committee.

Inquiry into Report

96.(1) If a report is made to the chief operating officer under subsection 95(3), the chief operating officer must inquire into the circumstances reported and report the findings to the Finance and Audit Committee as soon as practicable.

(2) If a report is made to the chair of the Finance and Audit Committee under section 95(3), the chair must inquire into the circumstances reported and report the findings to the Finance and Audit Committee as soon as practicable.

(3) The Finance and Audit Committee may make a further inquiry into any findings reported to it under this section but, in any event, must make a report to the Council respecting any circumstances

reported to the Finance and Audit Committee under this section, including the Committee's recommendations, if any.

Protection of Parties

97.(1) All reasonable steps must be taken by the chief operating officer, the members of the Finance and Audit Committee and the Council to ensure that the identity of the person who makes a report under section 95 is kept confidential to the extent practicable in all the circumstances.

(2) A person who makes a report in good faith under section 95 must not be subjected to any form of reprisal by the St. Mary's Indian Band or by a councillor, officer, employee, contractor or representative agent of the St. Mary's Indian Band as a result of making that report.

(3) The chief operating officer and the chair of the Finance and Audit Committee must take all necessary steps to ensure that subsection (2) is not contravened and must report any contravention or suspected contravention to the Council.

(4) The Council must establish policies or procedures

(a) for the recording and safeguarding of reports made under section 95 and any records prepared during the inquiry or investigation into those reports;

(b) for the inquiry or investigation into reports made under section 95; and

(c) concerning the fair treatment of a person against whom a report has been made under section 95.

(5) The Council must make policies or procedures in respect of the independent investigation of an alleged contravention of the requirement to act in good faith in making a report under section 95.

(6) If, upon independent investigation, it is determined that a person has not acted in good faith in making a report under section 95, the following actions may be taken:

(a) an officer or employee may be disciplined, up to and including dismissal, in accordance with policy;

(b) a contractor's contract may be terminated;

(c) the appointment of a member of a committee may be revoked; and

(d) the appointment of a representative agent may be revoked.

Liability for Improper Use of Money

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

(2) Subsection (1) does not apply if the councillor relied on information provided by an officer or employee of the St. Mary's Indian Band and the officer or employee was guilty of dishonesty, gross negligence or malicious or willful misconduct when providing the information.

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

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

Indemnification against Proceedings

99.(1) In this section:

"indemnify" means to pay amounts required or incurred

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

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

"St. Mary's Indian Band official" means a current or former councillor, officer or employee of the St. Mary's Indian Band.

(2) Subject to subsection (4), the Council must by resolution provide the chief operating officer and the financial controller with an indemnification in accordance with the terms specified in the resolution including the circumstances and maximum amount which may be given.

(3) The Council may by resolution indemnify or provide for the indemnification of any other named St. Mary's Indian Band official, a category of St. Mary's Indian Band official or all St. Mary's Indian Band officials in accordance with the terms specified in the resolution.

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

Periodic Review of Law

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

(a) to determine if it facilitates effective and sound financial administration of the St. Mary's Indian Band; and

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

(2) The Council must establish policies or procedures for

(a) the provision of information to members of the St. Mary's Indian Band respecting any proposed amendment of this Law; or

(b) the involvement of members of the St. Mary's Indian Band in consideration of an amendment to this Law.

(3) The Council must post a public notice of each Council meeting when a proposed amendment to this Law is presented for approval.

(4) Members of the St. Mary's Indian Band may attend that part of the Council meeting when the matter referred to in subsection (3) is being considered.

Provision of Law to First Nations Finance Authority

101. As soon as practical after the Board approves the Financial Administration Law of the St. Mary's Indian Band, the Council must provide a copy of the Law to the First Nations Finance Authority.

Coming into Force

102. This Law comes into force on the date it is approved by the Board under section 9 of the Act.

THIS LAW IS HEREBY DULY ENACTED by Council on the 19th day of March, 2013, at Cranbrook, in the Province of British Columbia.

READ THIS FIRST TIME April 16, 2012.

READ THIS SECOND TIME October 13, 2012.

READ THIS THIRD TIME AT GENERAL BAND MEETING November 26, 2012.

THIS LAW IS HEREBY DULY ENACTED by the Council on the 19th day of March, 2013, at Cranbrook, in the Province of British Columbia.

A quorum of Council consists of three (3) members of Council.

Signature: [Signature]

Title and name: chief

Signature: [Signature]

Title and name: Councillor

Signature: Richard Williams

Title and name: Councillor

Signature: Joe Pierre

Title and name: Councillor Joe Pierre

Signature: Codie Andrew

Title and name: Councillor Codie Andrew

SCHEDULE – Avoiding And Mitigating Conflicts Of Interest

PART I - Interpretation

Interpretation

1.(1) In this Schedule, “this Law” means the Financial Administration Law to which this Schedule is attached and forms a part.

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

(3) Sections 3 and 5 of this Law apply to this Schedule.

(4) If there is a conflict between a provision of this Schedule and this Law, the provision of this Law applies.

Definition of Conflict of Interest

2.(1) In this Schedule, an individual has a “conflict of interest” when the individual exercises a power or performs a duty or function and at the same time knows or ought reasonably to have known that in the exercise of the power or performance of the duty or function there is an opportunity to benefit the individual’s private interests.

(2) In this Schedule, an individual has an “apparent conflict of interest” if a reasonably well-informed person would perceive that the individual’s ability to exercise a power or perform a duty or function of their office or position must be affected by the individual’s private interests.

(3) In this Schedule, an individual’s “private interests” means the individual’s personal and business interests and include the personal and business interests of

(a) the individual’s spouse;

(b) a person under the age of eighteen (18) years in respect of whom the individual or the individual’s spouse is a parent or acting in a parental capacity;

(c) a person in respect of whom the individual or the individual’s spouse is acting as guardian;

(d) a person, other than an employee, who is financially dependent upon the individual or the individual’s spouse or on whom the individual is financially dependent; and

(e) an entity in which the individual or the individual in combination with any other person described in this subsection has a controlling interest.

(4) Despite subsections (1) and (2), an individual’s private interests do not give rise to a conflict of interest if those interests

(a) are the same as those of a broad class of members of the St. Mary’s Indian Band of which the individual is a member; or

(b) are so remote or insignificant that they could not be reasonably regarded as likely to influence the individual in the exercise of a power or performance of a duty or function.

PART II - Councillors and Committee Members

Application

3. This Part applies to all councillors of the St. Mary's Indian Band and, where applicable, to all members of Council committees.

General Obligations

4.(1) Councillors must avoid circumstances that could result in the councillor having a conflict of interest or an apparent conflict of interest.

(2) Councillors must avoid placing themselves in circumstances where their ability to exercise a power or perform a duty or function could be influenced by the interests of any person to whom they owe a private obligation or who expects to receive some benefit or preferential treatment from them.

Disclosure of Interests

5.(1) In paragraph (2)(c) "real property" includes an interest in a reserve held under

(a) a certificate of possession under the *Indian Act*; or

(b) the St. Mary's Indian Band's traditional land holding system pursuant to a band council resolution.

(2) Subject to applicable provincial and federal privacy laws, councillor must file a written disclosure of the following information with the chief operating officer:

(a) the names of the councillor's spouse and any persons or entities referred to in subsection 2(3);

(b) the employer of the councillor and the councillor's spouse;

(c) real property owned by the councillor or the councillor's spouse; and

(d) business interests and material investments of the councillor or the councillor's spouse, including in an entity referred to in paragraph 2(3)(e).

(3) A councillor must file a written disclosure under subsection (2) on the following occasions:

(a) within thirty (30) days of being elected to the Council;

(b) as soon as practical after a material change in the information previously disclosed; and

(c) on April 15 of each year that the councillor holds office.

(4) The chief operating officer must establish and maintain a register of all information disclosed by a councillor under this section and section 6 and, upon request of an officer, employee or member of St.

Mary's Indian Band alleging a conflict of interest in relation to information contained in the register, must review the register and prepare a report to the Council setting out the alleged conflict and any applicable information contained in the register.

Gifts and Benefits

6.(1) A councillor or a person referred to in paragraphs 2(3)(a) to (d) in relation to that councillor must not accept a gift or benefit that might reasonably be seen to have been given to influence the councillor in the exercise of the councillor's powers or performance of the councillor's duties or functions.

(2) Despite subsection (1), a gift or benefit may be accepted if the gift or benefit

(a) would be considered within

(i) normal protocol exchanges, cultural or social obligations associated with the councillor's office;

(ii) normal exchanges common to business relationships; or

(iii) normal exchanges common at public cultural events of the St. Mary's Indian Band;

(b) is of nominal value;

(c) is given by a close friend or relative as an element of that relationship; or

(d) is of a type that the policies or directions of the Council have determined would be acceptable if offered by the St. Mary's Indian Band to another person.

(3) Where a gift with a value greater than five hundred dollars (\$500.00) is given to a councillor or a person referred to in subsection (1), the councillor must make a written disclosure of the gift to the chief operating officer under section 5, and the gift must be treated as the property of the St. Mary's Indian Band.

(4) Subsection (3) does not apply to a gift received during a public cultural event of the St. Mary's Indian Band.

Confidential Information

7.(1) Councillors must keep confidential all information that the councillors receive while performing their duties or functions unless the information is generally available

(a) to members of the public; or

(b) to members of the St. Mary's Indian Band.

(2) Councillors must only use confidential information referred to in subsection (1) for the specific purposes for which it was provided to the councillors.

(3) Councillors must not make use of any information received in the course of exercising their powers or performing their duties or functions to benefit the councillor's private interests or those of relatives, friends or associates.

Procedure for Addressing Conflict of Interest

8.(1) As soon as a councillor becomes aware of circumstances in which the councillor has a conflict of interest, the councillor must disclose the circumstances of the conflict of interest at the next Council meeting.

(2) A councillor must leave any part of a Council meeting where the circumstances in which the councillor has a conflict of interest are being discussed or voted on.

(3) The minutes of a Council meeting must record the councillor's disclosure under subsection (1) and note the councillor's absence from the Council meeting when the circumstances in which the councillor has a conflict of interest were being discussed or voted on.

(4) A councillor must not take part in any discussions or vote on any decision respecting the circumstances in which the councillor has a conflict of interest.

(5) A councillor must not influence or attempt to influence in any way before, during or after a Council meeting any discussion or vote on any decision respecting the circumstances in which the councillor has a conflict of interest.

Procedure for Undisclosed Conflict of Interest

9.(1) If a councillor has reason to believe that another councillor has a conflict of interest or an apparent conflict of interest in respect of a matter before the Council, the councillor may request clarification of the circumstances at a Council meeting.

(2) If, as a result of a clarification discussion under subsection (1), a councillor is alleged to have a conflict of interest or an apparent conflict of interest and the councillor does not acknowledge the conflict of interest or apparent conflict of interest and take the actions required under section 8, the Council must determine whether the councillor has a conflict of interest or an apparent conflict of interest before the Council considers the matter referred to in subsection (1).

(3) The minutes of the Council meeting must record any determination made by the Council under subsection (2).

(4) If the Council determines under subsection (2) that a councillor has a conflict of interest or an apparent conflict of interest, the councillor must comply with section 8.

Obligations of Committee Members

10.(1) This section applies to all members of Council committees.

(2) Sections 4 and 6 to 9 apply to a member of a Council committee and all references in those sections to

(a) a councillor are considered to be references to a member of a Council committee; and

- (b) a Council meeting are considered to be references to a committee meeting.

PART III - Officers and Employees

Application

11. This Part applies to all officers and employees of the St. Mary's Indian Band.

General Obligations

12.(1) In the performance of their duties and functions, an officer or employee must act honestly and in good faith and in the best interests of the St. Mary's Indian Band.

(2) An officer or employee must avoid circumstances that could result in the officer or employee having a conflict of interest or an apparent conflict of interest.

(3) An officer or employee must avoid placing themselves in circumstances where their ability to exercise a power or perform a duty or function of their office or position could be influenced by the interests of any person to whom they owe a private obligation or who expects to receive some benefit or preferential treatment from them.

(4) The chief operating officer must ensure that every officer and employee is informed of their obligations under this Part and must take steps to ensure that employees comply with these obligations.

Disclosure of Conflict of Interest

13. If an officer or employee believes he or she has a conflict of interest, the officer or employee must

(a) disclose the circumstances in writing as soon as practical to the chief operating officer or, in the case of the chief operating officer, to the chair of the Finance and Audit Committee; and

(b) refrain from participating in any discussions or decision-making respecting the circumstances of the conflict of interest until advised by the chief operating officer or the chair, as the case may be, on actions to be taken to avoid or mitigate the conflict of interest.

Gifts or Benefits

14.(1) An officer or employee or a member of their family must not accept a gift or benefit that might reasonably be seen to have been given to influence the officer or employee in the exercise of their powers or performance of their duties or functions.

(2) Despite subsection (1), a gift or benefit may be accepted if the gift or benefit

(a) would be considered within

(i) normal exchanges common to business relationships, or

(ii) normal exchanges common at public cultural events of the St. Mary's Indian Band;

(b) is of nominal value; or

(c) is given by a close friend or relative as an element of that relationship.

Outside Employment and Business Interests

15.(1) If an officer or employee is permitted under their terms of employment to have outside employment or business interests, the officer or employee must disclose these employment or business interests in writing to the chief operating officer or, in the case of the chief operating officer, to the chair of the Finance and Audit Committee.

(2) An officer or employee must ensure that any permitted outside employment or business interests do not unduly interfere with the exercise of their powers or performance of their duties and functions and that these activities are conducted on their own time and with their own resources.

Confidential Information

16.(1) An officer or employee must keep confidential all information that the officer or employee receives while exercising their powers or performing their duties or functions unless the information is generally available

(a) to members of the public; or

(b) to members of the St. Mary's Indian Band.

(2) An officer or employee must only use any confidential information referred to in subsection (1) for the specific purposes for which it was provided to the officer or employee.

(3) An officer or employee must not make use of any information received in the course of exercising their powers or performing their duties or functions to benefit the officer or employee's private interests or those of relatives, friends or associates.

St. Mary's Indian Band Property and Services

17.(1) Officers and employees must not use any personal property or services of the St. Mary's Indian Band for any purposes unrelated to performance of their duties or functions unless that use is otherwise acceptable under the policies or directions of the Council.

(2) Officers and employees must not acquire any personal property of the St. Mary's Indian Band unless it is done in accordance with policies or directions of the Council.

PART IV - Contractors

Application

18.(1) This Part applies to all contractors of the St. Mary's Indian Band, other than a person who has an employment contract with the St. Mary's Indian Band.

(2) In this Part, a reference to a contractor includes a reference to each employee or representative agent of the contractor who is engaged to perform duties or functions under the contract with the St. Mary's Indian Band.

Contractor Acting as Officer or Employee

19. If a contractor is retained to exercise the powers or perform the duties or functions of an officer or employee, the contractor must comply with Part III of this Schedule as if the contractor were an officer or employee of the St. Mary's Indian Band.

General Obligations

20.(1) A contractor must act at all times with integrity and honesty

(a) in its dealings with the St. Mary's Indian Band; and

(b) in its dealing with any third party when the contractor is representing or acting on behalf of the St. Mary's Indian Band.

(2) A contractor must not attempt to obtain preferential treatment from the St. Mary's Indian Band by offering gifts or benefits that a councillor, committee member, officer or employee is prohibited from accepting under this Schedule.

(3) A contractor must ensure that every employee or representative agent of the contractor who is engaged to perform duties or functions under the contract with the St. Mary's Indian Band is informed of their obligations under this Part and must take steps to ensure that these employees or representative agents comply with these obligations.

Confidential Information

21.(1) A contractor must keep confidential all information that the contractor receives in the course of performing their duties or functions unless the information is generally available to members of the public.

(2) A contractor must only use any confidential information referred to in subsection (1) for the specific purposes for which it was provided to the contractor.

Business Opportunities

22. A contractor must not take advantage of a business or investment opportunity being considered by the St. Mary's Indian Band and which the contractor becomes aware of while performing services for the St. Mary's Indian Band unless the St. Mary's Indian Band has determined not to pursue the opportunity.

St. Mary's Indian Band Property and Services

23. If a contractor has been provided the use of any property or services of the St. Mary's Indian Band in order to perform services for the St. Mary's Indian Band, the contractor must not use the property or services for any purposes unrelated to performance of those services.