

\_\_\_\_\_ **FIRST NATION**

**BY-LAW NO. \_\_\_\_\_**

**TELEPHONE COMPANIES PROPERTY TAX EXPENDITURE BY-LAW**

WHEREAS the Telephone Companies Taxation By-law was made pursuant to subsection 83(1) of the *Indian Act*, R.S.C. 1985, c.I-5, for the purpose of taxation for local purposes of land, or interests in land, in the "reserve" (as defined in the Property Assessment and Taxation By-law), including rights to occupy, possess or use land in the "reserve";

Subsection 83 (2) of the *Indian Act* provides that an expenditure made out of moneys raised pursuant to subsection 83(1) of the *Indian Act* must be made under the authority of a by-law of the council of the band;

NOW BE IT HEREBY RESOLVED that the following by-law be and is hereby enacted pursuant to the provisions of the *Indian Act* and in particular subsections 83(1) and (2) thereof, for the purpose of authorizing expenditures to be made out of property tax revenue.

**SHORT TITLE**

1. This by-law may be cited for all purposes as the "Telephone Companies Taxation Expenditure By-law".

**DEFINITIONS**

2. In this by-law, including without limiting the generality of the foregoing in the recitals and this section,

"annual property tax budget" means a budget that includes and identifies in a general way projected property tax revenue for a fiscal year, surplus or deficit property tax revenue carried over from previous fiscal years and projected expenditures to be made out of property tax revenue for the fiscal year for local purposes;

"band or First Nation" means the \_\_\_\_\_ Band of Indians;

"band or First Nation council resolution" means a motion passed and approved at a meeting of council pursuant to the consent of a majority of the quorum of the councillors of the band;

"community development" includes, without limitation, works located within the reserve owned, operated, controlled, managed, administered, provided or financially supported, wholly or in part, by the band or council on behalf of the band and used for, including, without limiting the generality of the foregoing, planning, engineering, housing, public health, library together with reserve lands appurtenant thereto;

"council" means the council of the \_\_\_\_\_ Indian Band within the meaning of subsection 2(1) of the *Indian Act* as elected by the band members from time to time pursuant to the custom of the band;

"environmental health services" includes without limitation, water, refuse and sewer,

"fiscal services" includes, without limitation, contributions to reserve funds, homeowner grants, debt charges, capital funds or conditional transfers to other governments;

"fiscal year" means April 1st of a calendar year through March 31st of the following calendar year;

"general government services" includes, without limiting the generality of the foregoing, tax appeals, tax administration, legislative, computers, and general administration and operation of departments of the band;

"Minister" means the Minister of Aboriginal Affairs and Northern Development and includes a person designated in writing by the minister;

"property tax revenue" includes all taxes and other moneys raised under the Telephone Companies Taxation By-law, including without limiting the generality of the foregoing all interest earned thereon and other accumulations thereto from time to time;

"other expenditures" includes without limitation surplus for year and other;

"protective services" includes 911 administration, fire protection, police protection, inspections, emergency measures;

"recreation and cultural services" includes without limitation recreation and cultural services, local parks and playgrounds, community centre, local arena, local cultural facilities and local pool;

"reserve" means those lands the legal title to which is vested in Her Majesty, that have been set apart by Her Majesty for the use and benefit of the band, whether they be designated lands or conditionally surrendered lands or otherwise;

"surveyor of taxes" means the surveyor of taxes appointed by council under the \_\_\_\_\_ Telephone Companies Taxation By-law;

"taxes for other governments" includes provincial governments, regional district hospital, First Nation Finance Authority and \_\_\_\_\_ Assessment Authority;

"transportation" includes without limitation transportation services, parking, street lights, public transit, traffic signals, roads and streets, and engineering/consulting;

"utility services" includes water, storm sewer, sanitary sewer, garbage collection, garbage disposal, solid waste disposal, sewage treatment and water treatment programs, services and operations..

#### AUTHORIZATION OF EXPENDITURE OF PROPERTY TAX REVENUE

3. (1) This by-law authorizes the expenditure of property tax revenue by council on behalf of the band for local purposes.

(2) Without limiting the generality of subsection (1) but for greater certainty, this by-law authorizes the expenditure of property tax revenue by council on behalf of the band on community works, community services, general government services, permitted property taxation by-law expenditures, public works and utility services.

#### ANNUAL PROPERTY TAX BUDGET

4. (1) On or before July 31st in each fiscal year, the surveyor of taxes shall prepare and table with council a draft annual property tax budget for the then current fiscal year and a draft band council resolution approving the budget, and Council shall endeavor to consider such budget and resolution on or before August 31st of the same fiscal year.

(2) An annual property tax budget may, but is not required to, be in the form of that draft annual property tax budget attached as Schedule A to this by-law.

(3) Subject to subsection (4), all expenditures made out of property tax revenue that Council is authorized to make under this by-law shall be made pursuant to an annual property tax budget that has been approved by band council

resolution.

(4) For greater certainty:

(a) band council may at any time and from time to time amend any annual property tax budget and any band council resolution approving an annual property tax budget, and

(b) Nothing in this by-law shall have the effect of limiting the authorization of, or requiring additional procedures to permit expenditures of the Telephonics Companies Tax revenue thereunder.

#### PROPERTY TAX REVENUE ACCOUNTS

5. (1) All property tax revenue shall be deposited in a special account or accounts maintained in the name of the band and be invested until required to be expended pursuant to an annual property tax budget that has been approved by band council resolution.

(2) Any surplus property tax revenue raised during a fiscal year that is not required for expenditure during that fiscal year pursuant to an annual property tax budget that has been approved by band council resolution, shall be set aside in a special surplus fund account or accounts maintained in the name of the band and be invested until required for such expenditure in a future fiscal year.

#### ADMINISTRATION AND ENFORCEMENT

6. The surveyor of taxes shall administer this by-law.

#### BY-LAW REMEDIAL

7. This by-law shall be construed as being remedial and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

#### MISCELLANEOUS

8. (1) Headings form no part of this by-law but shall be construed as being inserted for convenience of reference only.

(2) A finding by a court of competent jurisdiction that a section or provision of this by-law is void or invalid shall not affect or bear upon the validity or invalidity of any other section or part of this by-law or this by-law as a whole.

(3) Where a provision in this by-law is expressed in the present tense, future tense or in the past tense, the provision applies to the circumstances as they arise.

(4) In this by-law words in the singular include the plural, and words in the plural include the singular.

COMING INTO FORCE

9. This by-law shall come into force immediately upon being approved by the Minister.

10. This by-law is hereby enacted by Council at a duly convened meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Chief [please spell out the name here]

\_\_\_\_\_  
Councillor [please spell out the name here]

\_\_\_\_\_  
Councillor [please spell out the name here]

SCHEDULE "A"

200\_ ANNUAL PROPERTY TAX BUDGET

REVENUES

Property Tax Levies, Interest & Penalties  
for Current Fiscal Year \$\_\_\_\_\_

Surplus or Deficit Property Tax Revenue carried  
over from previous Fiscal Years \$\_\_\_\_\_

TOTAL REVENUES \$\_\_\_\_\_

EXPENDITURES

- Community Development
- Environmental Health Services
- Fiscal Services
- General Government Services
- Protective Services
- Recreation and Cultural Services
- Taxes for Other Governments
- Transportation
- Utility Services
- Other Expenditures
  - Permitted Property Assessment and Taxation By-law Expenditures
  - Municipal Service Agreements

TOTAL EXPENDITURES \$\_\_\_\_\_

BALANCE \$\_\_\_\_\_