UCHUCKLESAHT TRIBE GOVERNMENT

FINANCIAL ADMINISTRATION ACT

UTS 6/2011

OFFICIAL CONSOLIDATION – CURRENT TO MARCH 27, 2017

This is a certified true copy of the consolidated Financial Administration Act UTS 6/2011, current to March 27, 2017.

Date: April 20, 2017

Signed: _____
Law Clerk

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PREAMBLE

Through the act of governing and as a treaty first nation, the Uchucklesaht Tribe assumes the responsibility of providing responsible, transparent and accountable government, blending hereditary and modern-day governing systems. In doing so, we honour our past and embrace the future ensuring the continued existence of the Uchucklesaht Tribe as a strong political, social and cultural community that aspires to grow as an organized, determined, successful and self-reliant peoples.

The Uchucklesaht Tribe asserts that we have been responsible stewards of our resources since time immemorial. It is the desire of the Uchucklesaht Tribe to continue this tradition and apply it in the modern world to the use and management of our financial resources.

To assist with realizing these goals, the Uchucklesaht Tribe wishes to establish a framework for the use and management of our financial resources that promotes openness and accountability in the use and management of such resources and ensures such resources are managed effectively and efficiently.

The Uchucklesaht Tribe adopts this Act based on these values.

PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Financial Administration Act.

Executive oversight

1.2 The treasurer of Council is responsible for the administration of this Act.

Application

1.3 (a) This Act governs the management and control of the finances of the Uchucklesaht Tribe.

(b) This Act applies to the Uchucklesaht Tribe, Uchucklesaht institutions and Uchucklesaht officials.

Definitions

1.4 In this Act,

"annual audit" means an audit required under section 8.5(b);

"annual budget" means a budget approved by Council under section 3.3 or 10.2;

"annual budget law" means an Act referred to in section 3.3 or 10.2;

"annual financial statements" means the financial statements and any special purpose reports prepared by the director under section 8.5(a);

"annual report" means a report referred to in section 8.9(a);

"audited annual financial statements" means

(a) the annual financial statements,

(b) the audit opinion prepared by the auditor under section 8.5(b)(ii)(A), and

(c) any audit opinion prepared by the auditor under section 8.5(b)(ii)(B);

"auditor" means the person appointed as auditor of the Uchucklesaht Tribe in accordance with section 8.4;

"capital borrowing law" means an Act referred to in section 7.3;

"director" means the director of finance;

"emergency" means a present or imminent event that requires prompt coordination of actions to protect the health, safety or welfare of Uchucklesaht citizens or individuals who are ordinarily resident on Uchucklesaht lands or to limit damage to property of the Uchucklesaht Tribe or the environment within Uchucklesaht lands;

"emergency expenditure" means an expenditure that is not authorized under the annual budget for the current fiscal year and is made in response to an emergency;

"financial institution" means a bank or credit union;

"financial records" means all records respecting the finances of the Uchucklesaht Tribe;

"fiscal year" means the fiscal year of the Uchucklesaht Tribe established under section 3.1;

"general account" means the account referred to in section 4.2(a)(i);

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

"generally accepted auditing standards" means the generally accepted auditing standards of the Canadian Institute of Chartered Accountants, as revised or replaced from time to time;

"implementation activities account" means the account referred to in section 4.2(a)(iv);

"monthly financial report" means a report prepared by the director under section 8.2;

"multi-year financial plan" means a financial plan approved by Council under section 3.2;

"Qacća settlement trust" means the Maa-nulth First Nation Settlement Trust, within the meaning given to that term in the Tax Treatment Agreement, of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, Uchucklesaht Tribe and Toquaht Nation;

"quarterly financial statements" means the financial statements prepared by the director under section 8.3(a);

"securities" means bonds, debentures, deposit certificates, promissory notes, treasury bills or other evidences of indebtedness, shares and stock and includes any documents commonly known as securities;

"settlement trust agreement" means the agreement dated March 23, 2011 under which the Qacća settlement trust is established;

"tangible capital asset reserve account" means the account referred to in section 4.2(a)(iii);

"tangible capital asset reserve fund" means the fund referred to in section 9.6(a)(i);

"trust account" means an account referred to in section 4.2(a)(ii);

"Uchucklesaht account" means any account established by the director under section 4.2.

Interpretation

1.5 In this Act, unless the context requires otherwise, any reference to the Uchucklesaht Tribe is deemed to include a reference to a Uchucklesaht institution.

PART 2 - DEPARTMENT OF FINANCE

Department of Finance established

2.1 The Department of Finance is established as a division of the Uchucklesaht administration.

Mandate

2.2 The mandate of the Department of Finance is to carry out the day-to-day administration of the finances of the Uchucklesaht Tribe as required

(a) under this or any other Uchucklesaht enactment, or

(b) by the chief administrative officer.

Office of the director of finance established

2.3 (a) The office of the director of finance is established.

(b) The Executive must appoint an individual to hold the office of the director after considering the recommendation of the chief administrative officer on the appointment.

(c) The director reports to the chief administrative officer.

Duties of the director

2.4 The director must perform the following duties:

(a) manage the Department of Finance;

(b) ensure that Uchucklesaht government employees within the Department of Finance perform the duties assigned or delegated to them

(i) under this or any other Uchucklesaht enactment,

(ii) by the chief administrative officer, or

(iii) by the director;

(c) report, as required by the chief administrative officer, to the Executive on the Department of Finance and its activities;

(d) establish, administer and maintain all Uchucklesaht accounts;

(e) prepare draft multi-year financial plans, draft annual budgets and any draft amendments to the annual budgets;

(f) prepare monthly financial reports, quarterly financial statements and annual financial statements;

(g) prepare any other necessary financial records, in addition to those referred to in subsections (e) and (f);

(h) actively monitor compliance with the financial terms of any agreements or funding arrangements entered into by the Uchucklesaht Tribe;

(i) activcly monitor compliancc with this and any other Uchucklesaht enactment, the primary purpose of which pertains to the finances of the Uchucklesaht Tribe;

(j) prepare or provide any financial information required by the Council, the Executive or the chief administrative officer to perform their duties or exercise their powers; and

(k) any other duties assigned or delegated to the director

(i) under this or any other Uchucklesaht enactment, or

(ii) by the chief administrative officer.

Delegation authority

2.5 (a) Upon the approval of the chief administrative officer, the director may delegate, in writing, the performance of any of the director's duties or the exercise of any of the director's powers to

(i) another Uchucklesaht director,

(ii) a Uchucklesaht government employee, or

(iii) an independent contractor of the Uchucklesaht Tribe.

(b) Despite the delegation of any duties or powers under subsection (a), the director remains responsible for ensuring that the duties are performed properly and the powers are exercised appropriately.

PART 3 - MULTI-YEAR FINANCIAL PLANS AND ANNUAL BUDGETS

Fiscal year

3.1 The fiscal year of the Uchucklesaht Tribe is April 1 of one year to March 31 of the subsequent year.

Multi-year financial plan

3.2 On or before March 31 of each year, Council must, by an Act, approve a multi-year financial plan for the Uchucklesaht Tribe that has a planning period of three years comprised of the next fiscal year and the two succeeding fiscal years.

Annual budget

3.3 On or before March 31 of each year, Council must, by an Act, approve an annual budget for the Uchucklesaht Tribe for the next fiscal year.

Annual budget process

3.4 (a) On or before January 30 of each year, the director must prepare and submit to the Executive a draft annual budget and a draft multi-year financial plan for the next fiscal year in the form and with the content approved by Council.

(b) On or before February 15 of each year, the Executive must review and make recommendations to Council on the draft annual budget and the draft multi-year financial plan submitted to it pursuant to subsection (a).

(c) On or before March 1 of each year, Council must present a draft annual budget for the next fiscal year to the People's Assembly.

Annual budget deficits

3.5 If an annual budget contains a deficit and the annual budget contemplates that deficit being financed by borrowing money, Council must ensure that the multi-year financial plan demonstrates how and when the debt from such borrowing will be serviced and repaid.

Annual budget amendments

3.6 (a) An annual budget must not be amended without the approval of Council by amending the applicable annual budget law.

(b) Unless there is a substantial change in the forecasted revenues or expenditures of the Uchucklesaht Tribe, Council must not amend an annual budget law.

PART 4 - REVENUES

General limitation on establishing accounts

4.1 No account may be established for the deposit of money received by the Uchucklesaht Tribe except in accordance with this Part.

Uchucklesaht accounts

4.2 (a) The director must establish the following accounts in the name of the Uchucklesaht Tribe:

(i) a general account for money from any source other than money that must be deposited into any other Uchucklesaht account;

(ii) one or more trust accounts for money held in trust by the Uchucklesaht Tribe;

(iii) a tangible capital asset reserve account for the purpose described in section 9.6(a)(i); and

(iv) an implementation activities account for the purposes described in sections D.3 and D.4 of the Fiscal Financing Agreement.

(b) The Executive may, by resolution, authorize the director to establish any other accounts in the name of the Uchucklesaht Tribe, in addition to those referred to in subsection (a), as may be necessary or appropriate to manage the finances of the Uchucklesaht Tribe.

(c) All Uchucklesaht accounts must be established in a financial institution.

Income earned on Uchucklesaht accounts

4.3 (a) Any income earned on money held in a Uchucklesaht account becomes a part of that account.

(b) Any income earned on an investment made from a Uchucklesaht account must be deposited into that account.

Receipt and deposit of money

4.4 (a) The director must ensure the safekeeping of all money received by the Uchucklesaht Tribe.

(b) The director must deposit all money received by the Uchucklesaht Tribe into the appropriate Uchucklesaht account as soon as practicable after receipt of the money.

Refunds

4.5 Money received by the Uchucklesaht Tribe that has been paid or collected in error or for a purpose that has not been fulfilled may be refunded in full or in part as the circumstances require.

Definitions

4.6 In sections 4.6 to 4.11,

"debt" means an amount of money that is due and payable to the Uchucklesaht Tribe;

"debtor" means the person who is required to pay a debt;

"review" means a review by the Administrative Decisions Review Board or a review by another person with the authority to review the applicable debt under a Uchucklesaht enactment.

Write off and forgiveness of debts

4.7 The director may, by Order and after seeking the advice of the Executive, write off or forgive all or a portion of any debt or obligation owed to the Uchucklesaht Tribe.

Notice required prior to enforcing in court

4.8 Following the period established by or in accordance with a Uchucklesaht enactment for the purposes of payment of a debt, if

(a) the debtor has not paid the debt, and

(b) the debt is not the subject of a review, or

(c) the debt has been the subject of a review and all or a portion of that debt is upheld on review,

the director or his or her designate may deliver in accordance with Uchucklesaht law a notice to the debtor indicating

(d) the debt owing,

(e) how and where payment may be made,

(f) that if the debt has not yet been the subject of a review, the debtor may request a review of the debt under the Administrative Decisions Review Act within 30 days after the date the notice is delivered, and

(g) that if

(i) the debtor fails to pay the debt within the 30 day period referred to in subsection (f), or

(ii) the debtor seeks a review of the debt in accordance with subsection (f) and all or a portion of that debt is upheld on review,

the Uchucklesaht Tribe may pursue enforcement of any outstanding portion of the debt in the Supreme Court or Provincial Court in accordance with this Act.

Amounts owing enforced in court

4.9 (a) Subject to subsections (b) to (e), a debt may be recovered by the chief administrative officer, or his or her delegate, by filing a certificate in the prescribed form in the Supreme Court or Provincial Court.

(b) Subject to subsection (e), a certificate may not be filed under this section until 30 days after the date a notice is delivered to the debtor in accordance with section 4.8.

(c) A certificate may not be filed under this section for a debt that has been owed to the Uchucklesaht Tribe for more than two years.

(d) If a debt has not yet been the subject of a review, a debtor may during the 30 day period referred to in subsection (b) request a review of that debt under the Administrative Decisions Review Act.

(e) If a debtor seeks a review of a debt in accordance with subsection (d), a certificate may not be filed under this section unless, upon completion of that review, all or a portion of that debt is upheld.

Content of certificate

4.10 A certificate filed under section 4.9(a) must be signed by the chief administrative officer and must include the following information:

(a) the name of the debtor;

(b) the details of the debt, including the date and circumstances of the debt, the date that the debt became due and payable and the total amount owing in respect of the debt;

(c) the amount of any penalty, surcharge, administrative recovery fee or other amount that applies to the debt;

(d) a copy of the notice delivered to the debtor in accordance with section 4.8; and

(e) if the debt has been the subject of a review, a description of the review process and the outcome of the review.

Effect of certificate

4.11 (a) A certificate filed under section 4.9(a) is of the same effect, and proceedings may be taken on it by the Uchucklesaht Tribe, as if it were a judgment of the Supreme Court or Provincial Court, as the case may be, for the recovery of a debt in the amount stated in the certificate.

(b) A certificate filed under section 4.9(a) is admissible in any proceedings to recover the certified debt without proof of the signature or authority of the chief administrative officer and is proof of the certified facts.

PART 5 - EXPENDITURES

General limitation on expenditures

5.1 Money must not be paid out of any Uchucklesaht account unless the expenditure is

(a) authorized under the annual budget for the current fiscal year,

(b) provided for in the draft annual budget for the next fiscal year reviewed by the Executive and recommended to Council under section 3.4(b),

(c) an emergency expenditure,

(d) from a trust account and authorized under the terms of the applicable trust, or

(e) for an investment authorized under section 6.3, 6.5 or 6.6.

Limitation on expenditures from certain Uchucklesaht accounts

5.2 (a) Money in a trust account must not be expended for any purpose other than that permitted under the terms of the applicable trust.

(b) Money in the tangible capital asset reserve account must not be expended for any purpose other than that described in section 9.6(a)(i) or an investment authorized under section 6.5.

(c) Money in the implementation activities account must not be expended for any purpose other than that described in sections D.3 and D.4 of the Fiscal Financing Agreement or an investment authorized under section 6.6.

Requisitions for payment

5.3 Money must not be paid out of any Uchucklesaht account unless a requisition for payment has been

(a) completed in the prescribed form, and

(b) signed by the prescribed individual or individuals.

Form of payments

5.4 Payments from a Uchucklesaht account may be made by cheque, draft, electronic transfer or other similar instrument.

Authorized signatories for cheques and other instruments

5.5 Any cheque, draft, electronic transfer or other similar instrument drawn on a Uchucklesaht account must be signed by

(a) any two members of Council, or

(b) such other individual or individuals as may be prescribed.

Emergency expenditures

5.6 The chief administrative officer must report an emergency expenditure to Council as soon as practicable after it is made.

Reversals

5.7 Despite sections 5.1 and 5.2, money may be paid out of a Uchucklesaht account if the expenditure is

(a) a refund under section 4.5, or

(b) a reversal of a transfer from one Uchucklesaht account to another made in error.

Prohibited agreements

5.8 The Uchucklesaht Tribe must not enter into an agreement or undertaking that requires the Uchucklesaht Tribe to make an expenditure that is not authorized by or contravenes this Act.

PART 6 - INVESTMENTS

General limitation on investments

6.1 Money in any Uchucklesaht account must not be invested except in accordance with this Part.

Limitation on investments from a trust account

6.2 Money in a trust account must not be invested except as permitted under the terms of the applicable trust.

Investment of money not immediately required

6.3 The Executive may, by resolution, authorize an investment of all or a portion of the money in any Uchucklesaht account that is not immediately required for expenditures, other than

(a) money in the tangible capital asset reserve account, the investment of which is governed by section 6.5, and

(b) money in the implementation activities account, the investment of which is governed by section 6.6,

in one or more of the following:

(c) securities issued or guaranteed by Canada or a province or territory of Canada;

(d) fixed deposits, notes, certificates and other short-term paper of, or guaranteed by, a financial institution;

(e) securities issued by a local, municipal or regional government in Canada;

(f) commercial paper issued by a Canadian company that is rated in the highest category by at least two recognized security-rating institutions; and

(g) any class of investments permitted under the Trustee Act (British Columbia).

Investment of money in an economic development account

6.4 (a) If

(i) an economic development account has been established under section 4.2(b), and

(ii) money has been deposited or transferred into that account in accordance with this Act,

then, subject to subsection (b), the Executive may, by resolution, authorize an investment of all or a portion of the money in that account in one or more of the following:

(iii) a business carried on in the name of the Uchucklesaht Tribe;

(iv) a company incorporated under the laws of Canada or a province or territory of Canada in which the Uchucklesaht Tribe is a shareholder;

(v) a trust in which the Uchucklesaht Tribe is a beneficiary;

(vi) a partnership, limited partnership or limited liability partnership registered in British Columbia in which the Uchucklesaht Tribe is a partner; or

(vii) any other business entity in which the Uchucklesaht Tribe has an interest.

(b) Before the Executive authorizes an investment under subsection (a),

(i) the director must prepare a report to the Executive identifying any potential liabilities associated with the investment and assessing the ability of the Uchucklesaht Tribe to meet such liabilities should they arise, and

(ii) the Executive must consider such report.

Investment of money in the tangible capital asset reserve account

6.5 (a) In this section,

"investment management agreement" means an agreement entered into with the investment manager concerning the investment and management of money in the tangible capital asset reserve account;

"investment manager" means the person appointed as investment manager in accordance with subsection (b)(ii)(A);

"statement of investment policy" means the statement of investment policy approved by the Executive under subsection (b)(i).

(b) The Executive must,

(i) by regulation, approve a statement of investment policy for money in the tangible capital asset reserve account that is designed to ensure that money in the tangible capital asset reserve account is appropriately invested to support the purpose described in section 9.6(a)(i), and

(ii) when the tangible capital asset reserve fund has reached an amount that would justify retaining an investment manager,

(A) appoint an investment manager to invest money in the tangible capital asset reserve account in accordance with

(I) the statement of investment policy, and

(II) the investment management agreement, and

(B) cause the investment manager to fulfill its obligation to invest and manage money in the tangible capital asset reserve account in accordance with

(I) the statement of investment policy, and

(II) the investment management agreement.

Investment of money in the implementation activities account

6.6 (a) In this section,

"investment committee" means the investment committee as referred to in subsection (b)(iv)(B);

"investment management agreement" means, as applicable,

(i) an agreement entered into with the investment manager concerning the investment and management of money in the implementation activities account, or

(ii) an agreement entered into with the investment manager and another Maa-nulth First Nation concerning the investment and management of the pooled fund;

"investment management framework agreement" means an investment management framework agreement as referred to in subsection (b)(iv);

"investment manager" means, as applicable,

(i) a person appointed as investment manager in accordance with subsection (b)(ii), or

(ii) a person appointed as investment manager in accordance with subsection (b)(iv)(D);

"pooled fund" has the meaning given to that term in subsection (b)(iv)(A);

"statement of investment policy" means, as applicable,

(i) the statement of investment policy as referred to in subsection (b)(i), or

(ii) the statement of investment policy as referred to in subsection (b)(iv)(C).

(b) The Executive must either

(i) by regulation, approve a statement of investment policy for money in the implementation activities account that is designed to ensure that money in the implementation activities account is appropriately invested to support the activities described in section D.4 of the Fiscal Financing Agreement,

(ii) appoint an investment manager to invest and manage money in the implementation activities account in accordance with

(A) the statement of investment policy, and

(B) the investment management agreement, and

(iii) cause the investment manager to fulfill its obligation to invest and manage money in the implementation activities account in accordance with

(A) the statement of investment policy, and

(B) the investment management agreement, or

(iv) enter into an investment management framework agreement with one or more Maa-nulth First Nations on behalf of the Uchucklesaht Tribe that, among other things,

(A) provides for the pooling of money in the implementation activities account and money in the equivalent accounts of those Maa-nulth First Nations into a fund (the "pooled fund") for the purposes of investment and management of the pooled fund,

(B) provides for the appointment by the Uchucklesaht Tribe and those Maa-nulth First Nations of an investment committee comprised of an equal number of representatives from the Uchucklesaht Tribe and each of those Maa-nulth First Nations,

(C) includes, or provides for the approval by the investment committee of, a statement of investment policy for the pooled fund that is designed to ensure that the pooled fund is appropriately invested to support the activities described in section D.4 of the Fiscal Financing Agreement,

(D) provides for the appointment by the investment committee of an investment manager to invest and manage the pooled fund in accordance with

(I) the statement of investment policy, and

(II) the investment management agreement, and

(E) places an obligation on the investment committee to cause the investment manager to fulfill its obligation to invest and manage the pooled fund in accordance with

(I) the statement of investment policy, and

(II) the investment management agreement.

Delegation authority

6.7 (a) The Executive may delegate, in writing, the performance of its duties under section 6.5(b)(ii)(B) or 6.6(b)(iii), to

(i) a standing committee,

(ii) a special committee, or

(iii) the director.

(b) Despite any delegation of duties under subsection (a), the Executive remains responsible for ensuring that those duties are performed properly.

Loans to eligible corporations

6.8 (a) In this section, "eligible corporation" has the meaning given to that term in the settlement trust agreement.

(b) Council must not authorize a loan from the Qacća settlement trust to an eligible corporation except in accordance with this section and the settlement trust agreement.

(c) Council may authorize a loan from the Qacća settlement trust to an eligible corporation

(i) by resolution if the loan is less than the prescribed amount, and

(ii) by an Act if the loan is greater than the prescribed amount.

(d) Before Council authorizes a loan under subsection (c),

(i) the director must prepare a report to Council respecting the loan, including an assessment of the eligible corporation's ability to repay the loan, and

(ii) Council must consider such report.

PART 7 - BORROWING, GUARANTEES AND INDEMNITIES

General limitation on borrowing, guarantees and indemnities

7.1 (a) The Uchucklesaht Tribe must not borrow money or provide a guarantee or indemnity except in accordance with this Part and any capital borrowing laws.

(b) For certainty, this Part applies to borrowing by the Uchucklesaht Tribe from the Qacća settlement trust.

Borrowing for operations

7.2 (a) The director or the chief administrative officer may incur trade accounts payable or other accounts payable provided they are for an expenditure authorized under

(i) the annual budget for the current fiscal year, or

(ii) the draft annual budget for the next fiscal year reviewed by the Executive and recommended to Council under section 3.4(b).

(b) The Executive

(i) may, by resolution, authorize the director to obtain an overdraft or line of credit in the name of the Uchucklesaht Tribe for the purpose of covering any short term cash flow needs of the Uchucklesaht Tribe for its operations, and

(ii) may, by resolution, authorize any drawdown on such overdraft or line of credit.

Borrowing for capital expenditures

7.3 Council may, by an Act, authorize any borrowing by the Uchucklesaht Tribe for a purpose of a capital nature.

Borrowing for repayment or refinancing of debts

7.4 The Executive may, by resolution, authorize any borrowing by the Uchucklesaht Tribe for the purpose of repaying or refinancing any debt owed by the Uchucklesaht Tribe.

Limitation on the use of borrowed money

7.5 (a) Subject to subsections (b) and (c), money borrowed by the Uchucklesaht Tribe must not be used for any purpose other than the purpose for which it was borrowed.

(b) Money borrowed by the Uchucklesaht Tribe that is not immediately required for expenditures may be invested in accordance with section 6.3.

(c) Money borrowed by the Uchucklesaht Tribe that is no longer required for the purpose for which it was borrowed must be used to repay the debt from the borrowing.

Guarantees and indemnities

7.6 (a) Subject to subsection (b), the Executive may, by regulation, authorize the provision of any guarantee by the Uchucklesaht Tribe.

(b) Before the Executive authorizes any guarantee under subsection (a),

(i) the director must prepare a report to the Executive identifying any risks associated with providing the guarantee and assessing the ability of the Uchucklesaht Tribe to honour the guarantee should it be required to do so, and

(ii) the Executive must consider such report.

(c) The Executive may, by resolution, authorize the provision of any indemnity by the Uchucklesaht Tribe.

Authorized signatories for borrowing, guarantees and indemnities

7.7 Any agreement or instrument relating, in whole or in part, to the borrowing of money by the Uchucklesaht Tribe or the provision of any guarantee or indemnity by the Uchucklesaht Tribe must be signed by two members of the Executive.

PART 8 - FINANCIAL RECORDS AND REPORTING

Generally accepted accounting principles

8.1 All accounting and financial reporting policies and practices of the Uchucklesaht Tribe must comply with generally accepted accounting principles.

Monthly financial reports

8.2 Not more than 21 days following the end of each month, the director must prepare and submit to the Executive a monthly financial report for that month in the form and with the content approved by the Executive.

Quarterly financial statements

8.3 (a) Not more than 21 days following the end of the first, second and third quarter of each fiscal year, the director must prepare and submit to Council quarterly financial statements for the Uchucklesaht Tribe for that quarter in the form and with the content approved by Council.

(b) Not more than 45 days following the end of the first, second and third quarter of each fiscal year,

(i) the Executive must review, and make recommendations to Council on, and

(ii) Council must review and, by resolution, approve

the quarterly financial statements for that quarter.

Appointment of auditor

8.4 The Executive must, after considering the recommendation of the director of finance on the appointment, appoint an auditor for the Uchucklesaht Tribe for each fiscal year to hold office until the later of

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

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

Audited annual financial statements

8.5 (a) On or before May 15 of each year, the director must prepare and submit to the auditor annual financial statements and any special purpose reports for the Uchucklesaht Tribe for the previous fiscal year

(i) in accordance with generally accepted accounting principles,

(ii) to a standard that is generally accepted for governments in Canada, and

(iii) in the form and with the content approved by Council.

(b) On or before June 15 of each year, the auditor must

(i) audit the annual financial statements for the previous fiscal year in accordance with generally accepted auditing standards, and

(ii) prepare and submit to Council

(A) an audit opinion on the annual financial statements, and

(B) an audit opinion or review comments on any special purpose reports.

(c) On or before June 20 of each year,

(i) the Executive must review, and make recommendations to Council on, and

(ii) Council must review and, by resolution, approve

the audited annual financial statements for the previous fiscal year.

Presentation of audited annual financial statements to People's Assembly

8.6 On or before June 30 of each year, Council must present the audited annual financial statements for the previous fiscal year to the Uchucklesaht People's Assembly.

Auditor's authority

8.7 (a) In conducting the annual audit, the auditor

(i) must be given access to all financial records, and

(ii) may, by reasonable written notice, require any Uchucklesaht official or former Uchucklesaht official to

(A) meet with the auditor,

(B) answer any questions the auditor may have relating to the finances of the Uchucklesaht Tribe, and

(C) provide the auditor access to any financial records in his or her custody or control.

(b) Upon receipt of a notice under subsection (a)(ii), the Uchucklesaht official or former Uchucklesaht official named in the notice must

(i) meet with the auditor,

(ii) answer any questions the auditor may have relating to the finances of the Uchucklesaht Tribe, and

(iii) provide the auditor access to any financial records in his or her custody or control

in accordance with the notice.

(c) A Uchucklesaht official or former Uchucklesaht official who

(i) refuses to answer the auditor's questions relating to the finances of the Uchucklesaht Tribe,

(ii) knowingly makes a false statement to or conceals a material fact from the auditor relating to the finances of the Uchucklesaht Tribe, or

(iii) refuses to provide the auditor access to financial records in his or her custody or control,

commits an offence and is liable, on summary conviction, to a fine not exceeding $10,000.

Access to audited annual financial statements

8.8 (a) Before the audited annual financial statements are published, distributed or made available for public inspection, they must be

(i) approved by Council, and

(ii) signed by

(A) the chief councillor, and

(B) the chief administrative officer.

(b) The audited annual financial statements must be made available for inspection by Uchucklesaht citizens at the Uchucklesaht administrative office during regular business hours.

Annual Report

8.9 (a) On or before June 30 of each year, Council must prepare an annual report on the operations and financial performance of the Uchucklesaht Tribe for the previous fiscal year.

(b) The annual report must include the following:

(i) a description of the programs, services and operations of the Uchucklesaht Tribe;

(ii) a progress report on any established financial objectives and performance measures of the Uchucklesaht Tribe; and

(iii) the audited annual financial statements for the previous fiscal year.

Presentation of annual report to People's Assembly

8.10 On or before June 30 of each year, Council must present the annual report for the previous fiscal year to the People's Assembly.

Access to annual report

8.11 The annual report must be made available for inspection by Uchucklesaht citizens at the Uchucklesaht administrative office during regular business hours.

Ownership of financial records

8.12 All financial records that are produced by or on behalf of the Uchucklesaht Tribe or kept, used or received by any person on behalf of the Uchucklesaht Tribe are the property of the Uchucklesaht Tribe.

Preparation and maintenance of financial records

8.13 (a) The director must ensure that all necessary financial records are properly prepared, maintained, stored and kept secure.

(b) All financial records must be kept for at least 15 years after they were created.

PART 9 - TANGIBLE CAPITAL ASSETS

Definitions

9.1 In this Part,

"capital project" means the acquisition, development, construction, rehabilitation or replacement of a tangible capital asset;

"register of tangible capital assets" means the register of tangible capital assets as referred to in section 9.3;

"rehabilitation" means any activity intended to extend the useful life of a tangible capital asset beyond its original expected useful life and, for certainty, does not include routine maintenance or repair;

"tangible capital asset" means an asset of the Uchucklesaht Tribe that

(a) has physical substance,

(b) is held for use in the production or supply of goods or services, for rental to others, for administrative purposes or for the development, construction, maintenance or repair of other tangible capital assets,

(c) has an expected useful life of more than one year,

(d) is intended to be used on a continuing basis, and

(e) is not intended for sale in the ordinary course of operations.

General duties

9.2 The chief administrative officer must ensure that

(a) all tangible capital assets are maintained in a good and safe condition and to the same standard as a prudent owner of those assets, and

(b) all capital projects are planned, managed, financed and carried out in accordance with this Act and any applicable building and safety standards.

Register of tangible capital assets

9.3 The chief administrative officer must establish and keep current a register of tangible capital assets that includes the following information for each tangible capital asset:

(a) its present location;

(b) the date it was acquired or put into service;

(c) its expected useful life at the time of acquisition;

(d) an assessment of its present condition and remaining useful life; and

(e) any other prescribed information.

Annual inspection of tangible capital assets

9.4 On or before November 30 of each year, the chief administrative officer must

(a) arrange for an inspection of each tangible capital asset, and

(b) update the register of tangible capital assets based on the information gathered during such inspection.

Budget process for tangible capital assets

9.5 (a) On or before January 31 of each year, the director must prepare and submit to the Executive

(i) an estimate of the routine maintenance and repair costs for each tangible capital asset for the next fiscal year,

(ii) a list of each proposed capital project and an estimate of the costs for each proposed capital project for the next fiscal year, and

(iii) an estimate of the total costs for capital projects and routine maintenance and repair of tangible capital assets for the next fiscal year and the four succeeding fiscal years

in the form and with the content approved by the finance committee.

(b) On or before February 15 of each year, the Executive must review, and make recommendations to the director on, the information submitted to it in accordance with subsection (a).

Tangible capital asset reserve fund

9.6 (a) Council must

(i) establish a tangible capital asset reserve fund for the purpose of funding capital projects, and

(ii) ensure

(A) that contributions are made to the tangible capital asset reserve fund on an annual basis, and

(B) that contributions to, and any withdrawals from, the tangible capital asset reserve fund are included in the annual budget.

(b) The Executive must ensure

(i) that money is deposited or transferred into the tangible capital asset reserve account in accordance with the annual budget, and

(ii) that money in the tangible capital asset reserve account is invested in accordance with Part 6.

Reports on capital projects

9.7 At the request of the Executive, and no less than once each fiscal year, the chief administrative officer must report to the Executive on the status, year to date borrowings, year to date expenditures and budget variance for each capital project in progress or scheduled to commence in the current fiscal year.

Capital project consultants

9.8 The Executive may, by resolution, authorize the chief administrative officer to retain the services of an architect, engineer or other consultant to assist the Executive and the chief administrative officer in the performance of their duties under this Part.

PART 10 - GENERAL PROVISIONS

Regulations

10.1 (a) Subject to subsection (b), the Executive may make regulations which it considers necessary or advisable for the purposes of this Act.

(b) The Executive must not make any regulations relating to the financial administration of the Uchucklesaht Tribe that are in conflict with generally accepted accounting principles.

Transition

10.2 (a) On or before May 31, 2011, Council must, by an Act, approve an annual budget for the Uchucklesaht Tribe for the 2011-2012 fiscal year.

(b) Despite sections 5.1 and 7.2(a), until an annual budget for the 2011-2012 fiscal year is approved by Council, money may be paid out of a Uchucklesaht account and trade accounts payable or other accounts payable may be incurred if the expenditure or payable is approved by the director or the chief administrative officer.

Commencement

10.3 This Act comes into force on the Maa-nulth Treaty effective date.

LEGISLATIVE HISTORY

Financial Administration Act UTS 6, 2011 enacted April 1, 2011

Amendments

Section	Amendment	In Force
4.6	UTS 40/2014, s. 3.1	June 19, 2014
4.7	UTS 40/2014, s. 3.1	June 19, 2014
4.8	UTS 40/2014, s. 3.1	June 19, 2014
4.9	UTS 40/2014, s. 3.1	June 19, 2014
4.10	UTS 40/2014, s. 3.1	June 19, 2014
4.11	UTS 40/2014, s. 3.1	June 19, 2014
4.6	UTS 49/2017, s. 4.1(a)	March 27, 2017
4.8	UTS 49/2017, s. 4.1(b)	March 27, 2017
4.9	UTS 49/2017, s. 4.1(c)	March 27, 2017
4.10	UTS 49/2017, s. 4.1(d)	March 27, 2017

Amending Acts:

UTS 40/2014 Enforcement Framework Amendment Act No. 2 enacted June 19, 2014
UTS 49/2017 Enforcement Framework Amendment Act No. 3 enacted March 27, 2017

Regulations:

UTR 4/2011 Expenditures Regulation enacted April 1, 2011
UTR 14/2013 Somass Hotel Loan Guarantee Regulation enacted July 26, 2013