

Amended May 8, 2012

## **Vuntut Gwitchin Governance Act October 19<sup>th</sup> 2006**

The Council of the Vuntut Gwitchin First Nation hereby enacts as follows:

### **Interpretation**

**1** In this Act,

"appropriation Act" means an Act authorizing payments to be made from the consolidated revenue fund;

"consolidated revenue fund" means the Consolidated Revenue Fund of the Vuntut Gwitchin First Nation established under section 11;

"government" means the Vuntut Gwitchin First Nation Government.

### **PART 1 LEGISLATIVE PROCESS**

#### **Standing committees**

**2(1)** The Council shall establish, by resolution, one or more standing committees so that every department of the government is within the purview of a standing committee.

**(2)** In addition to the review of proposed Acts under section 3, standing committees shall conduct such business as the Council may, by resolution, refer to them.

**(3)** Each standing committee shall be chaired by a member of the Council.

Amended March 29, 2007(Council Resolution#0329207-08)

#### **Review of proposed legislation**

**3(1)** Every proposed Act shall be considered by a standing committee before it is presented to the Council.

**(2)** In reviewing a proposed Act, a standing committee shall ensure that members of the public have an adequate opportunity to review and provide their comments on it.

#### **Process for passing legislation**

**4(1)** Every proposed Act shall be presented to the Council by the Chief.

**(2)** Every proposed Act shall have two distinct and separate readings by the Council before it is finally adopted.

**(3)** On first or second reading of a proposed Act, amendments to the Act shall be proposed, debated and decided upon individually before the motion for first or second reading of the proposed Act is considered.

**(4)** On the first reading of a proposed Act, the Council may, with or without amendment or debate, vote

**(a)** to refer it to a standing committee for further public input; or

**(b)** to approve it pending second reading.

**(5)** Subject to subsection (7), a minimum of 15 days must elapse between the first and second reading of a proposed Act.

**(6)** After the Council votes affirmatively for a second reading of a proposed Act, it becomes an Act of the Vuntut Gwitchin First Nation and is effective immediately unless it provides otherwise.

(7) Where the Council is of the opinion that, due to an emergency, it is not advisable to delay the second reading of a proposed Act under subsection (5), the Council may, with the advance written consent of the Elders' Council, reduce or eliminate the delay.

(8) In subsection (7), "emergency" includes a situation where the Management Committee advises the Council in writing that the payment of money from the consolidated revenue fund is urgently required for the public good and no appropriation Act authorizes the payment.

## **PART 2 ADMINISTRATION**

### **Management Committee directives**

**5** The Management Committee may issue directives applicable to public officers concerning

- (a) the management of public money, property and investments;
- (b) the organization and management of the public service of the First Nation, including the classification of positions, the establishment of a job evaluation system, the certification of employees and applicants for positions, the review of rates of pay and allowances, the selection of applicants, and the discipline of employees; and
- (c) the disposition or lending of public property.

### **Executive Director**

**6(1)** On the recommendation of the Chief, the Council shall, by resolution, appoint a person to be the Executive Director.

(2) The Executive Director is the senior administrative officer of the government and reports to the Chief.

(3) Subject to the direction of the Chief and directives of the Management Committee, the Executive Director shall direct all the affairs of the government other than the financial affairs assigned to the Director of Finance under section 7.

(4) The Executive Director shall

- (a) maintain and operate a registry of the written laws of the First Nation, which shall contain authentic copies of the Constitution, all Acts enacted and resolutions passed by the Council, and all agreements with other governments;
- (b) establish and maintain the maps and other information required to establish and prove the territorial jurisdiction of the First Nation;
- (c) maintain a registry of the names of all citizens of the First Nation;
- (d) maintain a registry showing the statutory offices established by the Constitution or any Act, the name of the person appointed to or otherwise holding each office, and the particulars of his or her appointment;
- (e) have custody of the seal of the First Nation;
- (f) ensure that proper records are kept of the proceedings and decisions of the meetings of the General Assembly, the Council, the Elders' Council and the Review Council; and
- (g) have the custody and ensure the safe-keeping of the originals of documents mentioned in this subsection.

### **Director of Finance**

**7(1)** On the recommendation of the Chief, the Council shall, by resolution, appoint a person to be the Director of Finance.

(2) The Director of Finance is the senior financial officer of the government and reports to the Chief.

(3) Subject to the directives of the Management Committee, the Director of Finance shall direct the financial affairs of the government.

(4) The Director of Finance is responsible for ensuring that

(a) the consolidated revenue fund and the other assets and liabilities of the government are properly managed and administered;

(b) the expenditures of the government are made with due regard for economy, efficiency and effectiveness;

(c) adequate and timely recommendations respecting the financial administration and fiscal policy of the government are made to the Council and the Management Committee in accordance with this Act and applicable policies and directives;

(d) proper records are kept of the financial affairs of the government; and

(e) the records mentioned in paragraph (d) are kept safe.

### **Accountant**

**8** The Council shall, by resolution, appoint a chartered accountant, a certified management accountant, a certified general accountant, or a firm of such accountants to oversee and provide ongoing advice with respect to the financial affairs of the First Nation and its affiliated entities.

## **PART 3 FINANCIAL**

### **Interpretation**

**9** In this Part,

"contract" means any agreement or undertaking providing for the expenditure of public money or the provision of other consideration in exchange for goods or services, and includes purchase orders, service contracts, construction contracts, employment contracts, and any agreement or undertaking providing for the payment of money or the giving of other consideration by the government;

"fund" means a fund within the consolidated revenue fund and includes a trust fund, special fund, revolving fund, pension fund, sinking fund, or any other fund called by any other name;

"public money" includes all money, checks, drafts, travelers' checks, bills of exchange, postal notes, money orders, postal remittances and other similar instruments belonging to the government;

"public officer" means an individual who is an employee hired or appointed by the government, and includes a person who is a Councilor or an employee under a contract;

"public property" means all property belonging to the government, other than public money;

"trust fund" means a fund established for trust money under this Part or by any other Act;

"trust money means"

(a) money held in trust by the government or a public officer, (b) money in pension funds maintained by the government, (c) money paid to the government as a deposit to ensure the doing of any act or thing, and

(d) money that is paid to the government or a public officer under an agreement or other undertaking, or by way of a gift or bequest, and that is to be paid to another person specified in the agreement or undertaking or by the donor of the gift or bequest, except money received as reimbursement for or as a contribution or grant towards expenditures made or to be made by the government;

"vote" means that part of an appropriation Act identified as a vote and authorizing the payment of a specified amount from the consolidated revenue fund for specified purposes.

#### **Conflict with other Acts**

**10** If there is a conflict between this Part and any Act, this Part prevails unless the Act contains an expression provision that it, or the relevant provision of it, applies notwithstanding this Part.

### **Division 1 – Revenue**

#### **Consolidated Revenue Fund**

**11** All public money and other money coming into the hands of the government shall form a fund to be known as the consolidated revenue fund of the Vuntut Gwitchin First Nation.

#### **Collection and deposit of money**

**12(1)** No person shall open or close a bank account for the receipt, deposit or transfer of public money or trust money except as authorized by the Management Committee.

(2) Every person who collects or receives public money shall deposit it in a bank account authorized by the Management Committee or give or pay it to the Director of Finance for deposit to the credit of the consolidated revenue fund.

(3) Trust money shall be paid into and shall be maintained in trust funds established by the Director of Finance within the consolidated revenue fund.

#### **Disposition of fines**

**13** All fines paid in respect of offences against First Nation laws shall be deposited to the credit of the consolidated revenue fund.

### **Division 2 – Expenditure**

#### **Appropriation Acts**

**14(1)** An appropriation Act must be entitled as an appropriation Act.

(2) An appropriation Act may relate to only one fiscal year.

(3) An appropriation Act authorizes payments to be made from the consolidated revenue fund only in respect of the fiscal year specified in the Act, and only for the purposes specified in the Act. For greater certainty,

(a) transfers of funds between votes (i.e. departments) must be authorized by an Act;

(b) transfers of funds between programs within a vote must be authorized by the Council where, as a result of the transfer, the aggregate of all transfers within the vote in the fiscal year would exceed \$100,000;

(c) subject to paragraph (b), transfers of funds between programs within a vote may be authorized by the Management Committee; and

(d) the Management Committee may issue directives authorizing a director to transfer funds within a program for which the director is responsible, but the aggregate of all such transfers from any one program must not exceed \$100,000 for the fiscal year.

#### **Temporary appropriation for new fiscal year**

**15(1)** Where, at the commencement of a new fiscal year, no appropriation Act has been enacted to authorize the payment of funds from the consolidated revenue fund for the ordinary on-going operation and maintenance of the government's programs, the appropriation Act for the immediately preceding fiscal year shall be deemed to remain in force to authorize those payments for a period of not more than 60 days or until the new appropriation Act is enacted, whichever occurs first.

### **Statutory authority for payments**

**16(1)** No payment shall be made at any time from the consolidated revenue fund for any purpose unless a provision of this Part, or a provision of an appropriation Act, authorizes the payment to be made for that purpose at that time.

- (2) A vote does not authorize any payment to be made
- (a) in excess of the amount specified in the vote;
  - (b) for any purpose not stated in the vote; or
  - (c) except as provided by section 15, 17, 18 or 19 or subsection 24(2), after the end of the fiscal year to which the vote applies.

### **Trust Funds**

**17(1)** Subject to any other Act, money may be paid from a trust fund if the payment is made in accordance with both

- (a) the provisions of this Act; and
- (b) the provisions of the Act, trust instrument, or other authority under which the money is held in trust.

(2) Despite subsection (1), money received by the government as a deposit to ensure the doing of anything shall be held or disposed of in accordance with the contract or agreement pursuant to which the deposit is held, but if there is no contract or agreement, or if the contract or agreement contains no provision or insufficient provision for the disposition of the deposit, it shall be disposed of in accordance with this Act and the directives of the Management Committee.

### **Standing appropriations**

**18(1)** The Council may, by resolution establishing an appropriate policy, authorize

- (a) the payment of money from the consolidated revenue fund as interest with respect to any principal amount the payment of which is authorized by a vote;
- (b) the payment of holdback money from the consolidated revenue fund after the end of the fiscal year applicable to the contract in respect of which the holdback was taken;
- (c) the payment of advances from the consolidated revenue fund to any person to enable that person to pay expenses that are authorized to be paid by this or any other Act;

Amended May 8, 2012 (Council Resolution 08052012-#13)

- (d) the payment of money from the consolidated revenue fund as a refund.

(2) Where a person has received money from the government to be applied to any purpose and has not applied it to that purpose within the time or in the manner required,

- (a) the money may be recovered from the person as a debt due to the government; and
- (b) an equal sum may in the meantime be applied to the purpose to which the money ought to have been applied.

### **Contributions and grants received by the government**

**19(1)** Except as provided by subsection (2), where money is payable to or received by the government under any Act or agreement for the purposes of or as a contribution toward expenditures to be made by the government, the Council may by resolution authorize the payment of money from the consolidated revenue fund for those expenditures in an amount not exceeding the amount payable to or received by the government.

(2) Where money is received or receivable by the government from the Government of Canada, or the government of a province or territory under any Act, agreement or undertaking for the purposes of or as a contribution toward expenditures to be made by the government, the Council may by resolution authorize the payment of money from the consolidated revenue fund for those expenditures in an amount not exceeding the amount received or receivable by the

government.

(3) This section does not apply to money received or receivable under the Financial Transfer Agreement between the Vuntut Gwitchin First Nation and the Government of Canada.

#### **Senior management signing authorities**

**20(1)** Contracts, checks or other documents must be signed in accordance with subsection (2) where they

- (a) authorize a single payment of more than \$100,000 from the consolidated revenue fund;
- or
- (b) incur any obligation to pay more than an aggregate of \$100,000 from the consolidated revenue fund to any one person or group of persons for a single project or undertaking.

(2) Contracts, checks and other documents under subsection (1) require two signatures as follows:

- (a) one signature from the Chief or a member of the Council appointed to the Management Committee;
- (b) one signature from the Executive Director or the Director of Finance.

(3) For greater certainty,

- (a) subject to the direction of the Chief, the Deputy Chief may sign contracts, checks or other documents in the absence of the Chief; and
- (b) additional signatures do not affect the validity of a contract, check or other document signed in accordance with this section.

#### **Contracts**

**21(1)** A contract shall not be entered into, and is not enforceable against the government, unless it is signed by a public officer having authority under section 20 or subsection (4).

(2) A contract shall not be signed by a public officer, and is not enforceable against the government, unless the public officer has certified that

- (a) every payment out of the consolidated revenue fund contemplated by the contract in the then current fiscal year is authorized by this Part, or by an appropriation Act; and
- (b) there is sufficient money in the vote or fund from which the payments are to be made.

(3) It is a term of every contract that money that becomes due under the contract is not payable unless a provision of this Part or another Act authorizes the payment to be made in the fiscal year when the payment falls due.

(4) The Management Committee may, by directive, subject to such terms and conditions as it considers advisable, appoint public officers to sign contracts not covered by section 20.

#### **Checks**

**22(1)** A check shall not be signed, and is not enforceable against the government, unless it is signed by a public officer having authority under section 20 or subsection (2).

(2) The Management Committee may, subject to such terms and conditions as it considers advisable, appoint public officers to sign checks not covered by section 20.

#### **Payment of grants by the government**

**23(1)** An appropriation Act does not authorize the payment of a grant to any person or group of persons (whether incorporated or not) unless

- (a) the amount of the grant and the person or group receiving the grant is specified in the Act; or
- (b) as a result of the grant, the aggregate of all grants to the person or group in the fiscal year would not exceed \$5,000;

### **Payments after fiscal year end**

**24(1)** Subject to subsection (2), the balance of a vote that remains unexpended at the end of a financial year shall lapse.

(2) If debt obligations have been incurred by the government for goods supplied, or services performed, before the end of a fiscal year under a contract, payment of the obligations shall be made from a vote for that fiscal year.

### **Division 3 – Assets**

#### **Investments**

**25(1)** Where money in the consolidated revenue fund, other than money in a trust fund, is not immediately required for payments, it may be invested in qualified investments for a trust governed by a Registered Retirement Savings Plan within the meaning of section 146(1)(g) of the *Income Tax Act (Canada)*.

(2) Subject to any other Act, where money in a trust fund is not immediately required for payments, it may be invested in accordance with this Part or the trust instrument or other authority by which the money is held in trust, or in any investment permitted by the *Trustee Act (Yukon)*.

#### **Loans**

**26** No loan of public money shall be made without the authority of an Act.

#### **Public property**

**27** No disposition or loan of public property shall be made to any person except in accordance with Management Committee directives.

### **Division 4 – Liabilities**

#### **Borrowing**

**28(1)** No money shall be borrowed, or security issued, by the government without the authority of an Act.

(2) All money borrowed by the government prior to the coming-into-force of this Act is to be considered as having been borrowed in compliance with this section.

#### **Guarantees and indemnities**

**29(1)** Without the authority of an Act, no guarantee of a debt or other obligation shall be given by or on behalf of the government, and no undertaking shall be given by or on behalf of the government

(a) to perform an obligation of a person under an agreement on default of that person; or

(b) to hold harmless a party to an agreement from a loss suffered as a result of the default of another party to the agreement, or as a result of a provision of the agreement.

(2) The government is not liable under a guarantee or undertaking that is not authorized by an Act.

### **Division 5 – Financial reporting and audit**

#### **Vuntut Gwitchin Public Accounts**

**30(1)** The Chief shall, on or before September 30 in each year, present to the Council a report for the preceding fiscal year called the Vuntut Gwitchin Public Accounts.

(2) The Vuntut Gwitchin Public Accounts shall be prepared in accordance with accounting

principles recommended for the public sector by the Canadian Institute of Chartered Accountants and shall include

- (a) Consolidated financial statements for the Vuntut Gwitchin Government that present
    - (i) the financial position as at the end of the fiscal year,
    - (ii) the accumulated surplus or deficit as at the end of the fiscal year, (iii) the results of its operations for the fiscal year, and
    - (iv) the changes in the financial position for the fiscal year;
  - (b) The opinion of the auditor referred to in subsection 32(1); and
  - (c) Any other information or statements that are required in support of the consolidated financial statements by or under any Vuntut Gwitchin law.
- (3) Immediately after presenting the Vuntut Gwitchin Public Accounts to the Council, the Chief shall post the audited unconsolidated financial statements of the First Nation on the government's official website.

### **Appointment of auditor**

**31** The Council shall, by resolution, appoint a chartered accountant or a certified general accountant to be the auditor for the Vuntut Gwitchin Government.

AMENDED August 6, 2011 (GA resolution#2011-05)

### **Annual audit**

**32(1)** The auditor shall audit the accounts, including those related to the consolidated revenue fund, and financial transactions of the government in each fiscal year in accordance with auditing standards recommended by the Canadian Institute of Chartered Accountants and shall express his or her opinion as to whether

(a) The consolidated financial statements present fairly, in all material respects and in accordance with accounting principles recommended for the public sector by that Institute, the financial position of the government as at the end of the fiscal year and the results of its operations in, and changes in its financial position for, the fiscal year; and

(b) The transactions of the government that have come to the notice of the auditor in the course of the audit are within the powers of the government under this or any other Act.

(2) The auditor shall report to the Council any matter falling within the scope of the audit that, in his or her opinion, should be reported to the Council.

### **Supplementary report**

**33** At the request of the Chief the auditor may, if in his or her opinion it does not interfere with the auditor's primary responsibilities, inquire into and report to the Council on

(a) Any matter relating to the financial affairs of the government or to public property; or

(b) Any person or organization that has received or is seeking financial aid from the government.

### **Powers of the auditor**

**34(1)** For the purposes of carrying out the auditor's functions under this Act, the auditor has all the powers of the Auditor General under the *Auditor General Act (Canada)*.

(2) The auditor is entitled to free access at all convenient times to information that relates to the fulfillment of his or her responsibilities and is entitled to require and receive from the employees of the government any information, reports and explanations that he or she considers necessary for that purpose.



**PART 4  
MISCELLANEOUS**

**Indemnities and benefits for members of Council**

35(1) Each elected member of the Council shall be paid an annual indemnity of \$54,700

(2) An indemnity of \$64,332 per year shall be paid to the Chief in addition to the indemnity under subsection (1).

(3) An indemnity of \$27,300 per year shall be paid to the Deputy Chief, in addition to the indemnity under subsection (1).

(4) Based on the indemnities under subsections (1) to (3), members of the Council (including the Chief and Deputy Chief) are entitled to receive benefits similar to those of employees with respect to

- (a) enrollment in a registered pension plan;
- (b) group medical and life insurance;
- (c) 4% benefit for travel; and
- (d) 4% annual bonus.

(5) Where a member of the Council ceases to be a member at any time for any reason, the member shall be paid an end-of-service payment equal to 4% of

(a) the current amount of the indemnity payable to members of the Council divided by the number of days in the current year; times (b) the number of calendar days that the members has, without interruption, been a member of Council.

(6) In addition to the end-of-service payment under subsection (5), where the member of the Council has also, during the period under paragraph (5)(b), served as the Chief, the amount of the member's end-of-service payment shall be increased by an amount equal to 4% of

(a) the current amount of the indemnity payable to the Chief divided by the number of days in the current calendar year; times

(b) the number of calendar days that the member has, during the period under paragraph (5)(b), served as the Chief.

(7) In addition to the end-of-service payment under subsection (5), where the member of the Council has also, during the period under paragraph (5) (b), served as the Deputy Chief, the amount of the member's end-of-service payment shall be increased by an amount equal to 4% of

(a) the current amount of the indemnity payable to the Deputy Chief divided by the number of days in the current calendar year; times

(b) the number of calendar days that the member of the Council has, during the period under paragraph (5)(b), served as the Deputy Chief.

(8) For the purposes of subsection (5) to (7), the number of calendar days is to be calculated as including both the day the member took office and the day on which the member ceased to hold office.

(9) The indemnities in subsections (1), (2), and (3) shall be increased each fiscal year by a factor to adjust for the effects of inflation as determined by Management Committee directive.

(10) The indemnities and other benefits under this section shall be reviewed every 4 years, and any changes shall be given effect by amendment of this Act

SECTION 35 AMENDED FEBRUARY 28, 2011, with a Retroactive Effect of January 1, 2011(Council Resolution 28022011-#9)

**Application 36** This Act does not apply to the following:

(a) Vuntut Development Corporation; (b) Vuntut Gwitchin Business Trust; (c) Vuntut Gwitchin Trust; (d) Vuntut Gwitchin Limited Partnership.

**Coming-into-force 37** This Act comes into force on a day to be fixed by resolution of the Council.

I certify that the foregoing is a true copy of an Act duly approved as set out above.

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Joe Linklater Chief