**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ First Nation**

**Draft Work Plan for Long-term Refinancing Borrowing Law**

This draft Work Plan sets out the tasks necessary to develop a First Nation long-term refinancing borrowing law. This involves development of the long-term refinancing borrowing law and development of a project plan.

1. **Refinancing Borrowing Law - Prerequisites**

| **Task** | **Activities** | **Who** | **Timetable**[estimated date expected] | **Comments** |
| --- | --- | --- | --- | --- |
| 1. Development of Financial Administration Law (FAL)
 | * FN to contact First Nations Financial Management Board (FNFMB) for information and processes for development of a Financial Administration Law.
 | * FN
* FNFMB
 | * N/A
 | * First Nation must have enacted a Financial Administration Law under s.9 of the Act which has been approved by the FNFMB.
* The First Nations Financial Management Board has information on the FAL (www.fnfmb.com)
 |
| 1. Obtain Financial Performance Certificate
 | * Contact FNFMB to obtain the Financial Performance Certificate (for first borrowing).
* Contact FNFMB to obtain financial management system certificate before all subsequent borrowings
 | * FN
* FMB
 | * N/A
* For FMS certificate, within 36 months of obtaining FPC
 | * For more information on obtaining Financial Performance Certificate [Financial Performance Certificate](https://fnfmb.com/en/services/certify-first-nations/financial-performance-certification)
* For more information on obtaining Financial Management System Certificate [Financial Management System Certificate](https://fnfmb.com/en/services/certify-first-nations/financial-management-system-certification)
 |
| 1. Apply to FNFA to become a borrowing member
 | * Contact FNFA for process and requirements to become a borrowing member.
 | * FN
* FNFA
 |  |  |
| 1. Local revenue law
 | * If not taxing, contact FNTC to develop property taxation law, service tax or other local revenue law that will support borrowing.
 | * FN
* FNTC
 |  |  |
| 1. Identify eligible debt to refinance
 | * FN to identify debt obligation
 | * FN
 |  | * Debt must have been originally incurred to provide (eligible) capital infrastructure to the reserve
* Capital infrastructure must have been completed
* [FNTC Standards Establishing Criteria for the Approval of a Borrowing Law](https://partii-partiii.fng.ca/fng-gpn-II-III/sfm/en/17716/1/document.do)list permitted capital infrastructure projects
 |
| 1. Preliminary determination of borrowing capacity
 | * Review tax revenues and tax base to determine estimated borrowing capacity
 | * FN/FNFA/FNTC
 |  | * [FNTC Standards Establishing Criteria for the Approval of a Borrowing Law](https://partii-partiii.fng.ca/fng-gpn-II-III/sfm/en/17716/1/document.do) set out how borrowing capacity is determined
* Determination useful to see how much debt financing can be used for project
 |
| 1. Development of Borrowing Agreement Law (BAL)
 | * FN to contact FNTC for information and processes for development of a Borrowing Agreement Law.
 | * FN
* FNTC
 |  |  |

1. **Development of First Nation Refinancing Borrowing Law**

| **Task** | **Activities** | **Who** | **Timetable**[estimated date expected] | **Comments** |
| --- | --- | --- | --- | --- |
| 1. Determine team for law implementation
 | * FN identifies contact persons for law development.
 | * FN
 | * Month 1
 |  |
| 1. FN confirmation of legal counsel
 | * FN to confirm legal counsel for law development and send contact info to FNTC
 | * FN
 | * Month 1
 |  |
| 1. Development of a Project Plan
 | * Develop a project plan in support of the proposed borrowing law
	+ Contact FNTC for project plan template
* With FNFA, determine borrowing amount required, term of borrowing, and necessary annual payments to FNFA
* With FNTC, make a preliminary determination of borrowing room
 | * FN
* FNTC
* FNFA
 | Month 2 to 3 | * The project plan must describe the completed project in sufficient detail to demonstrate that the project developed capital infrastructure for the provision of local services, as set out in the [FNTC Standards Establishing Criteria for the Approval of a Borrowing Law](https://partii-partiii.fng.ca/fng-gpn-II-III/sfm/en/17716/1/document.do) , and must include:
	+ a brief description of the project, and the date the project was completed;
	+ details respecting the original financing of the project, the total outstanding capital debt obligations, and the proposed amount and time frame of the refinancing;
	+ a budget outlining the actual costs of constructing, operating and maintaining the infrastructure and of its eventual replacement.
	+ a fiscal forecast of revenues and expenditures over the next five (5) years, including the assumptions used in estimating future property tax revenues and growth in the assessment base.
* Must be submitted to FNTC with final law
 |
| 1. Project Plan Confirmation completed by a First Nation officer and certified by an authorized FN signatory.
 | * FN confirms project plan includes required elements
 | * FN Officer
* FN authorized signatory l
 | Month 3 | * Must be completed before notification.
* Must be attached to project plan submitted to FNTC with final law
 |
| 1. Development of Borrowing Law
 | * Obtain sample refinancing borrowing law from FNTC
* 1st draft of Proposed Law
* Prepare Certificate of Capital Liabilities and Calculation of Borrowing Capacity
* FN review of FNTC comments and 2nd draft
* Final Proposed Law submitted to Chief & Council
* FN BCR approval of proposed law
 | * FN (legal) FNTC
* FN (legal)
* FN/FNFA/FNTC
* FN
* FN (legal)
* Chief & Council
 | * Months 1-3
 | * Once FN legal is confirmed, drafting depends on pace of legal counsel (typically 2-3 months)
* Law development grant may be available.
 |
| 1. Information sessions or consultation with taxpayers, members, or other interested parties
 | * FN develops presentation. FNTC can offer presentation templates and technical support.
* FN to determine suitable date for presentation.
 | * FN (FNTC)
 | * Month 3-4 or after law developed and before notification.
 | * **OPTIONAL**
 |
| 1. FMA Representation and Notification Period
 | * Preparation of notice.
* Notice mailed or emailed to FNTC (FNTC Registrar)
* Notice posted in a public place on reserve.
* Notice published in the [*First Nations Gazette*](http://www.fng.ca)
* The Project Plan available for viewing.
* Distributing copy of the law when requested.
* Sending copy of proposed law to FNTC.
* Retaining any written representations made to FN concerning the law and representation process (includes emails).
* If a public meeting is held, noting any oral representations made at a public meeting concerning the proposed law.
 | * FN and FNTC
* FN (legal)
* FN
 | * Months 3 - 4
 | * Law notification is a requirement under the [FNTC Standards Establishing Criteria for the Approval of a Borrowing Law](https://partii-partiii.fng.ca/fng-gpn-II-III/sfm/en/17716/1/document.do)
* FNTC has developed a one-page sample notice. It describes the law and invites individuals to comment on the law. It also contains contact information and states where a copy of the Project Plan may be viewed. If the First Nation chooses to hold a public meeting, the notice would provide the date and location of the public meeting.
* FNTC can provide a sample representation plan to facilitate representation and notification activities.
* Notice period must start at least 30 days before making the law.
 |
| 1. FN approval and Submission of Law (after representation period)
 | * Consideration of representations (if any).
* Chief & Council approval of law.
* Invitation of further representation to the FNTC (*if written representations are made*).
* Confirmation letter that FMA requirements under s. 8 and FNTC standards have been met.
* Submission of law and supporting documentation to FNTC Registrar.
	+ Project Plan
	+ Certification from FN officer that project plan elements remain true and accurate
	+ Certification from FN officer that information in Certificate of Capital Liabilities and Calculation of Borrowing Capacity remains true and accurate
 | * Chief & Council
* Chief & Council
* FN
* FN
* FN
 | * Month 5
 | * FNTC has a sample letter to invite representations to FNTC.
* FNTC has a sample submission letter.
 |
| 1. FNTC Review and approval consideration
 | * Reviews law and further representations received, if any.
* Approves if compliant with legislative framework.
* Law comes into force the later of the day after FNTC approval, or date set by the First Nation.
* FNTC must provide true copy of law and certificate under s. 32(2)(b) of FMA to FNFA
 | * FNTC
 | * If FN receives representations, FNTC must allow 15 days for further representations.
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