



Cowessess First Nation - Municipal Servicing and Compatibility Agreement and Lane Closure

Date	January 18, 2023
To	Executive Committee
From	City Planning & Community Development
Service Area	Planning & Development Services
Item No.	EX23-2

RECOMMENDATION

The Executive Committee recommends that City Council:

1. Approve the Municipal Services and Compatibility Agreement (Appendix A-1) between the City of Regina and Cowessess First Nation;
2. Instruct the City Solicitor to prepare and bring forward the necessary bylaw authorizing execution of the Municipal Services and Compatibility Agreement;
3. Approve the application to close the lane described as all the portion of the right-of-way backing the properties along 1200 Block Albert Street between 6th Avenue and 7th Avenue, as shown on the attached Descriptive Plan II (Appendix A-2) dated December 1, 2022, and described as being portion of Lane 22, Plan OLD 33, Extension 0 (the Lane);
4. Instruct the City Solicitor to prepare and bring forward the necessary bylaw to provide for the closing of the Lane following the required public notice; and
5. Approve these recommendations at its meeting on January 25, 2023.

ISSUE

Cowessess First Nation (Cowessess), through its holding company, Cowessess TLE Holdings Ltd, has acquired land located at 2626 7th Avenue and 1200 Albert Street (Subject Lands), Regina, Saskatchewan. Cowessess intends to have the land set apart as reserve land pursuant to the terms of the Cowessess Treaty Land Entitlement Settlement Agreement. Through this report, Administration is recommending a Municipal Services and Compatibility Agreement (MSCA) be approved as well as a lane closure to support development on the Subject Lands.

IMPACTS

Environmental Impacts

There are no environmental impacts associated with this report. However, Cowessess would be subject to any potential environmental impacts associated with the individual projects on this land.

Financial Impacts

Once the Government of Canada designates the Subject Land as reserve status, the MSCA will provide for payment, in the amount equal to the municipal and library portion of property taxes that would have been levied on the land, as compensation for services. All other charges against the land are continued, including user fees for sewer and water and other special charges.

Policy / Strategic Impacts

Partnerships with First Nations in areas such as economic, community and social development are extremely important in shaping the future of the community as an act of Reconciliation. Economic reconciliation is a form of reconciliation in action. It encourages quantifiable success within the framework of an all-inclusive approach, which is congruent with an Indigenous worldview lens. Economic reconciliation advances opportunities for all peoples to reach their full potential and common prosperity. This action reaffirms the City of Regina's (City) commitment to the Truth and Reconciliation Commission of Canada: Calls to Action and economic reconciliation.

The MSCA provides for an ongoing, positive relationship between the City and Cowessess that will lead to economic development opportunities that benefit all citizens. To ensure sustained positive relationships and the identification and resolution of potential future matters, Cowessess and the City agree that their respective Councils, and/or their representatives, will meet at least once in each calendar year to discuss such matters as may have arisen between them, and to keep open the lines of communication.

There are no accessibility, legal/risk, or other impacts.

OTHER OPTIONS

If Executive Committee has specific concerns with the proposed MSCA, it may refer it back to

Administration to consider further recommendations or to endeavor to negotiate specific changes to the MSCA with Cowessess. Referral of the report back to Administration will delay approval of the MSCA with Cowessess until such time that the requested information has been gathered or changes to the MSCA are complete. Any changes to the MSCA would require further negotiation and there is no assurance that concurrence to the proposed changes would result.

COMMUNICATIONS

No communication activities with respect to this report. Any communication activities will be jointly developed with Cowessess.

DISCUSSION

MSCA's and Urban Reserves

The purpose and background of an MSCA is contained in Article 9 of the Saskatchewan Treaty Land Entitlement Framework Agreement, which provides, in part, that where an Entitlement Band purchases land and improvements within the boundaries of an urban municipality, the land and improvements will not be set apart as Entitlement Reserve until an agreement (MSCA) has been entered into between the First Nation (Entitlement Band) and the municipality in which the land is located. The MSCA addresses issues of tax loss compensation, bylaw and servicing compatibility and dispute resolution.

The City and Cowessess have negotiated the MSCA on terms acceptable to both parties. Parallel documentation respecting the provision of a Police Services Agreement will be prepared and presented to the Board of Police Commissioners. As a final step, the Government of Canada's review and approval is required prior to the land being designated as a reserve.

Upon obtaining reserve status, Cowessess will have full jurisdiction to control and implement its own tax system on the reserve lands. However, as with all MSCAs entered between the City and a First Nation to date, Cowessess agrees to pay, in consideration for the services that the City will continue to provide to the lands, an annual amount which equals the municipal and library portion of the property tax and special tax levy for any given year that would have been levied on the land if the land were not reserve land.

Project Background

The city block bounded by 6th Avenue to the north, 7th Avenue to the south, Angus Street to the west, and Albert Street to the east is composed of multiple land parcels contained within five civic addresses, and one existing municipal right-of-way "lane" that runs the length of the block. The composition of the block is as follows:

1. 1236 Albert Street (currently vacant land)
2. 1201 Angus Street (currently vacant land)
3. 1246 Albert Street (Tim Hortons)

4. 2626 7th Avenue (Sonshine Gas and Wash)
5. 1200 Albert Street (recently demolished Minute Muffler)
6. Municipal Right-of-Way (Lane)

Cowessess is currently the legal landowner of all parcels located within this block, excepting the lane, which is held by His Majesty the King.

In February 2008, Council approved an MSCA pertaining to 1236 Albert Street and 1201 Angus Street, and reserve status was federally granted to these lands in August 2010. A subsequent MSCA was approved by Council pertaining to the land at 1246 Albert Street in April 2019, and reserve status was federally granted in March 2020. The MSCA being considered by this report is consistent with the existing agreements and pertains to the remaining balance of land located on this block, the parcels civically addressed as 2626 7th Avenue and 1200 Albert Street, and the lane.

Lane Closure

Cowessess has indicated they wish to take ownership of the lane and integrate it into the boundary of the reserve lands. In December 2022, Council approved (CR22-131) the sale of the lane to Cowessess for this purpose. The sale of the lane to Cowessess is conditional upon Council approval of its closure as a municipal right-of-way required pursuant to *The Cities Act*, recommended herein. Upon review of the application for closure, Administration has determined that with the proposed Urban Reserve development, the lane will no longer be required for use by the travelling public and that closure in this circumstance is appropriate. If approved by Council, all parcels on this block would subsequently be under a MSCA with the City and allow Cowessess to move forward with the creation of an Urban Reserve that spans the entirety of the city block unencumbered.

Details and Provisions of the MSCA

The land specifically referenced in this MSCA is described as follows:

1. 2626 7th Avenue, Regina SK
Lot A, Blk/Par 146-Plan 89R04488 Ext 0, (Surface Parcel 109572453)
2. 1200 Albert Street, Regina SK
Lot 19, Blk/Par 146-Plan OLD33 Ext 0, 94R64501(Surface Parcel 109604101, Mineral Parcel 111930128); and Lot 20, Blk/Par 146-Plan OLD33 Ext 0, (Surface Parcel 109604123, Mineral Parcel 111930139)
3. Municipal Right-of-Way
St/L 22, Plan OLD 33, Extension 0

The significant provisions of the MSCA include:

- The City shall provide all City services to the Land. The type and level of services supplied shall be the same as the City provides to similarly zoned lands within Regina, which are in a

similar state of development and shall specifically include fire protection and policing services. The Municipal Services shall not include services provided by the Boards of Education of the Regina School Division No. 4 or the Regina Catholic School Division.

- Cowessess agrees to pay the City, in consideration for the municipal services, an annual amount which equals the municipal and library portion of the property tax levy for any given year that would have been levied on the land if the land were not reserve land. Cowessess also agrees to annually pay any local improvements, any Business Improvement District levies, and any special charges levied against the land.
- Annual amounts to be paid by Cowessess shall not cover those services which are normally provided by the City in consideration for a direct charge or user fee payable by the party to whom such services are provided. Such services include the supply of water and the provision of sanitary and storm sewer systems.
- Cowessess agrees that it will take all necessary steps, including passing and enforcing compatible bylaws, to ensure that at all times the occupation, use, development and improvement of the land is essentially the same as if that land were not reserve land, particularly in regard to land use, building and fire standards and business regulation. The City may adopt technical construction and site drainage standards for new developments, and those standards shall apply to all new developments on the land.
- In the event of a dispute between Cowessess and the City, the parties agree to meet to try to develop a practical solution through binding arbitration.

Subdivisions conditional to this MSCA include:

- An existing lane runs the length of the block between Albert Street and Angus Street. The recommendation of Administration is to close the lane as a public right-of-way and transfer ownership of the parcel to Cowessess. Existing municipal infrastructure located within the lane would be divested and become the responsibility of Cowessess. Should the lane be titled and transferred into the ownership of Cowessess, it will be subject to the provisions of this MSCA.
- Cowessess acknowledges that a 3.25m x 3.25m corner-cut is intended to be subdivided from Lot 20 at Albert Street and 6th Avenue and dedicated to His Majesty the King as part of the road allowance. Cowessess further agrees that, as a condition of the MSCA and prior to the land being set apart as reserve land, Cowessess shall be responsible for completion of all matters necessary to complete the required subdivision application.

DECISION HISTORY

City Council adopted Bylaw 2008-20, *The Cowessess First Nation Municipal Services Agreement Execution Bylaw*, at its meeting on February 25, 2008.

City Council adopted Bylaw 2019-10, *Cowessess First Nation Municipal Services Agreement Execution Bylaw*, at its meeting on April 29, 2019.

City Council at its meeting held on December 7, 2022, approved CR22-131: Cowessess First Nation – Sale of Lane.

Respectfully Submitted,

Respectfully Submitted,



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Planning & Development Services



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City Planning & Community Development

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ATTACHMENTS

Appendix A-1 - MSCA

Appendix A-2 - Descriptive Plan II