

Meeting Date: March 26, 2024

Subject: Smith's Landing First Nation – ATR

Approvals: Dennis Fraser

Director

Henry Hunter

Chief Administrative Officer

Recommendation(s):

THAT Council approve the discharge of the 2002 Deferred Reserve Caveat (“DRC”) in the amount of 0.71 hectares registered against title to the subject Lot without requiring that “cash in lieu” (i.e. compensation) be paid to the Municipality's shared reserve fund, as a further act of reconciliation.

THAT the Mayor be authorized, on behalf of Council, to provide a letter of municipal support in favour of the proposed addition of the subject Lot to the to Smith's Landing First Nation (“SLFN”) reserve, to be sent to Indigenous Services Canada / Indigenous-Crown Relations Canada.

Summary:

Smith's Landing First Nation (“SLFN”) has requested that the Regional Municipality of Wood Buffalo (“RMWB”) provide a letter of municipal support to add a single lot to the Thabacha Náre Reserve No. 196A, through the Additions to Reserve (“ATR”) process. The lot is legally described as follows:

- Plan 0223488, Block 2, Lot 4B (the “Lot”).

A map showing the location of the Lot is included as Attachment 1.

The Lot is located within the RMWB and is approximately 7.16 hectares (17.69 acres) in area, and is roughly 3.5 kilometers south of the town of Fort Smith, NT.

It is proposed that the Lot be used for residential purposes to accommodate community growth.

The Lot was purchased in 2018 by the Smith's Landing First Nation Development Corporation and was subject at the time of purchase to the DRC. The DRC remains on title and a copy of the Certificate of Title is included as Attachment 2.



The DRC was registered on the title to the Lot at the time of the subdivision creating the Lot in 2002. The DRC reflects that the reserves attributable for the Lot in 2002 remained outstanding. However, prior to the Lot being included as an ATR, Federal "additions to reserve" policy requires that the DRC must first be discharged by the RMWB. It is the opinion of legal counsel that the discharge of the DRC is akin to a disposition of a reserve interest for which only Council has authority, pursuant to section 674 of the MGA.

A copy of the DRC is attached as Attachment 3.

Background:

On January 24, 2023, Indigenous Services Canada (“ISC”) notified the RMWB of SLFN’s desire to add the Lot to the Reserve by way of an ATR proposal. As part of the ATR process, local governments are provided the opportunity to provide feedback and comments to Canada. Past Crown practice has been to only take the ATR step once all encumbrances have been discharged.

A copy of this letter is included as Attachment 4.

On March 31, 2023, SLFN sent a letter to the RMWB advising that they submitted a proposal to ISC for an ATR with respect to the Lot. The letter indicated that no RMWB municipal services are currently provided or would be required in future, and therefore a municipal servicing agreement (MSA) would not be needed.

A copy of this letter is included as Attachment 5.

The RMWB has circulated the request internally, and no concerns beyond the Deferred Reserve Caveat were identified. The decision to defer the taking of up to ten (10%) percent of the lot area for municipal and/or school reserves (or, alternatively, as cash in lieu) meant that the matter of reserves owing for the Lot has never been addressed. The discharge of the DRC is a necessary precursor to the Lot being added to the First Nation's reserve. To support this discharge, Council has two distinct alternatives:

1. Taking land for planning reserve is not a practical option in this case. Therefore, an alternative is to take "cash in lieu" of reserves based on ten (10%) percent of the purchase price of the Lot when acquired by the SLFN in 2018. This would be \$17,100. This is a fair outcome given that the Lot was purchased in 2018 on the market at 'fair market value', and subject at that time to the DRC. This option avoids the need for the SLFN to pay for the significant relative cost of a new appraisal, assuming market price stability in the intervening 5 years for the Lot and is otherwise consistent with municipal planning practice; or
2. Waive the taking of either land or payment in lieu of land and discharge the DRC, in furtherance of the principles of truth and reconciliation.



It is within Council's discretion to select one of the above 2 options, following proper notice and a public hearing, affording both transparency and public input. Given the unique factors surrounding this request, RMWB administration recommends that Council support the second alternative.

Budget | Financial Considerations:

In 2023, the municipal taxes generated from the Lot was \$245.86. Due to the nominal impacts to RMWB tax revenue, and the unique nature of this request, Finance is not recommending compensation by SLFN for this single lot ATR.

Strategic Plan Alignment | Impact:

Supporting the growth and development of Indigenous communities in the region through the process of ATRs enhances the Municipality’s relationship with Rural and Indigenous Communities and demonstrates its ongoing commitment towards reconciliation. Further alignments with Council's Strategic Plan (2022-2025) include:

- Building Partnerships, items 2 (Indigenous meetings) and 6 (community partnerships)
- Rural and Indigenous Communities and Relationships, item 1 (enhance reconciliation spaces)
- Local Economy, item 5 (deliver a pro-business environment)

Rationale for Recommendation(s):

ATRs are an important mechanism for all levels of government to proactively strengthen relationships with Indigenous Peoples. Emphasizing rights, respect, cooperation, and partnership, this process helps applicant First Nations to expand their land base, ultimately fostering community and economic development.

The RMWB has previously provided municipal letters of support for ATRs for the Athabasca Chipewyan First Nation (ACFN) and the Fort McKay First Nation (FMFN).

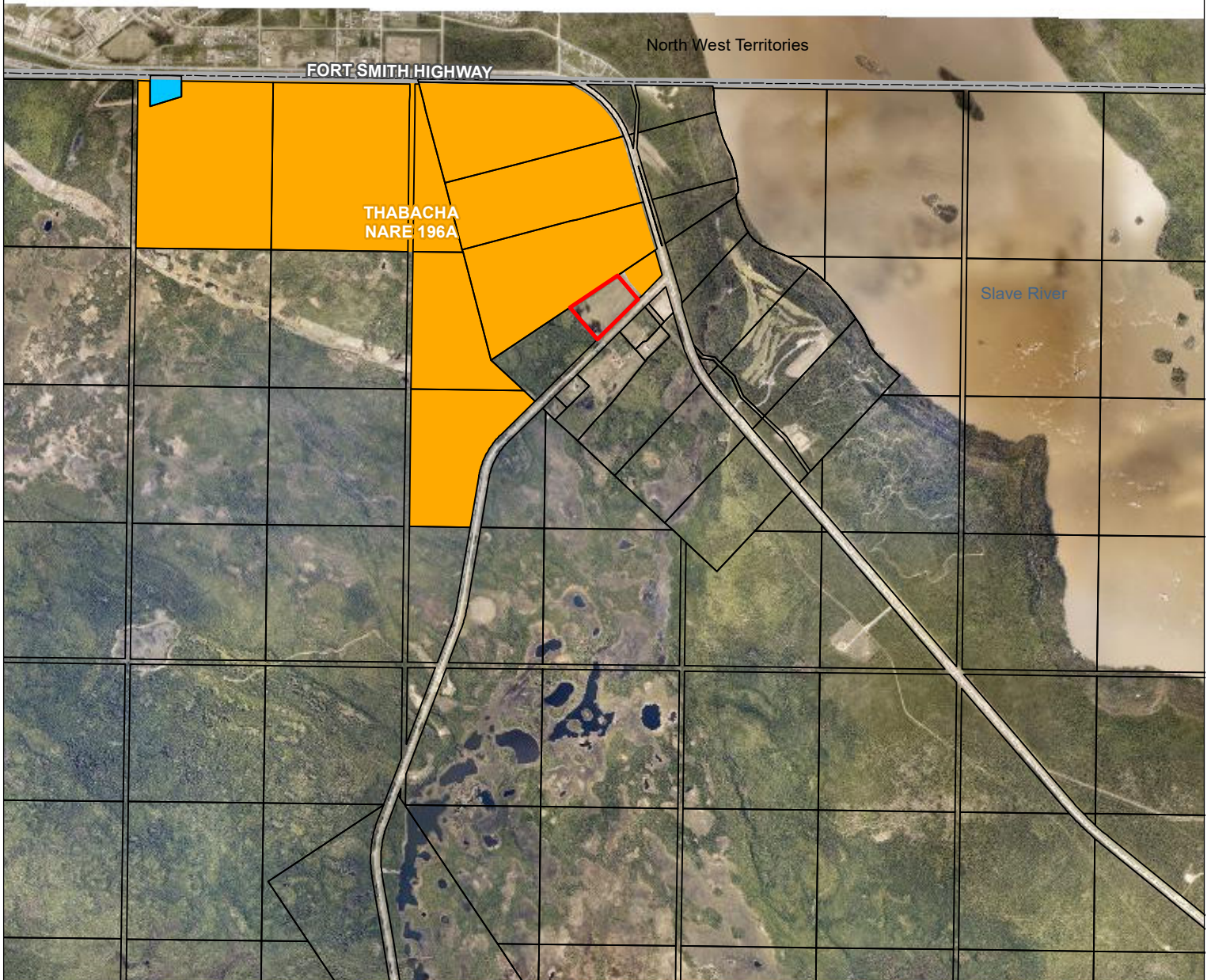
Attachment(s):

1. SLFN Proposed ATR Map
2. Certificate of Title – Plan 0223488, Block 2, Lot 4B
3. DRC – Land Titles Instrument 022 204 247
4. 2023-01-24 – ISC Letter of Notification to RMWB re SLFN ATR
5. 2023-03-31 – SLFN Letter to RMWB re ATR



SUBJECT AREA MAP

Lot 4B, Block 2, Plan 0223488 - Proposed Addition to Reserve



-  RMWB Lands
-  Survey Parcels
-  Proposed Addition to Reserve
-  First Nations Reserve
-  Municipal Boundary

N
1 cm = 350 m



Map Produced by the Geographic Information System Group on 04 Jan 2024
TICK103355



LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0029 344 851 0223488;2;4B 182 232 763

LEGAL DESCRIPTION

PLAN 0223488

BLOCK 2

LOT 4B

EXCEPTING THEREOUT ALL MINES AND MINERALS

AREA: 7.16 HECTARES (17.69 ACRES) MORE OR LESS

ESTATE: FEE SIMPLE

ATS REFERENCE: 4;11;126;4;SL

ATS REFERENCE: 4;11;126;3;SL

MUNICIPALITY: REGIONAL MUNICIPALITY OF WOOD BUFFALO

REFERENCE NUMBER: 152 293 478

REGISTERED OWNER(S)				
REGISTRATION	DATE (DMY)	DOCUMENT TYPE	VALUE	CONSIDERATION
182 232 763	19/09/2018	TRANSFER OF LAND	\$171,000	\$171,000

OWNERS

SLFN DEVELOPMENT CORP.

OF BOX 1470

FORT SMITH

NORTHWEST TERRITORIES X0E 0P0

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION NUMBER	DATE (D/M/Y)	PARTICULARS
022 204 247	07/06/2002	CAVEAT RE : DEFERRED RESERVE CAVEATOR - REGIONAL MUNICIPALITY OF WOOD BUFFALO. C/O PLANNING AND DEVELOPMENT 9909 FRANKLIN AVENUE FORT MCMURRAY ALBERTA T9H2K4

(CONTINUED)

REGISTRATION

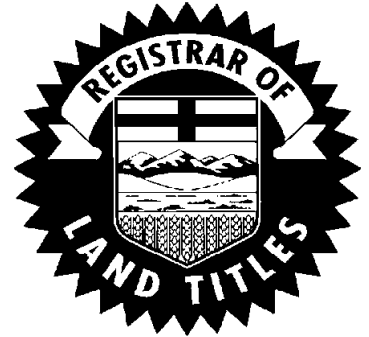
NUMBER DATE (D/M/Y) PARTICULARS

TOTAL INSTRUMENTS: 001

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 18 DAY OF
DECEMBER, 2023 AT 03:27 P.M.

ORDER NUMBER: 49173822

CUSTOMER FILE NUMBER: legal



END OF CERTIFICATE

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LAND TITLES OFFICE**

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ADVISORY

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DEFERRED RESERVE CAVEAT

TAKE NOTICE that the Regional Municipality of Wood Buffalo has an estate or interest in the nature of municipal reserve, school reserve or municipal and school reserve under section 669 of the Municipal Government Act by virtue of the Subdivision Approval Authority, Regional Municipality of Wood Buffalo dated the day of 2002 in 0.71 hectares of the land described as follows

LOT 4B, FORT SIMON SETTLEMENT, THEORETICAL SEC. 28, Twp. 126, Rge 11, Q. 4 Mer.

BLK 2 PLAN 022 3488


Legal Description

JOSEPH MURA,

standing in the register in the name(s) of GAIL STEED and the caveat forbids the registration of any person as transferee or owner of, or any instrument affecting, the said estate or interest, unless the instrument or certificate of title, as the case may be, is expressed to be subject to my claim.

I APPOINT Planning and Development, Regional Municipality of Wood Buffalo, 9909 Franklin Avenue, Fort McMurray, Alberta T9H 2K4 as the place to which notices and proceedings relating hereto may be served.

DATED this 28th day of MARCH, 2002.



Kevin Greig
Chief Legislative Officer

AFFIDAVIT OF CAVEATOR

Canada)	I, Kevin Greig
)	Chief Legislative Officer
Province of Alberta)	Regional Municipality of Wood Buffalo,
)	in the Province of Alberta,
To Wit:)	MAKE OATH AND SAY:

1. I am the agent of the within named Caveator.
2. I believe that the Caveator has a good and valid claim upon the said lands and I believe this Caveat is not being filed for the purpose of delaying or embarrassing any persons interested in or proposing to deal therewith.

SWORN before me at Fort McMurray, in)
 the Regional Municipality of Wood Buffalo)
 in the Province of Alberta,)
 this 28th day of March , 2002.)

Vanessa Hines
 A Commissioner for Oaths in
 and for the Province of Alberta

Kevin Greig
 Kevin Greig

VANESSA LYNN HINES
 My Commission expires April 28, 20 03



022204247

022204247 REGISTERED 2002 06 07

CAVE - CAVEAT

DOC 2 OF 2 DRR#: 828246C ADR/PJHUK

LINC/S: 0029344851



January 24, 2023

Mr. Sandy Bowman
Mayor
Regional Municipality of Wood Buffalo
9909 Franklin Avenue
Fort McMurray, Alberta T9H 2K4

Dear Mr. Bowman:

We are pleased to inform you that Indigenous Services Canada have received an Addition to Reserve proposal from Smith's Landing First Nation to add lands to Thabacha Náre I.R. 196A.

The 7.16 ha of land selected for Addition to Reserve are rural selections located in Regional Municipality of Wood Buffalo, and have been applied under the Community Addition category. The proposed use of the land is for the purpose of Residential (to accommodate community growth). A map of the lands being added are attached in Annex A, and the land description is as follows:

- Plan 0223488 Block 2 Lot 4B. The land is located within the Regional Municipality of Wood Buffalo and encompasses approximately 7.16 hectares/17.69 acres, more or less. The land(s) is approximately 3.5 kilometers from the town of Fort Smith, NT.

Additions to Reserve are an important way for all levels of government to advance reconciliation and renew their relationship with Indigenous Peoples through recognition of rights, respect, cooperation, and partnership. Expanding reserve land base is also an important mechanism by which First Nations can foster community and economic development.

As part of the Additions to Reserve process, local governments are provided the opportunity to provide feedback and comments to Canada. If your Government would like to provide any additional input on Smith's Landing First Nation's Addition to Reserve proposal please do so no later than a month from date of letter.

.../2



Indigenous Services
Canada

Services aux
Autochtones Canada

-2-

Should you have any questions or wish to receive further information, please contact Smith's Landing First Nation directly, or contact Elizabeth Lapp, Regional Program Development Advisor, Lands and Economic Development, by phone at (780) 862-4897, or by email at elizabeth.lapp@sac-isc.gc.ca.

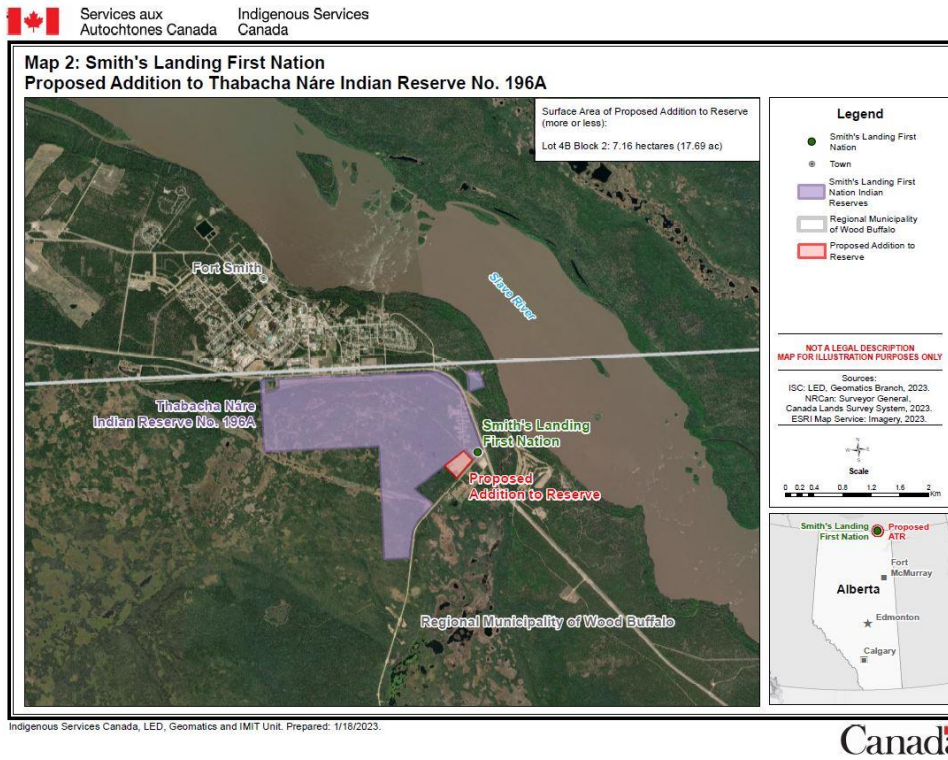
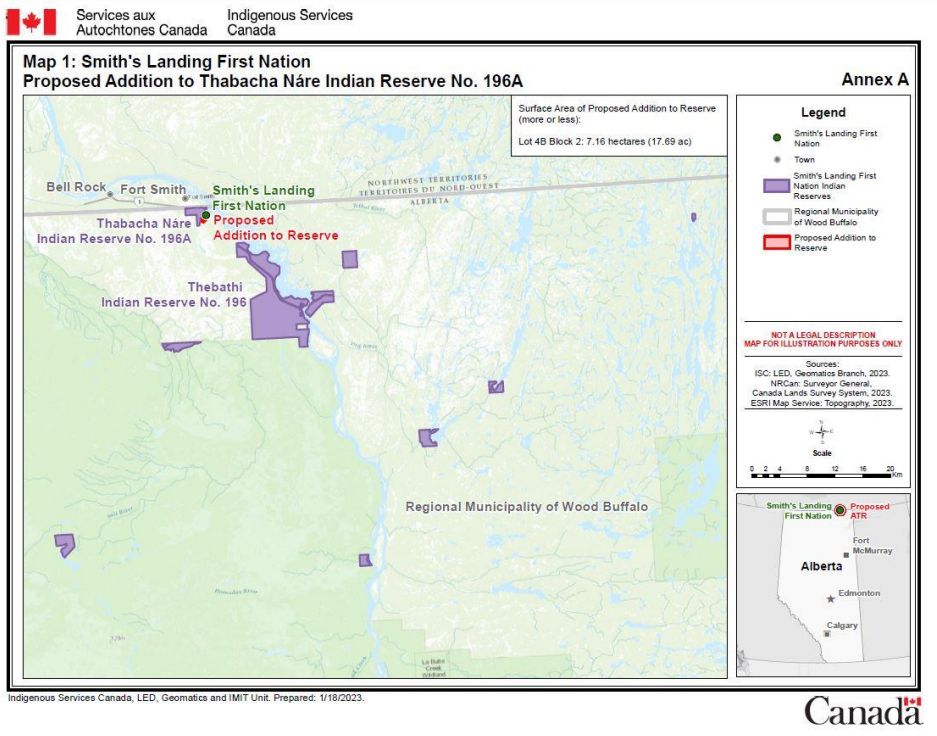
Sincerely,

Andrew Wujcik
Director, Lands and Economic Development Indigenous Services Canada
Regional Operations, Alberta Region 630 Canada Place, 9700 Jasper Avenue
EDMONTON AB T5J 4G2

c.c.: Chief and Council, Smith's Landing First Nation
Becky Kostka, Lands & Resources Manager

Encl. Annex A – Maps of Lands

Annex A – Map of Lands





Map 3: Smith's Landing First Nation Proposed Addition to Thabacha Nâre Indian Reserve No. 196A

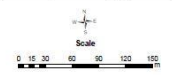


Legend

- Smith's Landing First Nation
- Smith's Landing First Nation Indian Reserves
- Proposed Addition to Reserve

**NOT A LEGAL DESCRIPTION
MAP FOR ILLUSTRATION PURPOSES ONLY**

Sources:
ISC: LED, Geomatics Branch, 2023.
NRCan: Surveyor General,
Canada Lands Survey System, 2023.
ESRI Map Service: Imagery, 2023.



Indigenous Services Canada, LED, Geomatics and IMIT Unit. Prepared: 1/18/2023.





Smith's Landing First Nation

P.O. Box 1470, Fort Smith, NT X0E 0P0
Phone: (867) 872-4950 • Fax: (867) 872-5154

March 31, 2023

VIA EMAIL: dennis.fraser@rmwb.ca

Regional Municipality of Wood Buffalo
9909 Franklin Avenue
Fort McMurray, Alberta T9H 2K4

Attention: Dennis Fraser, Director, Indigenous & Rural Relations

Dear Dennis Fraser:

**RE: Smith's Landing First Nation Addition to Reserve
Legal Description: Plan 0223488, Block 2, Lot 4B**

Further to my letter of June 4, 2021, I am writing to advise that Smith's Land First Nation's application to have the above noted parcel of land added to Thabacha Náre Indian Reserve No. 196A has been submitted to Indigenous Services Canada ("ISC") and we anticipate that a Letter of Support from ISC is forthcoming. Having reached this juncture, Smith's Landing First Nation would be appreciative if the Municipality would provide us with a letter of support for this project. We would be happy to discuss the matter further with you if you have any questions or concerns.

At this point we do not anticipate needing any services for the parcel in the near future and we currently obtain services for Thabacha Náre from the town of Fort Smith, given its proximity. Should this situation change in the future we may reach out to the Municipality about the possibility of a fee-for-service agreement.

We have noted that there is a Deferred Reserve Caveat registered on the Certificate of Title for the parcel (a copy of which is attached for your convenience). As the parcel will be converted to reserve land and added to Thabacha Náre, which is contiguous to the parcel, there will no longer be a need for a municipal or school reserve. As such, we respectfully request that the caveat be removed from Title.

We also note that taxes are currently levied on the parcel by the Municipality and paid by the owner in fee simple, the SLFN Development Corp. Given that the amount levied is nominal (\$686.60) and that no services are provided to the parcel, we would also like to discuss the termination of the levy once the land is added to Thabacha Náre.

Please do not hesitate to contact me if you would like to discuss any of the above in greater detail. On behalf of Smith's Landing First Nation, I thank you in advance for your anticipated cooperation in advancing this matter.

Yours truly,



Becky Kostka
Lands & Resources Manager

Encl.

CC: **Michael Ircandia**
Manager, Land Administration
Regional Municipality of Wood Buffalo
Michael.ircandia@rmwb.ca