



SUBJECT: Imperial Oil Pipeline – Crossing Agreement

TO: Environment, Infrastructure & Community Services Cttee.

FROM: Capital Works Department

Report Number: EICS-12-20

Wards Affected: 3 and 6

File Numbers: 825-02

Date to Committee: September 14, 2020

Date to Council: September 28, 2020

Recommendation:

Authorize staff to negotiate and the Mayor and Clerk to enter into a Crossing Agreement with Imperial Oil Limited, on behalf of the City of Burlington, and any necessary ancillary documents which set out the roles, responsibilities and obligations of the parties with respect to the Imperial Oil Limited, Waterdown to Finch Pipeline Project where it crosses City-owned rights-of-way and property, in a form satisfactory to the City Solicitor and with content satisfactory to the Interim Director of Capital Works and the Executive Director of Environment, Infrastructure & Community Services.

PURPOSE:

Vision to Focus Alignment:

- Support sustainable infrastructure and a resilient environment

Executive Summary:

Imperial Oil Limited (“Imperial Oil”) applied to the Ontario Energy Board (“OEB”) in Feb 2019 to construct 63 kilometres of 300mm diameter pipeline and associated infrastructure to transport refined oil products from its facility in the City of Hamilton, through the City of Burlington, to its facility in the City of Toronto (the “Leave to Construct Application”) in connection to its Waterdown to Finch Pipeline Project. Imperial Oil Limited received approval of this pipeline project from the OEB in March 2020.

The proposed pipeline will replace existing pipeline of the same size and its transportation capabilities of refined oil products (gasoline, diesel fuel and jet fuel) between Imperial Oil’s Waterdown Pump Station in the City of Hamilton to its Finch Terminal in North York in the City of Toronto.

Approximately 9 kilometres of the proposed project extends through the City of Burlington, more specifically, Wards 3 and 6. Staff from Capital Works, Fire Department, Transportation Services and Legal have discussed details of the project with Imperial Oil. The specific details of the project where it crosses City lands will be addressed in a Crossing Agreement (where the line crosses City’s rights-of-way), which will cover access and temporary storage of construction equipment, where required, and Municipal Consent Permit applications.

Approval of this Report will authorize the staff to negotiate the required Agreement with Imperial Oil, in a form satisfactory to the City Solicitor and with content satisfactory to the Interim Director of Capital Works and the Executive Director of Environment, Infrastructure & Community Services, which will govern the relationship of the parties as it relates to the crossing of Imperial Oil pipeline facilities with City-owned roadways and property. An Agreement will set out the roles and responsibilities of the parties, and help to ensure that issues such as liability, insurance and notice requirements are adequately addressed.

Background and Discussion:

On February 25, 2019, Imperial Oil submitted the Leave to Construct Application related to the Waterdown to Finch Project to the OEB, the Province’s energy regulator responsible for ensuring compliance with the Province’s environmental guidelines for the location, construction and operation of hydrocarbon pipelines and facilities in Ontario. **Imperial Oil Limited received approval of this pipeline project from the OEB in March 2020.**

The proposed project will replace a 63 kilometre segment of the Sarnia Products Pipeline between Waterdown and North York. This pipeline provides refined products

used by businesses and households across the Greater Toronto and Hamilton Area, including a significant portion of jet fuel at Toronto Pearson International Airport.

Subject to Provincial regulatory review and receipt of all permits, Imperial Oil plans to start construction on the replacement project in October 2020. Approximately 9 kilometres of the proposed pipeline extends through the City of Burlington, more specifically, in the rural areas of Wards 3 and 6. See maps in Appendix “A” identifying the proposed alignment from Hamilton to Toronto, as well as the alignment in the City of Burlington.

Imperial Oil stated that the Waterdown to Finch segment of the Sarnia Products Pipeline (SPPL) has been operating safely for more than 60 years. The replacement of this segment is a proactive replacement as part of the ongoing integrity management program of the SPPL. In addition to ensuring continued safe and reliable pipeline operations, installation of the new pipeline includes benefits such as improved product availability for customers and reduced supply disruptions due to integrity and maintenance activities, as well as increased pipeline depth in sensitive areas. Imperial Oil stated that construction of the Project will contribute to the local and regional economy.

Imperial Oil has provided information about the proposed project and its regulatory review. An Open House was held in Burlington on November 6, 2018 at Brant Hills Community Centre. Residents, agencies and City staff attended.

Regulatory Approvals Required

In addition to entering into a Crossing Agreement with the City of Burlington, Imperial Oil requires regulatory approval, consents, permits or project approvals from the following parties:

Federal

- Environment and Climate Change Canada
- Fisheries and Oceans Canada
- Transport Canada

Provincial

- Infrastructure Ontario
- Niagara Escarpment Commission
- Ontario Energy Board, and the Ontario Pipeline Coordinating Committee
- Ontario Ministry of Agriculture, Food and Rural Affairs
- Ontario Ministry of the Environment, Conservation and Parks
- Ontario Ministry of Indigenous Affairs
- Ontario Ministry of Natural Resources and Forestry

- Ontario Ministry of Tourism, Culture and Sport
- Ontario Ministry of Transportation

Conservation Authorities

- Conservation Halton
- Credit Valley Conservation Authority
- Hamilton Conservation Authority
- Toronto and Region Conservation Authority

Municipalities/Regions

- City of Burlington
- City of Hamilton
- City of Mississauga
- City of Toronto
- Region of Halton
- Region of Peel
- Town of Milton
- Town of Oakville

Other

Technical Standards and Safety Authority (TSSA)

The OEB issued their approval to Imperial Oil Limited for “Leave to Construct Waterdown to Finch Project”, through their “Decision and Order EB-2019-0007, dated March 12, 2020”.

In accordance with OEB requirements, the Waterdown to Finch Project application and submissions related to the Leave to Construct Application and the Environmental Report are available for download from Imperial Oil’s project website at www.imperialoil.ca/waterdowntofinch , as well as on the OEB’s regulatory applications page at www.oeb.ca/industry/applicationsoeb.

Strategy/process

Imperial Oil Limited representatives engaged with Burlington residents and City staff through their Open House as well as individual meetings. City staff from Capital Works, Fire Department had follow-up meetings to discuss the proposed project. Staff determined that the City’s concerns were being adequately addressed by Imperial Oil and that a Crossing Agreement and Municipal Consent Permits would be appropriate methods to formalize all necessary details.

The Crossing Agreement will generally include the following:

- City consent to locate the pipeline on City-owned property
- Permits required from the City of Burlington
- Required conditions of work
- Restoration of work areas
- Cessation of work, if necessary
- Work to be in Conformity with all Applicable Laws and City By-laws
- Future work on pipeline
- Liability, Indemnification and Insurance
- Termination clauses

In addition, Imperial Oil has confirmed that it will develop several Environmental Protection Plans (EPPs) and several management and contingency plans prior to construction start. Imperial Oil stated that the EPP will be used as a guide for environmental management during construction of the Project and will be based on mitigation measures identified in the Environmental Report (ER). The EPP will include a number of specific Environmental Management Plans (EMPs) related to Project schedules, permit approval terms and conditions. The EPPs and EMPs will address issues and concerns raised by the OPCC members and by other consulted stakeholders.

Imperial Oil has stated that the EPPs and EMPs will be completed a minimum of 30 days prior to the start of construction and will be updated as needed throughout construction to reflect conditions of permits and approvals.

Imperial Oil also stated that it would develop Contingency Plans to prepare its response to unexpected and unplanned events during construction that may impact the environment.

OEB staff noted that Imperial Oil has adhered to the requirements of the OEB Environmental Guidelines. Imperial Oil has been communicating with the affected stakeholders and that it has been committed to ongoing communication and cooperation with affected entities and permitting authorities.

Options Considered

Not applicable.

Financial Matters:

Due to the complexity and time sensitive nature of the matter, Legal staff have retained external counsel to finalize the required Crossing Agreement. Legal Services staff will maintain active involvement in the matter.

Total Financial Impact

The estimated fee for external counsel and staff time is \$15,000-25,000.

Source of Funding

External Counsel fees will be funded through the Legal Department's external services budget. Staff will take steps to negotiate the repayment of the external legal fees and staff costs required for this matter from Imperial Oil through the Crossing Agreement.

Other Resource Impacts

Fees for Municipal Consent permits will be collected in the estimated amount of \$3,000.

Climate Implications

Imperial Oil noted that other possible options to replace the transportation capacity of the pipeline, such as truck transportation, are not suitable alternatives, as it would require 400 tanker trucks per day to provide transport of the equivalent volume of fuel. This would be a significant increase in emissions and climate impact.

Engagement Matters:

Starting in the Spring of 2018, Imperial engaged with landowners regarding access to easements on their property. Concurrently, they also engaged with Indigenous groups to understand interests and opportunities to further collaborate.

Open Houses were held in Burlington on July 24, 2018 at Haber Community Centre and on November 6, 2018 at Brant Hills Community Centre. Residents, agencies and City staff from Capital Works, Fire and Transportation attended.

City staff have been engaged with Imperial Oil Limited staff since the Fall of 2018. Staff are satisfied with the process followed by Imperial Oil and the intention to enter into a

Crossing Agreement and to acquire Municipal Consent permits to proceed with construction of the pipeline.

Currently, Capital Works, Transportation and Fire Department staff have been coordinating the review of documents being submitted by Imperial Oil, for the purposes of Municipal Consent permitting and finalizing the Crossing Agreement.

Conclusion:

The proposed Crossing Agreement between the City and Imperial Oil will finalize the required details, set out the roles, responsibilities and obligations of the parties, including future maintenance, with respect to the Imperial Oil Limited Waterdown to Finch Pipeline Project where it crosses City-owned rights-of-way and property.

If authorized, Capital Works with the assistance of the Legal Department and external counsel, will negotiate and finalize the Crossing Agreement with Imperial Oil Limited for the Mayor and Clerk to execute.

Respectfully submitted,

Cary Clark, P.Eng.

Manager of Development & Stormwater Engineering

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Appendices:

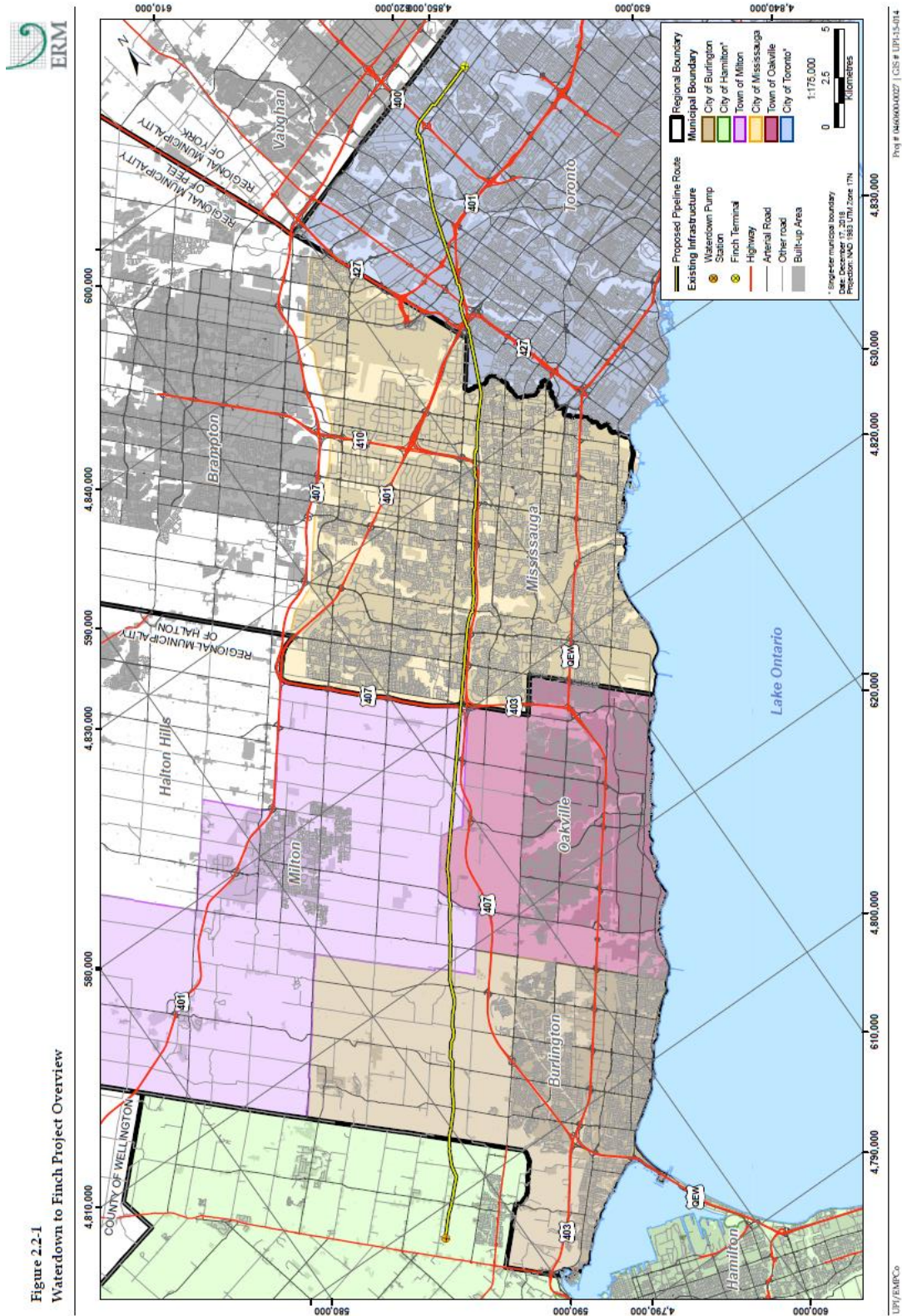
A. Proposed Pipeline Alignment

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Council.

APPENDIX A

Proposed Pipeline Alignment – Hamilton to Toronto



Proposed Pipeline Alignment in the City of Burlington

