

From: Richard Holborn
Director, Engineering Services

Subject: Boundary Road Agreement
- Township of Uxbridge
- File: A-1440

Recommendation:

1. That the City of Pickering enter into a new Boundary Road Agreement with the Township of Uxbridge for the period July 1, 2020 to June 30, 2030;
 2. That the Mayor and City Clerk are hereby authorized to execute the Boundary Road Agreement between the City of Pickering and the Township of Uxbridge in substantially the same form as attached to this report, and satisfactory to the City Solicitor;
 3. That a by-law authorizing the execution of a Boundary Road Agreement between The Corporation of the City of Pickering and The Corporation of the Township of Uxbridge as attached to this report be enacted;
 4. That a copy of Report ENG 09-20 and relevant Council resolution be forwarded to the Township of Uxbridge; and,
 5. That the appropriate officials of the City of Pickering be authorized to take the necessary actions as indicated in this report.
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Executive Summary: There are provisions within *The Municipal Act 2001*, as amended, that allow municipalities to enact by-laws with respect to highways under its jurisdiction. The Uxbridge-Pickering Townline Road forms a boundary between the City of Pickering and the Township of Uxbridge. Municipalities on either side of a boundary line have joint jurisdiction over any highway forming a boundary line. As such, both Pickering and Uxbridge have joint jurisdiction over the Uxbridge-Pickering Townline Road. *The Municipal Act 2001*, as amended, allows municipalities to enter into agreements which establish responsibilities related to maintenance and repair of boundary roads.

The previous Boundary Road Agreement between Pickering and Uxbridge has expired and needs to be renewed. The proposed Boundary Road Agreement appears as Attachment #1 to this report. It is recommended that this Boundary Road Agreement be executed for the period July 1, 2020 to June 30, 2030.

Financial Implications: No financial implications are expected beyond those provided for annually in road maintenance, repair, and reconstruction budgets. Each municipality will budget for, and be responsible for maintenance, repair, and reconstruction costs related to the sections of the Uxbridge-Pickering Townline Road that they are responsible to repair and maintain as indicated in the Boundary Road Agreement.

Discussion: Section 11 of *The Municipal Act 2001*, as amended, allows lower tier municipalities to enact by-laws respecting public assets of the municipality, such as highways under its jurisdiction. The Uxbridge-Pickering Townline Road is a highway that forms a boundary between the City of Pickering and the Township of Uxbridge. Section 29(1) of *The Municipal Act 2001*, as amended, states that municipalities on either side of a boundary line have joint jurisdiction over any highway forming a boundary line. As such, both Pickering and Uxbridge have joint jurisdiction over the Uxbridge-Pickering Townline Road.

The Municipal Act 2001, as amended, allows municipalities to enter into agreements which establish responsibilities related to maintenance and repair of boundary roads. This is best accomplished in the form of a Boundary Road Agreement such as the one proposed in this report. As a by-law is required to enter into a Boundary Road Agreement, and the highway in question forming the basis of the Boundary Road Agreement is under joint jurisdiction, Section 27(2) of *The Municipal Act 2001*, as amended, states that a by-law must be passed by both municipalities. The Township of Uxbridge is currently going through a similar process to enact a by-law to enter into the same Boundary Road Agreement.

The previous Boundary Road Agreement between Pickering and Uxbridge was a ten year agreement in effect between January 2, 1989 and January 1, 1999 and has since expired and needs to be renewed. During the period when the Boundary Road Agreement was not in effect, both municipalities mutually agreed to operate under the same terms of the expired agreement.

In both the previous and proposed Boundary Road Agreements, each municipality were responsible for the operations, maintenance, repair and reconstruction of designated sections of Uxbridge-Pickering Townline Road.

The City of Pickering is responsible for the following sections:

- From the York-Durham Townline Road to Concession 3 Road (Uxbridge) – approximately 3.94 km
- East of Sideline 4 – approximately 0.32 km
- West of Lake Ridge Road – approximately 0.96 km
- East of Westney Road (privately maintained) – approximately 1.4 km

The Township of Uxbridge is responsible for the following section:

- From Concession 3 Road (Uxbridge) to Westney Road – approximately 6.23 km

Subject: Boundary Road Agreement
Township of Uxbridge

The section that is east of Westney Road is referred to as the "Control Road" in the Boundary Road Agreement is privately maintained subject to terms of Minutes of Settlement dated August 19, 2002 and an Ontario Municipal Board Order dated February 3, 2004 related to a Land Division application and decision for a property in the City of Pickering. As such, it is recommended that the City of Pickering have responsibility for this section of road.

The proposed Boundary Road Agreement appears as Attachment #1 to this report. It is recommended that this Boundary Road Agreement be executed for the period July 1, 2020 to June 30, 2030.

Attachments:

1. Boundary Road Agreement
2. Proposed By-Law

Prepared By:



Richard Holborn, P.Eng.
Director, Engineering Services



Robert Burlie, P.Eng.
Manager, Public Works

Approved/Endorsed By:



Richard Holborn, P.Eng.
Director, Engineering Services



Brian Duffield
(Acting) Director, Community Services

RH:mjh

Recommended for the consideration
of Pickering City Council



Marisa Carpino, M.A.
Interim Chief Administrative Officer

THIS AGREEMENT made July 1, 2020

B E T W E E N :

THE CORPORATION OF THE CITY OF PICKERING

herein called "Pickering"

OF THE FIRST PART,

- and -

THE CORPORATION OF THE TOWNSHIP OF UXBRIDGE

herein called "Uxbridge"

OF THE SECOND PART.

WHEREAS, Sections 27 - 29 of the *Municipal Act*, R.S.O. 2001, Chapter 25, provides that the corporations of the adjoining municipalities may enter into agreements for the maintenance and repair of any highway forming the boundary between such municipalities;

WHEREAS, Pickering and Uxbridge are adjoining municipalities and may register the said agreements in the proper registry office for the area in which the highway is located and certain portions of highways form part of the boundary between Pickering and Uxbridge;

WHEREAS, By this Agreement, Pickering and Uxbridge wish to make provisions for all matters relating to the maintenance, repair and construction, and other activities, consents and permits of certain parts of the roads forming the boundary between Pickering and Uxbridge; and

NOW THEREFORE in consideration of the mutual terms, conditions and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which by each of the Municipalities is hereby acknowledged, the Municipalities hereto agree as follows:

1. DEFINITIONS

- 1.01 "Agreement" means this agreement, including its recitals and Schedules A and B which form an integral part of it as amended from time to time.
- 1.02 "Pickering" means The Corporation of the City of Pickering.
- 1.03 "Pickering Roads" means:
 - (1) That part of the road allowance between the City of Pickering and the Township of Uxbridge adjacent to Lots 26 to 35, both inclusive, Concession 9, Pickering, as shown in Schedule A; and
 - (2) The west 320 metres of that part of the road allowance between the City of Pickering and the Township of Uxbridge adjacent to Lot 4, Concession 9 Pickering; as shown in Schedule A; and
 - (3) The east 960 metres of that part of the road allowance between the City of Pickering and the Township of Uxbridge adjacent to Lots 1 to 3, Concession 9, Pickering, as shown in Schedule A, and
 - (4) The west 1,400 metres of that part of the road allowance between the City of Pickering and the Township of Uxbridge adjacent to Lots 9 and 10 and part of Lot 8 Concession 9, Pickering, as shown in Schedule A and which, for the purposes of this Agreement shall be known as the "Control Road".
- 1.04 "Uxbridge" means The Corporation of the Township of Uxbridge
- 1.05 "Uxbridge Roads" means that part of the road allowance between the City of Pickering and the Township of Uxbridge adjacent to Lots 11 to 25, both inclusive, Concession 9, Pickering, as shown in Schedule B.
- 1.06 "Municipality" means either Pickering or Uxbridge, as the case may be.

- 1.07 "Maintain and Repair" means activities relating to the normal maintenance and repair of municipal highways in accordance with, and to a standard which meets or exceeds provincially enacted Minimum Municipal Maintenance Standards effective during the term of this agreement, and that service required to provide safe vehicular and pedestrian passage including the provision of normal seasonal maintenance and winter control.
- 1.08 "Control Road" means the road referenced to in Section 1.03 (4), the maintenance, repair and construction for which is subject to terms of Minutes of Settlement dated August 19, 2002, and to the terms of the Ontario Municipal Board Order dated February 3, 2004.
- 1.09 "Construction" includes activities beyond normal maintenance and repair as described in Section 1.07 including but not limited to road reconstruction, major infrastructure repairs or replacement, asphalt patching or resurfacing in excess of normal maintenance and repair.
- 1.10 This Agreement shall be interpreted according to the laws of the Province of Ontario.

2 TERM, NOTICE AND REGISTRATION

- 2.01 The term of the Agreement shall expire on June 30, 2030 unless this Agreement is earlier terminated pursuant to this Section.
- 2.02 Either Municipality may terminate this Agreement, upon giving written notice of at least twelve (12) months to the Clerk of the other Municipality.
- 2.03 Receipt of notice shall be deemed to be the earlier of the date of delivery or five (5) days following the date of mailing. Either Municipality may change its designated person or address for notice by giving notice of such change to the other.
- 2.04 The parties agree that this Agreement may be registered in the Land Registry Office of Durham.

3 MAINTENANCE AND REPAIR

- 3.01 Pickering covenants and agrees that it shall,
 - (1) maintain and repair the part of the road allowance located in Uxbridge and described in Section 1.03 (1), (2) and (3) herein; and
 - (2) indemnify and save harmless Uxbridge from and against any claims arising from, or in any way related to, any alleged failure by Pickering to maintain and repair Pickering Roads.
- 3.02 Uxbridge covenants and agrees that it shall,
 - (1) maintain and repair the part of the road allowance located in Pickering and described in Section 1.05 herein: and
 - (2) indemnify and save harmless Pickering from and against any claims arising from, or in any way related to, any alleged failure by Uxbridge to maintain and repair Uxbridge Roads.
- 3.03 The parties covenant and agree that the Municipality having responsibility according to Section 3.01 or Section 3.02, or its agents, shall be responsible for road patrol and calling in and directing the employees and/or contractors for the roads which are their responsibility.
- 3.04 Each Municipality shall supply, install and maintain regulatory signage for the Sections of road for which they are responsible as set out in Sections 1.03 and 1.05.
- 3.05 Other activities, consents and permits related to the road allowance such as spills abatement, temporary closures, streetlight maintenance, line painting and pavement marking, traffic studies, regulating speed limits, issuing municipal

consents for utilities, issuing road occupancy permits, and issuing access permits, shall be the responsibility of the Municipality having maintenance and repair responsibility for the road as set in Sections 1.03 and 1.05.

4 CONSTRUCTION

4.01 If either Municipality determines it is necessary to perform any of the works set out in Section 1.09 herein either on, in or over the portion of roads for which that Municipality has the obligation to Maintain and Repair, then the Municipality that is required to perform such works shall be responsible for 100% of all construction costs.

5 COST-SHARING PROVISIONS

5.01 Each Municipality acknowledges and agrees:

(1) that it will be solely responsible for the cost to perform any of the works set out in Section 1.07 and Section 1.09 herein on the portions of roads for which each municipality has the sole obligation to maintain and repair pursuant to this Agreement.

5.02 Any works by either municipality undertaken pursuant to Section 1.09 on the full width of the Control Road shall be subject to approval of both Uxbridge and Pickering Council;

5.03 Any and all cost sharing provisions for works under Section 5.02 shall be subject to approval of both Uxbridge and Pickering Council.

6 GENERAL PROVISIONS

6.01 Notwithstanding anything in this Agreement, neither Municipality shall be in default with respect to the performance of any of the terms of this Agreement if any non-performance is due to any force majeure, strike, lock-out, labour dispute, civil commotion, war or similar event, invasion, the exercise of military power, act of God, governments regulations or control, inability to obtain any material or service, or any cause beyond the reasonable control of the Municipality (unless such lack of control results from a deficiency in financial resources). Otherwise, time shall be of the essence for this Agreement and all the obligations contained herein.

6.02 The rights and liabilities of the Municipalities shall enure to the benefit of and be binding upon the Municipalities and their respective successors and approved assigns.

6.03 This Agreement, contains the entire Agreement between the Municipalities. There is no covenant, promise, agreement, condition precedent or subsequent, warranty or representation or understanding, whether oral or written, other than as set out herein. This Agreement fully replaces and supersedes any agreement or other contractual arrangement between the Municipalities related to the subject matter save and except any outstanding contractual agreement or arrangement relating to any outstanding financial obligations between the Municipalities related to this.

6.04 If any article, Section, subsection, paragraph, clause or subclause or any of the words contained in this Agreement shall be held wholly or partially illegal, invalid or unenforceable by any court or competent jurisdiction, the Municipalities agree that the remainder of this Agreement shall not be affected by the judicial holding, but shall remain in full force and effect. The provisions of this Agreement shall have effect, notwithstanding any statute to the contrary.

IN WITNESS WHEREOF Pickering and Uxbridge have hereunto affixed their respective corporate seals attested to by the hands of their proper authorized officers.

SIGNED, SEALED & DELIVERED

THE CORPORATION OF THE CITY OF PICKERING

Dave Ryan, Mayor

Susan Cassel, City Clerk

THE CORPORATION OF THE TOWNSHIP OF
UXBRIDGE

Dave Barton, Mayor

Debbie Leroux, Clerk

Township of Uxbridge

Concession 2 Road

Concession 3 Road

Uxbridge Pickering Townline Road

275

695

Schedule A
Pickering Maintained
Surface Treatment
Length - 3,940 m (approx.)

Sideline 30

Sideline 28

Sideline 26

Sideline 32

Sideline 34

Ninth Concession Road

Trans-Canada Pipeline

York Durham Line

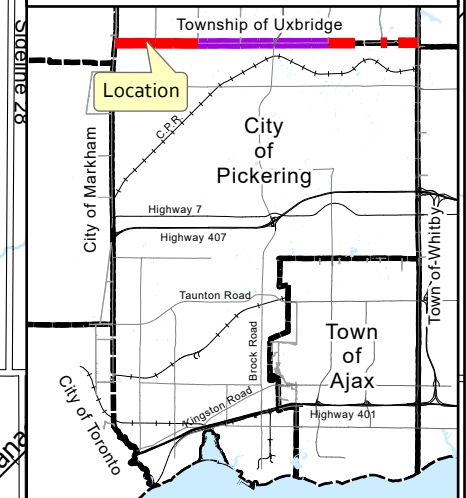
Sideline 34

Sideline 32

Eighth Concession Road

Sideline 30

Key Map



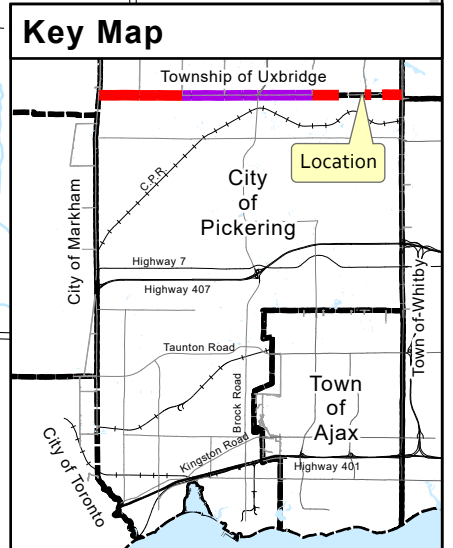
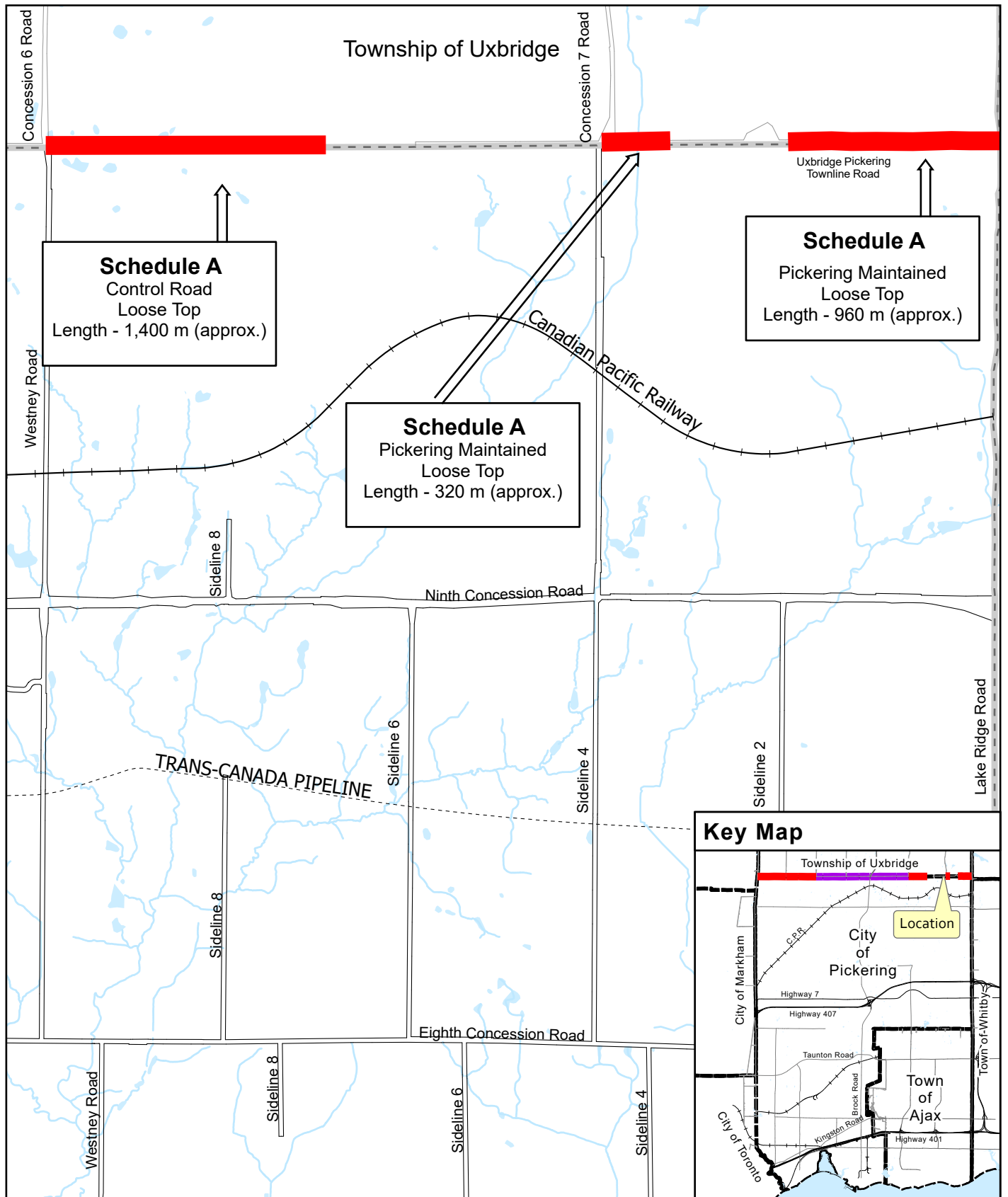
Engineering Services
Department

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4/17/2020

Uxbridge - Pickering
Boundary Road Maintenance Agreement

City of
PICKERING



Engineering Services
Department

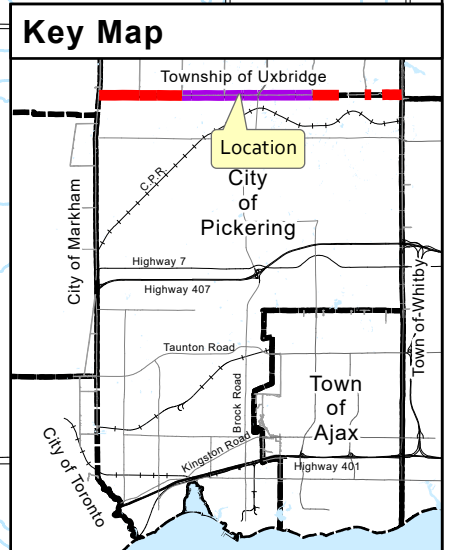
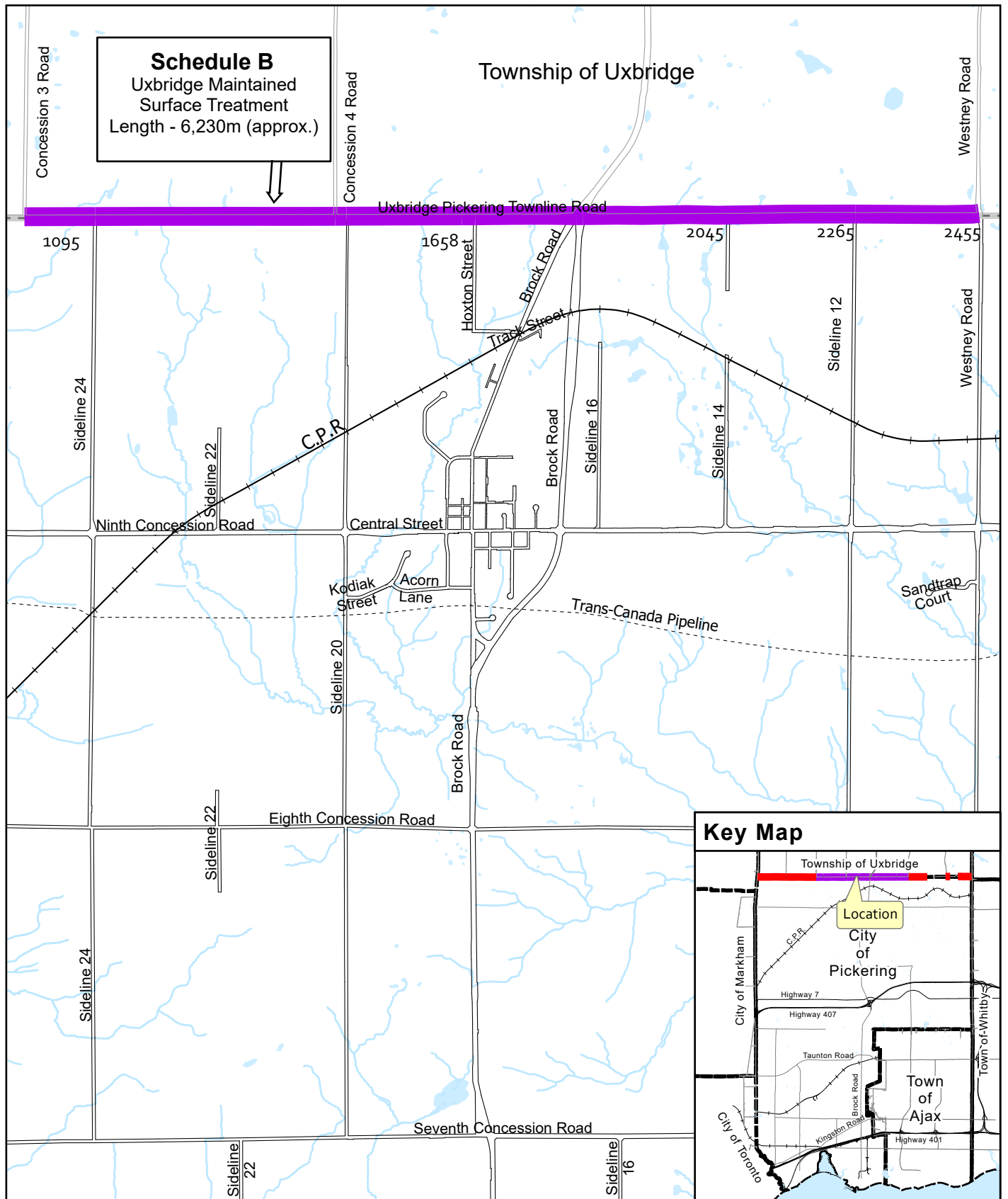
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4/17/2020

Uxbridge - Pickering

Boundary Road Maintenance Agreement

City of
PICKERING



Engineering Services
Department

1:35,000 4/17/2020

Uxbridge - Pickering

Boundary Road Maintenance Agreement



The Corporation of the City of Pickering

By-law No. /20

Being a by-law to authorize the execution of a Boundary Road Agreement between the Corporation of the City of Pickering and the Corporation of the Township of Uxbridge (July 1, 2020 to June 30, 2030).

Whereas pursuant to Sections 27-29 of the Municipal Act, R.S.O. 2001, Chapter 25, the corporations of adjoining municipalities may enter into an Agreement for the maintenance and repair of any highway forming the boundary between such municipalities;

Now therefore the Council of The Corporation of the City of Pickering hereby enacts as follows:

1. The Mayor and Clerk are hereby authorized to execute a Boundary Road Agreement between the Corporation of the City of Pickering and the Corporation of the Township of Uxbridge for the period July 1, 2020 to June 30, 2030.

By-law passed this 28th day of September, 2020.

David Ryan, Mayor

Susan Cassel, City Clerk