

## **BIDDER REGISTRATION PACKAGE**

- [Request for Access \(RFA\) Form](#)
- [Terms and Conditions](#)
- [Confidentiality Agreement](#)

**Please enter applicable information in all yellow shaded areas and return completed package to [Reilly.Hayhurst@cushwake.com](mailto:Reilly.Hayhurst@cushwake.com)**

Once access to the Auction site is approved, you will receive an e-mail from [support@gep.com](mailto:support@gep.com) with the information required to access the Auction SMART portal. Please look for that email and make sure to check your Spam folder if you cannot find it in your inbox.

- Auction Site will be open for preview September 21, 2020
- East Auction will last 5 days (Oct 19 – Oct 23, 2020)
- West Auction will last 5 days (Oct 26 – Oct 30, 2020)
- On the final day, every submission placed within the last 2 minutes of the auction will add 5 minutes to the time clock until no further active bids are being placed.
- There will be a bid increment rule for each of the Lots (every time you would like to improve the best offer you will have to do it by at least the minimal incremental amount)
- Bidders will see if they are in 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, etc. place and the current highest bid for each of the Lots. Bidders will not see any other Bidder names or any other Bidder details.

**REQUEST FOR ACCESS (RFA) FORM**

ALL CAPITALIZED TERMS USED HEREIN SHALL HAVE THE MEANING ASCRIBED TO THEM IN THE TERMS AND CONDITIONS INCLUDED BELOW

**1. Bidder Information**

Please fill out the following form and name one person to be the contact:

Full legal name of Bidder:	
Any other relevant name under which the Bidder carries on business:	
Street address:	
City, Province/State:	
Postal/Zip code:	
Phone number:	
Company website (if available):	
Contact person & title:	
Contact phone number:	
Contact email:	

**2. Acknowledgement of the RFA and Auction Process**

The Bidder acknowledges that the Auction process will be governed by the terms and conditions included below.

**3. Auction Documentation and Addendum**

The Bidder is deemed to have read and accepted any and all addenda issued by the Company. The onus remains on Bidders to make any necessary amendments to their bid submissions based on the documentation provided on the Auction Site and any addendum.

BIDDER:

(Signature)

BY:

(Type Name)

TITLE:

**4. Exception to Offer to Purchase (OTP)**

As per Clause C.1.b of the following Terms and Conditions, should a Bidder take exception to the proposed OTP, these exceptions must be documented and uploaded with its RFA form, along with the rationale or commercial impact for each exception. If Bidder has no exceptions, please state "No exceptions". If the Bidder does not provide exceptions and "no exceptions" is not stated by the Bidder, the Bidder will be deemed as having no exceptions to the OTP.

Exceptions to OTP	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If Yes, please provide further detail		

**NOTE**

**If Bidder is a corporation**, enter province of incorporation or indicate "Canada" if federally incorporated; if a partnership or joint venture, give full name of all partners or joint ventures who shall be jointly and severally liable.

Incorporated under the laws of

\_\_\_\_\_  
Province/Canada

Bidders Business Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone No.: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Dated: \_\_\_\_\_

## TERMS AND CONDITIONS

### A. INTRODUCTION

1. The Request for Access form ("RFA") is an invitation by Imperial Oil Limited (the "Company") to prospective bidders ("Bidders") to submit bids for the sale of various vacant lots (each a "Lot").
2. The Company, in conjunction with the Company's Broker, Cushman & Wakefield ("Company's Broker") offer the Lots set forth within this brochure for sale by auction.
3. The final selected bidders (each a "Purchaser") will be deemed to have entered into a binding agreement with the Company for the purchase of a Lot and the Purchaser shall proceed to execute the formal written agreement. The agreement will consist of the Offer to Purchase and its schedules ("OTP").
4. The OTP, which specifies the basis for the purchase of the Lots, consists of the following:

#### ALL PROVINCES (EXCEPT QUEBEC)

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*	Term Sheet	
*	Offer to Purchase	
*	Schedule "A"	- Real Property (Schedule, Legal Description and Real Property Report, if applicable)
	Schedule "B"	- Definitions
	Schedule "C"	- Dominant Lands
	Schedule "D"	- Permitted Encumbrances
	Schedule "E"	- Site Conditions
	Schedule "F"	- Provisions Applicable to Specific Jurisdictions
	Schedule "G"	- Purchaser's Revisions and Conditions
	Schedule "H"	- Vendor's Revisions and Conditions
	Schedule "I"	- Purchaser's Certificate and Undertaking
	Schedule "J"	- Indemnity and Release Agreement

#### QUEBEC

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*	Offer to Purchase	
*	Schedule "A"	- Definitions
	Schedule "B"	- Environmental Due Diligence Work

5. Information contained in this Auction Brochure, in conjunction with the online information on the Auction Site, shall be the basis for and nothing shall be deemed to change or supplement this basis except for revisions to the above documents issued by the Company as addenda.
6. By submitting a bid, Bidder acknowledges reading in its entirety the OTP as provided within the auction website and agrees to be bound by the terms and conditions therein. The Bidder further acknowledges that it has understood the terms and conditions contained within the OTP and acknowledges that it has had the opportunity to obtain independent legal advice prior to signing; no one on behalf of the Company or Company's Broker, has or will offer legal advice to Bidders.

### B. TIMETABLE AND SUBMISSION INSTRUCTIONS

Bidders should submit their bids according to the following timetable and instructions.

1.	RFA Submissions	Sep 21 – Oct 13, 2020
	Modification Deadline	Oct 13, 2020 5.00 p.m.
	Deadline for Questions	Oct 16, 2020 5.00 p.m.
	East Canada Auction Start	Oct 19, 2020 11.00 a.m.
	East Canada Auction Close	Oct 23, 2020 11.00 a.m.
	East Canada Bid Withdrawal Deadline	Oct 21, 2020 5.00 p.m.
	West Canada Auction Start	Oct 26, 2020 11.00 a.m.
	West Canada Auction Close	Oct 30, 2020 11.00 a.m.
	West Canada Bid Withdrawal Deadline	Oct 29, 2020 5.00 p.m.

#### **All times are Eastern Standard Times**

(the timetable above is tentative only and may be changed at any time)

2. Bids Submitted Only in prescribed manner and Bids should be submitted via the Company Auction Site. The Company is not obligated to consider any bid that is not submitted in the prescribed manner. All non-prescribed manner bids will be treated as non-compliant and discarded.

3. Submission Issues – In order to avoid submission issues that may be related to network or some other type of problem, we recommend that you complete the bid submission at least 24 hours prior to the Auction Close. This will provide sufficient time to recover and re-submit your bid if necessary.

4. Withdrawing Bids - At any time throughout the Auction process until the Bid Withdrawal Deadline, a Bidder may withdraw a submitted bid. To effect a withdrawal, a notice of withdrawal must be sent to the online Q&A Board on the Auction Site system and must be signed by an authorized representative. If a notice of withdrawal is received after the Bid Withdrawal Deadline it will not be effective and the bid will remain valid. The Company is under no obligation to return any documentation included with withdrawn proposals.

### **C. STAGES OF RFA EVALUATION**

1. Stage I will consist of a review to determine which RFAs comply with all the mandatory requirements. RFAs failing to satisfy the mandatory requirements as of the RFA Submission Deadline will be provided notice of same in writing and an opportunity to rectify any deficiencies RFAs failing to satisfy the mandatory requirements as of the Modification Deadline will be excluded from further consideration.

a. Proposal Form – Each RFA must be signed by the Bidder or an authorized representative of the Bidder. The RFA has been prepared to facilitate submission of the Bidder’s request for access. Any attachments referenced in the RFA must be filled in or added by the Bidder or their representative. The RFA must be completed and returned to the Company’s Broker as per the form. Any Proposal Forms returned unsigned will not be accepted.

b. Exceptions to the OTP – Should a Bidder take exception to the proposed OTP, these exceptions must be documented and uploaded with its RFA form, along with the rationale or commercial impact for each exception. If Bidder has no exceptions, please state “No exceptions”. If the Bidder does not provide exceptions and “no exceptions” is not stated by the Bidder, the Bidder will be deemed as having no exceptions to the OTP.

c. Modification Deadline – RFAs satisfying the mandatory requirements on or before the Modification Date will proceed to Stage II. RFAs failing to satisfy the mandatory requirements will be excluded from further consideration.

2. Stage II will consist of an evaluation of RFAs based on the Company’s assessment of the completed RFA. Bidders should be aware that the Company may take into account whether the Bidder took exception to Company’s proposed OTP in its assessment of the completed RFAs. The Company reserves the right, in its sole discretion, to refuse access to the Auction Site to any and all Bidders.

3. Stage III – All satisfactory Bidders will be provided access to the Auction Site and can then submit bids on one or multiple Lots as per D - Terms and Conditions of RFA and Auction Process.

### **D. TERMS AND CONDITIONS OF THE RFA AND AUCTION PROCESS**

1. General Information and Instructions

a. Follow Instructions – Bidders should structure the RFA in accordance with the Terms and Conditions included in the Registration Package and the Auction Brochure.

b. Bidders Shall Bear Their Own Costs – Bidders shall bear all costs associated with or incurred in the preparation of its RFA and subsequent bids, including, if applicable, costs incurred for meetings or demonstrations.

2. Communication after Issuance of Auction Site Access

a. Bidders to Review Documentation – Bidders should promptly examine all of the documents attached with each of the Lots before submitting a bid;

i. report any errors, omissions or ambiguities; and

ii. direct questions or seek additional information by notifying the Company’s Broker via contact details provided in the Auction Brochure or by notifying the Company through the Auction Site system.

b. Questions and Answers – Any questions or communications regarding the Lots can be submitted to any of the Company’s Brokers noted at the bottom of each specific lot details via e-mail. Technical questions or communications should be submitted using the online Q&A Board on the Auction Site. It is the responsibility of the Bidder to seek clarification on any matter it considers to be unclear. The Company will not be responsible for any misunderstanding on the part of the Bidder concerning the RFA or the Auction Bidding Process. To answer any specific questions about the Auction Site system, look online for the link “eRFx Supplier Support.”

c. All New Information to Bidders by Way of Addenda – Details of each of the Lots may be amended only by way of an addendum in accordance with this section. If the Company, for any reason, determines that it is necessary to provide additional information relating to the Lots, such information will be communicated to all bidders by an addendum posted to the Auction Site. Each addendum forms an integral part of the bidding process.

d. Verify, Clarify and Supplement – When evaluating responses, the Company may request further information from the Bidder in order to verify, clarify or supplement the information provided in the Bidder’s proposal. Company may revisit and re-evaluate the Bidder’s response on the basis of any such information.

e. No Extraneous Information or Incorporation by Reference – Bidder is requested to avoid submitting, along with its bid, any extraneous information unless specifically related to the bid. The content of websites or other external documents referred to in the Bidder’s submission will not be considered to form part of its bid.

f. Proposal to be Retained by Company – The Company will not return any proposal or any accompanying documentation submitted by a Bidder.

g. Bidder Communication – Bidders shall not consult with other Bidders while preparing for and during the RFA or Auction process.

### 3. Negotiations and Notification

a. Highest Bidder – At the Auction Close, the highest Bidder on each individual Lot will become the Purchaser of the Lot (the “Purchaser”) and will receive an electronic version of the OTP from the Company for execution electronically and execute the same together with providing the required deposit as per Clause 3. in the OTP. Purchaser acknowledges and agrees that the OTP cannot be revoked by Purchaser pending receipt of the deposit and execution of the OTP. Upon receipt of the signed OTP and Deposit from Purchaser, the Company will execute the OTP.

b. Failure to Enter into Contract – Bidders should note that if the Purchaser cannot execute an OTP within the allotted five (5) business days, the Company may invite the next-highest Bidder to enter into an agreement. This process shall continue until an OTP is formalized, until there are no more Bidders remaining that are eligible or until the Company elects to cancel the bidding process.

c. Purchaser understands and agrees that any electronic / digital signature has full force and effect as Purchaser’s original signature. Purchaser shall receive a fully executed version of the OTP via email address or facsimile number provided at time of registration.

d. The date upon which the Company executes the OTP shall be deemed the Acceptance Date as described within the OTP

### 4. Confidential Information

a. Confidential Information of Company - All information provided by or obtained from the Company in any form in connection with the RFA either before or after the issuance of site access: (i) is the sole property of Company and must be treated as confidential; (ii) is not to be used for any purpose other than replying to the RFA and any subsequent Auction questions and (iii) shall be returned by the Bidders to the Company immediately or destroyed upon the request of the Company. Bidders agree to treat any information provided by the Company, as a part of this RFA and on the Auction Site, as confidential information

b. Confidential Information of Bidders - Except to the extent allowed by a separate written confidentiality agreement, if any, signed by the parties and expressly pertaining to the Auction, Bidders understand that neither the Company nor its affiliates accept any obligation of confidentiality with respect to items acquired or any information disclosed by Bidders to the Company in response to the RFA and subsequent Auction.

5. Auction Process

A. Disqualification for Misrepresentation – The Company may disqualify the Bidder or rescind an OTP subsequently executed if the Bidder's RFA or bid submission contains misrepresentations or any other inaccurate, misleading or incomplete information.

B. Cancellation - Company may cancel or amend the RFA process without liability at any time. The sale of the Lots is subject to the reservation unto the Company of the following rights, namely;

(a) to refuse the highest or any bid; and

(b) to withdraw the Lots for the sale at any time before or after the closing date set forth

6. Governing Law

The terms and conditions in this Part D. Terms and Conditions of the RFA and Auction Process: (a) are included for greater certainty and are intended to be interpreted broadly and separately (with no particular provision intended to limit the scope of any other provision); (b) are non-exhaustive (and shall not be construed as intending to limit the pre-existing rights of the parties to engage in pre-contractual discussions in accordance with the common law (*or provisions of the Civil Code of Québec for lots located in the Province of Quebec*) governing direct commercial negotiations); and (c) are to be governed by and construed in accordance with the laws of the province in which the Lots are situated and the federal laws of Canada applicable therein.

7. Illegal Information Brokering

The Company and Bidders are aware of a practice where consultants (termed "Illegal Information Brokers") approach third parties and offer them confidential information or illicit influence to obtain business through the corruption of a competitive process. Bidders recognizes that the practice of Illegal Information Brokering or any corruption of the competitive process is not permitted by the Company and Bidders warrants and represents that it has not and will not utilize Illegal Information Brokering in connection with this RFA or subsequent bid submission. Bidders agree that if an Illegal Information Broker approaches the bidder concerning this Auction, bidder will contact the Company. The Company undertakes that the information will be treated with the utmost confidentiality and also that the Company will handle the RFA and subsequent Auction with extra security measures in order to prevent any competitor from gaining an unfair advantage.

**CONFIDENTIALITY AGREEMENT**

To IMPERIAL OIL

(THE "VENDOR")

From

(THE "POTENTIAL BIDDER")

FOR **EAST CANADA** (THE "LOTS")

LOT 1	Highway #134	Bathurst	NB
LOT 2	Immigrant Road	Cape Tormentine	NB
LOT 3	1ere Rue Shippagan	Portage De Shippagan	NB
LOT 4	22 Manor Road	St George	NB
LOT 5	2135 Ireland Drive	Burlington	ON
LOT 6	22 Arthur Street	Elmira	ON
LOT 7	3001 Highway 11 North	North Bay	ON
LOT 8	41 Willow Avenue	O'Leary	PEI
LOT 9	895 Melancon West	Alma	QC
LOT 10	652 9e Ave	Beauceville	QC
LOT 11	10 Rue de la Gare	Témiscouata-sur-le-Lac	QC
LOT 12	219 Rue Principale South	Maniwaki	QC
LOT 13	175 Rue Adam Est	Richmond	QC
LOT 14	2156 Notre Dame Est	Thetford Mines	QC
<b>WEST CANADA</b>			
LOT 15	1727-19th Street	Didsbury	AB
LOT 16	Centre St. & Second Avenue	Langdon	AB
LOT 17	Weberville Business Park	Peace River	AB
LOT 18	4804-50 <sup>th</sup> Avenue N	Fort Nelson	BC
LOT 19	4528-50 <sup>th</sup> Avenue N	Fort Nelson	BC
LOT 20	10355-100 Avenue	Fort St John	BC
LOT 21	4851 Bench Road	Windermere	BC
LOT 22	50 Railway Avenue	Benito	MB
LOT 23	100 Pembina Avenue	Pilot Mound	MB
LOT 24	1413 Gordon Avenue	The Pas	MB
LOT 25	Railway Ave & Hwy 55	Canwood	SK
LOT 26	4401-49th Avenue	Lloydminster	SK

WHEREAS, the Vendor and its affiliates are considering the possibility of selling the "Lots";

WHEREAS, the Potential Bidder is interested in seriously evaluating the possibility of acquiring one or more of the Lots and may submit to the Vendor a bid via the Auction site to potentially purchase the Lots (the "Potential Transaction");

WHEREAS, in order for the Potential Bidder to evaluate the feasibility of entering into the Potential Transaction, the Vendor is prepared, from time to time, to provide or disclose to the Potential Bidder certain information and materials that the Vendor considers proprietary and confidential, subject to the terms and conditions provided herein; and



WHEREAS, the Potential Bidder is agreeable to handling and treating Confidential Information (defined below) provided to, or obtained by, the Potential Bidder Parties (defined below), on the terms and conditions provided herein;

NOW THEREFORE, in consideration of the Vendor providing certain access to and information in respect of the Lots and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Potential Bidder hereby covenants, undertakes, declares and agrees as follows:

- (a) The recitals set out above are integral to this Agreement and contain important acknowledgements by the Potential Bidder, and are hereby incorporated into and made a part of this Agreement.
- (b) The Potential Bidder, on its own behalf and on behalf of its agents, employees, directors, officers, consultants and any person for whom the Potential Bidder is responsible for at law (collectively the "Potential Bidder Parties"), agrees and undertakes to keep in confidence any and all financial or other information, plans, reports and analysis obtained from the Vendor or its respective agents and consultants with respect to the Lots and all documents and information related thereto (the "Confidential Information") and the Potential Bidder shall not use any Confidential Information for any purpose other than preparing a bid submission for the potential acquisition of the Lots by the Potential Bidder.

Nothing herein contained shall restrict or prohibit the Potential Bidder from disclosing the Confidential Information to its professional advisors and lenders and their respective professional advisors (only if required), provided that the Potential Bidder notifies the Vendor of the names of its advisors or lenders, as the case may be, and they agree in writing to be bound to the same extent as the Potential Bidder by this Confidentially Agreements.

Upon notice from the Vendor, the Potential Bidder shall forthwith return to the Vendor or confirm destruction of all Confidential Information and all copies thereof made and/or distributed by the Potential Bidder together with all analysis or summaries which may contain the Confidential Information, or any portion thereof. Notwithstanding the foregoing, the Potential Bidder's obligations set out in the Agreement shall survive any termination or expiration of this Agreement for any reason. All Confidential Information received during the term of this Agreement shall be subject to all of the confidentiality obligations set forth herein.

- (c) For the purposes of this Confidentiality Agreement, Confidential Information shall not include: (i) public information or information in the public domain the time such information is obtained by the Potential Bidder; (ii) information which becomes public through no fault or act of the Potential Bidder, its agents, employees, directors, officers, consultants and any person for whom the Potential Bidder is responsible for in law; (iii) information required to be disclosed by law; and (iv) information received in good faith from a third party lawfully in possession of the information and not in breach of any confidentiality obligations.
- (d) The Potential Bidder shall indemnify the Vendor and hold harmless the Vendor from any and all costs, damages and expenses (including legal fees and disbursements on a solicitor client basis) which may arise from the unauthorized disclosure or use of the Confidential Information. The Potential Bidder acknowledges that if this Confidentiality Agreement is breached, the Vendor would be irreparably harmed and cannot be made whole by monetary damages alone. Accordingly, the Vendor, in addition to any other remedy to which it may be entitled by law or in equity, shall be entitled to seek an injunction to prevent breaches of this Confidentiality Agreement, and an order compelling specific performance of this Confidentially Agreement. The Potential Bidder shall reimburse the Vendor for all costs, damages and expenses (including legal fees and disbursements on a solicitor client basis), incurred by the Vendor if it enforces the obligations of the Potential Bidder and its representatives hereunder
- (e) The Potential Bidder agrees that the supplying of the Confidential information by the Vendor is provided for information purposes only on a "without prejudice" basis and the Vendor admits no liability as a result of supplying the Confidential Information or any information contained therein. The Vendor does not warrant or certify that the information contained in the Confidential Information is true and correct.
- (f) The Potential Bidder, on behalf of itself and all other Potential Bidder Parties, hereby covenants and undertakes that, the Potential Bidder immediately upon discovering that the terms of this Agreement have been breached by the Potential Bidder or any Potential Bidder Parties, shall:
  - a. Notify the Vendor in writing of such breach; and

b. Cooperate fully in any investigation by the Vendor of such breach.

Potential Bidder agrees to take all reasonable steps required by the Vendor to mitigate the effects of any such breach.

- (g) To the extent permitted by law, in the event that the Vendor brings an action against the Potential Bidder to enforce the terms of this Agreement, the Potential Bidder shall reimburse the Vendor for all the Vendor's legal fees and disbursements incurred in such action on a full indemnity basis.
- (h) This Agreement comprises the full and entire undertaking of the Potential Bidder concerning the Confidential Information. This Agreement supersedes any prior understandings or agreements, regardless of form, with respect to the Confidential Information.
- (i) This Agreement is governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein
- (j) An executed original signature page which has been scanned in pdf format and delivered electronically via email shall have the same force and effect as that original signature page.

Dated this [redacted] day of [redacted], 2020

**Authorized Signatory**

Company Name: [redacted]

Signature: [redacted]

Name printed/typed: [redacted]

Title: [redacted]