



## **Staff Report for Committee of the Whole Meeting**

**Date of Meeting:** February 19, 2019

**Report Number:** SRPRS.19.028

**Department:** Planning and Regulatory Services  
**Division:** Development Engineering & Transportation

**Subject:** **SRPRS.19.028 - Authorization to Execute  
Transfer of Review Agreement with Ministry of  
the Environment, Conservation and Parks**

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### **Purpose:**

To authorize the execution of a Transfer of Review Agreement with the Ministry of the Environment, Conservation and Parks (MECP) to allow the Town to continue to participate in the Transfer of Review program with MECP.

### **Recommendation(s):**

- a) That the Mayor and Clerk be authorized to execute a Transfer of Review agreement with the Ministry of the Environment, Conservation and Parks to allow the Town to continue to participate in the Transfer of Review Program with the Ministry.

### **Contact Person:**

Jeff Walters, Manager Development Engineering (Subdivisions and Stormwater), 905-747-6380.

### **Report Approval:**

**Submitted by:** Kelvin Kwan, Commissioner of Planning and Regulatory Services

**Approved by:** Neil Garbe, Chief Administrative Officer

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), Town Solicitor (as required), Commissioner, and Chief Administrative Officer. Details of the reports approval are attached.

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### **Background:**

For the past 18 years, the Town has participated in the Transfer of Review program with the MECP (previously known as Ministry of the Environment). Under this program, the MECP allows a municipality such as the Town of Richmond Hill to undertake, on behalf of the Ministry, an administrative and technical screening of Environmental Compliance Approvals (ECA) applications for specific works. Once an ECA application is satisfactory to the Town, the complete ECA application together with a recommendation letter from the Town has been submitted to the Ministry for approval. The result of this program has been improved efficiency and timelines with respect to routine ECA approvals.

At the Town, the Development Engineering section has historically undertaken the administrative and technical review of ECA applications for municipal storm and sanitary works related to development applications and capital projects within the Town. Ongoing feedback, particularly from the development community confirms that involvement in this program by the Town provides benefits such as the more timely review of ECA applications and issuance of approvals by the Ministry.

Over the last year, the MECP has informed program participants of their intent to review and update the Transfer of Review program. As an outcome of this update, the MECP have developed new supporting documentation for the programs (such as recommendation letters), have added some new requirements on participants, and require participants to enter into a new agreement to participate in this program.

The Development Engineering Division has undertaken a detailed review of this new program, including the new requirements, supporting documentation, and the agreement. The Town's legal section has also assisted with the review of this new agreement.

Based on this review, a concern was identified by the Development Engineering Division with respect to a section of the agreement and supporting documentation that requires the municipality to ensure that all Transfer of Review applications fully satisfy applicable requirements under the Environmental Assessment Act, Environmental Bill of Rights and/or Duty of Care.

The issue specifically arises with Transfer of Review applications that are submitted by the development industry for municipal works that they are constructing as part of new development applications. As the Town is not directly involved in fulfilling the Environmental Assessment Act, Environmental Bill of Rights and/or Duty of Care obligations for these projects, there is concern of the risk and exposure to the Town if an ECA application is processed and recommended for approval (based on the submitted information received from the developer or their consultant), and then later found to be in non-compliance with the applicable legislation.

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Town staff raised this concern with the MECP to try and better understand the risks to the Municipality, and to see if there was any flexibility in the MECP's requirements. The Ministry advised that if this situation occurred (non-compliance of applicant with legislation), the Ministry would first look to the applicant for resolution, but that ultimately responsibility may be shared with the municipality. The Ministry further advised that it was not in a position to revise their requirements or the agreement wording to address this concern as the Ministry has already entered into new agreements with over 40 municipalities (including the Region of York and the City of Markham) and need to maintain a consistent approach.

Development Engineering staff also met with Region of York staff (who undertake the Transfer of Review program for a number of local municipalities with the Region as well as for Regional projects) to discuss our concerns and understand how they mitigate these types of risks on development related projects. Based on the discussions, it was agreed that risks can be significantly reduced by:

- Requiring certification and proof that they are compliant with all necessary legislation;
- Ensuring that the developer's ECA applications include specific details on how applicants conform the legislative requirements; and
- Ensuring that the Town's recommendations to the MECP clearly identify that the applicant has certified that all applicable requirements of the legislation have been satisfied.

Staff are satisfied that the introduction of these mitigation measures into the Town's submission requirements and process will greatly reduce the risks to the Town. It should also be noted that throughout Town's participation in the Transfer of Review program over the last 18 years, there has not been any ECA applications found in non-compliance with applicable legislation.

As such, staff recommend that the Town enter into this new Transfer of Review agreement with MECP.

### **Financial/Staffing/Other Implications:**

Based on past experience, staff expect to process approximately 20 ECA applications under this program on an annual basis. The Town currently collects fees for processing ECA applications based on the fee schedule outlined in the Ministry guidelines.

### **Relationship to the Strategic Plan:**

The recommendations in this report relate to the strategic plan objective of wise management of our resources and serving as a role model for municipal management.

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### **Conclusion:**

Staff recommend that the Town enter into this new Transfer of Review agreement with MECP to allow the Town to continue to participate in the Transfer of Review program with the Ministry as outlined in this report.

### **Attachments:**

The following attached documents may include scanned images of appendixes, maps and photographs. If you require an alternative format please call contact person listed in this document.

- Copy of Transfer of Review agreement

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### Report Approval Details

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|----------------------|---|
| Document Title:      | SRPRS.19.028 Authorization to Execute Transfer of Review Agreement.docx |
| Attachments:         | - SRPRS.19.028 Attachment 1.pdf   |
| Final Approval Date: | Feb 12, 2019  |

This report and all of its attachments were approved and signed as outlined below:

**Task assigned to Dan Terzievski was completed by delegate Jeff Walters**

**Jeff Walters on behalf of Dan Terzievski - Feb 11, 2019 - 4:10 PM**

**Kelvin Kwan - Feb 11, 2019 - 4:11 PM**

**Neil Garbe - Feb 12, 2019 - 8:51 AM**