CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Legal and Risk Management Services Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	June 6, 2019
SUBJECT/REPORT NO:	2019 Property and Liability Insurance Renewal Report (FCS19032) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	John McLennan (905) 546-2424 Ext. 5736 Jody Yarmo (905) 546-2424 Ext. 5735
SUBMITTED BY: **SIGNATURE:**	Mike Zegarac, General Manager, Finance and Corporate Services Corporate Service Department

RECOMMENDATION(S)

(a) That the Liability and Property Insurance coverage for the term January 1, 2019, to January 1, 2020, be renewed through Jardine Lloyd Thompson Canada Inc. (JLT) at a cost of $6,627,835 (net of taxes) and be funded through the 2019 Risk Management Services (RMS) Budget, in accordance with Appendix “A”, attached to Report FCS19032.

(b) That the General Manager, Finance and Corporate Services, be authorized and directed to execute all associated documents related to the renewal of the Liability and Property Insurance coverage for the term January 1, 2019, to January 1, 2020, through Jardine Lloyd Thompson Canada Inc. (JLT), on behalf of the City of Hamilton.

(c) That the 2019 unfavourable budget variance in insurance premiums of $2,027,835 (net of taxes) resulting from Recommendation (a) of Report FCS19032 be addressed in the year end operating budget variance report.

EXECUTIVE SUMMARY

Pearson Dunn Insurance Inc. is currently the City's broker of record. Each year the broker oversees the placement of the City's insurance program as part of their contract duties. Jardine Lloyd Thompson Inc. (JLT) is a Managing General Agent who specializes in insuring municipal entities. A Managing General Agent is a party who is authorized by various insurers to act as an intermediary to accept placements from insurance brokers such as Pearson Dunn.

Staff recommend the renewal of the City's Liability and Property damages insurance for 2019 at a cost of $6,627,835. The quoted cost of coverage represents an increase of $1,962,433 over 2018 coverage cost (42% overall). While significant, the quoted amount represents the lowest of quotes obtained in the limited insurance market. Staff made inquiries through its broker and directly with other municipalities and determined substantial increases were occurring in the insurance market for several reasons, and particularly with municipal and other public entity coverages. Direct comparisons with other municipalities are difficult due to differences in services and claims experiences. In the absence of a more economical alternative, staff recommend continuing with the insurer who has extensive knowledge of the current City portfolio and claims experience.

The premium increase is largely based within liability coverage and can be attributed mainly to:

(a) The global insurance market hardening significantly over the last 6 months of 2018, primarily due to the combination of weather related catastrophic losses pairing with lower returns in the investment market.

(b) Insurers' assessments of the City's claims history and exposures, which in some cases meant insurers were not willing to quote for the City's coverage.

(c) The principle of joint and several liability (1% rule) continues to exert immense pressure on claims reserving.

A complete market search for coverage is planned in 2019 for 2020. Risk Management Services (RMS) and the City's broker are already in the initial stages of setting up the competitive process.

RMS and the broker will also undertake an actuarial review of the existing City insurance program in order to provide recommendations with respect to the overall design and evaluation of the program, including optimum retention/deductible levels and limits. The actuarial review will also focus on a strategic plan as to the most beneficial approach to undertake in the current hard market, comparing the present approach of procuring coverages in the conventional market vs. utilization of other possible Alternative Risk Transfer (ART) mechanisms such as captive insurers or finite policies.

Alternatives for Consideration – See Page 6

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The 2019 premium of $6,627,835 (net of taxes) will be funded through the 2019 Risk Management Services Budget. The total 2018 insurance premium expense was $4,665,402 (net of taxes). The 2019 renewal represents an increase of $1,962,433 (42%) in insurance premiums.

The 2019 Insurance Premium budget is $4,600,000. The resultant shortfall of $2,027,835 (net of taxes) will be addressed in the year end operating budget variance report.

The likelihood of increased costs occurring will be considered for future budget submissions and staff will attempt to determine costs earlier in the year for that purpose.

Staffing: Not applicable

Legal: Not applicable

HISTORICAL BACKGROUND

The City has acquired insurance through JLT since 2011. Previously, dating back to amalgamation, insurance was acquired through the Frank Cowan Company. The move to JLT was the result of a full market review in which JLT was the successful bidder, at approximately $800,000 lower than the next lowest bidder. JLT has been an excellent partner for the City in all facets of the relationship and RMS has no hesitation in recommending JLT as the provider of the 2019 insurance program.

Appendix C to Report FCS19032 shows the last 5 years of coverages and related premiums acquired by the City through JLT.

In discussion of the 2018 renewal (FCS18032), RMS advised Committee of its plans to explore the open market for the 2020 renewal.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

Negotiation and discussions with insurers were conducted in association with the City's Broker of Record and insurer.

Comparator municipalities and other types of public sector entities were consulted.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

As noted, the global insurance market has hardened and likely will continue to do so, a development affecting virtually all lines of coverage for any large public entity. Transit and municipal liability coverages, however, have seen the largest increases in premium.
The main factors for the hard market for public entities in Ontario are:

1. Ontario's system of no fault auto insurance which requires payments to be made regardless of fault. Most HSR passengers are "first party" insured whenever they ride a bus.

2. The continued presence of the legal principle of "joint and several" liability, also known as the "1% rule," whereby a plaintiff may recover all the damages from any of the defendants in a claim regardless of their individual share of liability. The legislation directs that a person injured by two or more negligent parties may collect full damages from any one of the negligent parties even if that party was only found 1% responsible for damages. As such, if the City is found by the courts to be even 1% responsible for a claim, it can be made to pay the full amount of the claim if the other negligent parties are unable to pay their share.

   The Province has made promises to undertake a review of joint and several liability; however, any meaningful changes are unlikely in the near future. It should be noted that previous provincial governments have made similar promises but with no positive results for municipalities.

3. The high risk associated with being a public body with perceived "deep pockets" in an increasingly litigious society.

4. Jurisprudence with continuously expanding grounds for the finding of liability on municipalities resulting in an ongoing expectation of a higher standard of care.

5. Damage awards are getting larger. Court awards for severe bodily injury claims have increased dramatically in the last few years. These awards are primarily driven by the costs of providing future care for catastrophically injured persons. As the severity of awards increases so too does the exposure to Municipalities who are, again, perceived to have deep pockets.

6. The overall cost of claims has continued to rise at a rate in excess of premium growth. Individual claims are becoming more complex resulting in more time to manage the claim with more detailed investigation, more experts and more legal time involved in the process - at ever increasing rates. Even if the municipality is not liable for damages there are significant costs associated with simply defending claims.

7. Municipal liability claims can have a “long tail,” which refers to claims that take a long time to become known and/or to settle. For example, the proximate cause for a claim may be in place years before damage occurs. The Building Department is particularly prone to this type of claim. Previous years claims are more difficult to manage as pertinent information is not always readily available. These types of claims will often take a longer time to resolve once in place.

The particular claims experience of the City is not one of excessive frequency leading to large cumulative totals for insurers. Rather, the severity of a number of anomalous large “shock” losses over the 8-year relationship with our present insurers has made the City a relatively unattractive/unprofitable risk.

The following table shows the number of new claims received by the City within the four major coverage lines and the associated self-insured handling expenses:

Shock losses are unpredictable and, therefore, essentially impossible to predict and mitigate with any reasonable certainty. RMS, in conjunction with various client departments, has had a number of successes in controlling loss when a frequency becomes apparent. The reductions in claims expenses for sidewalk trip and falls, sewer back-ups, and police pursuits serve as prime examples in this regard. RMS is also pleased to report a reduction of approximately $1,700,000 in the in-house claims expense for 2018.

The following table shows the number of new claims received by the City over the last five years within the four major coverage lines, along with the associated self-insured handling expenses:

City of Hamilton
New Claims by Major Coverage Line 2014-2018

Coverage	Total Claims	Value of Claims
Transit (HSR)	492	$3,890,195
Property	2,439	$3,720,396
Vehicle Accident - Fleet	2,812	$7,898,876
General Liability	7,862	$25,227,576
Total	**13,605**	**$40,737,043**

Insurance comparisons to other municipalities are difficult. Services vary from entity to entity as do appetites for risk, deductible levels, and limits. The City of Hamilton is very clearly a “full service” municipality with police, paramedic, fire, transit, water treatment, and power generation all within the exposure portfolio along with the more basic municipal services. Many municipalities do not renew coverage on January 1 and, therefore, have yet to encounter the financial realities of the hard global market.

The following table shows the number of new claims received by the City by Department over the last five years, along with the associate self-insured handling expenses:

City of Hamilton New Claims by Department 2014-2018		
Department	**Total Claims**	**Value of Claims**
City Manager's Office	56	$10,022
Healthy & Safe Communities	584	$1,879,868
Corporate Services	42	$108,947
Hamilton Police Services	1035	$5,689,744
Planning & Economic Development	316	$1,147,857
Public Health Services	63	$26,209
Public Works	11155	$31,874,396

RMS has confirmed with nine other municipalities that they are experiencing similar increases in premium for their 2019 renewals.

ALTERNATIVES FOR CONSIDERATION

Alternatives for less expensive coverage from other providers is non-existent for the 2019 renewal. There are very few insurers willing to participate in the current market for large municipalities. Those who do offer coverage are extremely selective with their placements and their premiums will be consistent with those offered through JLT.

It is possible to lower premiums through the manipulation of deductibles and coverage limits. The attached Appendix “B” to Report FCS19032 shows premium deductions for increased deductible limits. Appendix “B” does not, however, consider financial, staffing and legal implications that flow from a change in deductibles. Potential savings would be less or even non-existent due to added claims costs, added staffing to handle claims and additional legal staffing or defence costs or any liability for claims that exceed coverage.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” - City of Hamilton 2019 Property and Liability Insurance Renewal Coverages and Limits and Premium Comparison

Appendix “B” - City of Hamilton 2019 Property and Liability Insurance Renewal Deductible Options

JM/JY/dkm