



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

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	November 30, 2022
SUBJECT/REPORT NO:	Property & Liability Insurance Renewal (LS22036) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Dana McLean: (905) 546-2424 Ext. 4247 Manager Risk Management Services
SUBMITTED BY:	Lisa Shields City Solicitor Legal and Risk Management Services Division
SIGNATURE:	

RECOMMENDATION

- (a) That the Liability Insurance coverage for the term December 1, 2022, to December 31, 2023, be renewed through Arthur J. Gallagher Canada Ltd. and Marsh Canada Ltd. at a cost of \$4,937,466 (plus applicable taxes) and be funded through the 2022 and 2023 Risk Management Services Budget, in accordance with Appendix "A", attached to Report LS22036.
- (b) That the Additional Excess Liability Policy for the term December 1, 2022, to December 31, 2023 in the amount of \$5 Million at a cost of \$54,100 (plus applicable taxes) be approved and funded through the 2022 and 2023 Risk Management Services Budget.
- (c) That the 2022 and 2023 insurance liability premiums budget shortfall of \$379,805 plus applicable taxes be funded through the 2022 and 2023 year-end surpluses or Tax Stabilization Reserve (110046) and that the shortfall be included in the 2024 Rate and Tax supported budgets.
- (d) That the City Solicitor be authorized to execute all associated documents related to the renewal of the Liability Insurance and Additional Excess Liability coverage for the term December 1, 2022 to December 31, 2023, through Arthur J. Gallagher Canada Ltd. and Marsh Canada Ltd.

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- (e) That the City Solicitor be granted delegated authority to renew the Liability and Property Insurance coverages on an annual basis provided premiums do not exceed a 25% increase from the expiring term.
- (f) That the City Solicitor be authorized to execute all associated documents related to the renewal of the Property Insurance and other coverages under the City's insurance program for the term January 1, 2023 to January 1, 2024, through Arthur J. Gallagher Canada Ltd. and Marsh Canada Ltd. on behalf of the City.

EXECUTIVE SUMMARY

The purpose of this report is two-fold:

- (a) to obtain approvals for renewal of the liability and property insurance policies that expire between December 1st, 2022 and January 1st, 2023 so as to avoid lapses in the City's insurance coverages; and
- (b) to obtain delegated authority for the City Solicitor to renew future policies so as to avoid future lapses of insurance policies due to delays regularly experienced by Risk Management staff as the City's insurers often leave the City with insufficient time to report to Committee and Council for approval of renewal premium and terms. The City Solicitor will report back to Council & Committee annually regarding the renewal of the insurance program policies exercised pursuant to the delegated authority granted.

2023 Liability Insurance Renewal

The City received the premium quote at a cost of \$4,563,300 (net of applicable taxes) to maintain liability coverages for the City through to December 31st, 2023. Due to underwriting delays by the insurer, the quote was received only a few days prior to preparation of this report. The City's existing liability policies are set to expire on December 1st, 2022. The premium quoted represents a 5% increase (annual basis), which is competitive with a number of other municipalities who are expected to see renewal premiums increase between 10% to 15%. The term of the new policy will be for 13 months to allow for coordination with the expiry dates for the property insurance policies. It is recommended by Risk Management staff that insurance coverages for the term December 1, 2022 to January 1, 2024 be renewed through Marsh Canada Ltd., based on their ability to provide all coverages required, as recommended by Arthur J. Gallagher Canada Limited, the City's Broker of Record.

2023 Property Insurance Renewal

The City is still waiting on underwriting and insurer quotes for the renewal of the property insurance coverages, which policies will expire on January 1st, 2023. The City Solicitor is seeking delegated authority to renew these policies since it is expected that staff will not receive premium information and renewal terms in a timely manner to allow for a report to be presented to Council to authorize approval. The delegated authority is limited to premium increases not exceeding 25% from the expiring term. This percentage is based on a historical review of premium increases over the past few years, which have seen substantial variation due to market conditions for municipal coverages. A lower percentage may risk a lapse in coverage or the need to substantially reduce the dollar amounts of coverage which protect the City from bearing its own losses.

Future Liability and Property Coverages

Municipalities across Ontario have continually experienced extremely tight timelines for seeking approval of the renewal of insurance policies, leading to urgent, last minute attendance at Council and Committee and frequent requests to extend policy periods to meet the deadlines of the insurers to bind coverage which could impose additional costs. Staff recommend the City Solicitor be granted delegated authority to bind the renewal of the Liability and Property Insurance coverages on an annual basis wherein overall premiums do not exceed a 25% increase from the expiring term. The City Solicitor will report back to Council & Committee annually regarding the renewal of the insurance program policies.

Alternatives for Consideration – Not Applicable (see page 7 for details).

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The 2022 budget for insurance premiums has been expended. The liability policy to be renewed, will be renewed for a 13-month term, with the first month of premium prorated from the total (December 1-31, 2022) to be funded year end surpluses or from the Tax Stabilization Reserve (110046). The balance of the term for the liability policy (January 1, 2023 – December 31, 2023) as well as the premiums associated with the balance of the insurance program (i.e. Property, Auto, Cyber, etc.) will be funded by the 2023 Risk Management Budget with any shortfall to be funded from year end surpluses or the Tax Stabilization Reserve (110046). The renewal of the liability policy for the period December 1, 2022 to December 31, 2023 as the premium quoted reflects an annual increase of only 5% for the 12-month period and a prorated amount (\$374,166 plus applicable taxes) for December 1st – 31st, 2023.

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

The City's current Liability coverage was arranged by an extension from June 1, 2022 to December 1, 2022. A number of the City's other insurance policies under its Insurance program renew annually on January 1st. The City's insurance coverage is through Marsh Canada Ltd. (formerly Jardine Lloyd Thomson (JLT)). The City has used Marsh Canada Ltd. since 2011. Marsh Canada Ltd. 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 Gallagher.

Arthur J. Gallagher Canada Limited ("Gallagher") is currently the City's broker of record. Each year the broker searches the market with available insurers and oversees the placement of the City's insurance program as part of their contract duties.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

Finance and Corporate Services and the City's Broker Arthur J. Gallagher Canada Ltd.

The City's broker has sought to renew the City's coverage through consultations with the City's current insurer as well as other municipal insurers. No other municipal insurer has offered coverage to the City.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The City's liability insurance policy covered June 1, 2021 to June 1, 2022. At the time of the previous renewal, a quote for a full year renewal of liability coverage was not provided by the City's insurer. The insurer offered a temporary extension of the existing policies to maintain liability coverages until December 1, 2022. A renewal quote has been provided by the insurer to renew the liability policy for the period of December 1, 2022 to December 1, 2023 at a 5% increase in premiums with all coverages remaining the same as the expiring term. Staff requested an extended policy period to align the liability policy to the balance of the City's insurance program (i.e. Property, Crime, Auto Insurance policies) which has an annual renewal date of January 1, 2024. The insurer

has offered to extend the policy period on the liability policy but only to December 31, 2023.

Staff are recommending approval of the renewal of the liability policy for the period December 1, 2022 to December 31, 2023 as the premium quoted reflects an annual increase of only 5% for the 12 month period and a prorated amount (\$374,166) for December 1st – 31st, 2023. The new policy period will bring it closer in line with the renewal date for the balance of the City's insurance program.

Since mid-2022 the City has been in regular contact with its broker and current insurer, to provide necessary information to obtain the renewal quotes for its annual insurance policies. The insurer has received from the City all requested information. Staff have received the renewal figures for the liability policy, however, still await the renewal figures for the balance of the insurance program, namely property, auto, cyber, etc. As indicated previously in this report, the City's liability policy was extended from June 1, 2022 to December 1, 2022, however, a majority of the policies which make up the balance of the policies under the program have a January 1, 2023 renewal date, with some having a January 31, 2023 date.

Despite ensuring the insurers have the necessary information and documentation in order to provide renewal quotes in a timely fashion, staff are annually receiving the renewal figures with an extremely short turnaround time to provide authorization to bind coverage. Reports are frequently being rushed to Council and Committee and staff are having to obtain extensions to policy terms in order to obtain the necessary approvals to implement the policies annually. Staff are recommending that the City Solicitor be granted delegated authority to approve the annual renewal of the various insurance policies under the City's Insurance Program and report back to Council with the updated renewal terms. This delegated authority will only be exercised when premium increases do not exceed 25% of the expiring terms.

The City's broker has advised based on market conditions and the City's portfolio, the quote for renewal for the balance of the City's Insurance Program (i.e. Property, Auto, Cyber, etc.) is expected to be similar to the increases experienced for the expiring term (2022), that being an overall percentage increase of approximately 8.4%. The only exception to this is the Cyber Insurance Policy. Cyber insurance is becoming increasingly difficult to procure with premium and coverage limitations being unpredictable. Renewal terms for these policies are not expected to be received within reasonable timelines to allow for reports to be presented to Council for approval. As a result, obtaining Council's approval of the renewals will be unlikely before the renewal dates of January 1, 2023 (January 31, 2023 for Cyber), leaving staff to again seek extensions of the policies to allow time to bring a report before Council in January. Delegated authority to the City Solicitor will have the effect of ensuring adequate coverage is in place and in line with policy renewal terms. A report will be brought by

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the City Solicitor annually to inform Council of the renewed policies and any changes to coverage.

The hard market trend that commenced in the latter part of 2018 continues into 2023. The City has been advised that the hard insurance market exists because of a number of factors, including: there are limited providers in the market as insurers find municipal portfolios unprofitable, the increase in municipal liabilities from the broad range of operations as well as increasing legal judgements and cost awards.

Despite this fact, the City has received a reasonable quote for a 5% increase in its liability insurance premiums. The broker attributes the City's minimal increase to the higher self-insured retention (SIR)/Deductible (\$5m) that the City incorporated into its program as of June 1, 2021 as well as satisfactory underwriter review of the City's claims data.

Staff understand from contact with other municipalities and the broker that municipal rates for insurance continue to be high, with many municipalities seeing a 10% to 15% increase in liability premium rates for 2023.

Excess Liability Policy Change

The option to procure an additional \$5 million in liability insurance has been brought forward by the broker to the City. The City previously maintained liability insurance coverage (a primary policy and two excess policies) which brought its total limit of liability to \$50 million. During the negotiations in the renewal of the liability policy in 2021, the City elected to reduce one of its Excess Liability policies in order to realize premium savings during an extremely hard market period at which time the City was facing a significant increase in premiums. It was also at this time that the City increased its SIR/deductible from \$1.5 million to \$5 million.

In 2020, the City's Liability Insurance was comprised of a primary layer with a limit of \$5 million and two excess layers - \$20 million and \$25 million. In 2021, the City experienced a significant increase in its premiums for insurance. In order to somewhat reduce such an extreme increase, changes were made to the City's insurance program, including increasing the deductible/SIR as well as reducing the 1st Excess Liability Policy limit from \$20 million to \$15 million (thereby reducing the total liability limit to \$45 million). This reduction resulted in a savings in the premium for the Excess Policy and the overall premium for the liability insurance.

The broker is recommending the \$5 million Excess Option as the pricing is much more competitive than in the past and returning the City's liability limit back to \$50 million total, it will be comparable with the limits carried by other municipalities. Staff are

recommending proceeding with this option giving the beneficial cost and additional protection provided.

ALTERNATIVES FOR CONSIDERATION

There are no viable alternatives for the 2022-2023 renewal for Liability and Property Coverages, given the broker was only able to obtain coverage from the existing insurer. Municipal operations pose a unique challenge to insurers who generally prefer to concentrate their expertise on one sector of an industry. A single-tier municipality such as Hamilton has diverse operations (e.g. Emergency Services including EMS, Police Services, and Fire, Public Works including Construction, Roads Maintenance etc., Transit, Parks, Recreation, Water and Wastewater, Public Health, and so on). The underwriting criteria of general insurance markets does not easily accommodate a municipal entity the size and scope of Hamilton with its variety of operations. As a single-tier municipality, our scope of operations includes responsibility for all emergency services (Fire, Police & Ambulance and in some cases Public Health), plus large vehicle fleets, significant property exposures and large property schedules/values, accumulation of assets at one location (fire hall, public works garage), older assets (frame buildings), and water/waste water treatment plants.

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” to Report LS22036 - Liability Premium Summary