




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

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	January 18, 2023
SUBJECT/REPORT NO:	2023 Insurance Renewals - Cyber & Paramedics Medical Malpractice (LS22036(a)) (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:	

RECOMMENDATIONS

- (a) That the Paramedic Medical Malpractice Insurance Policy for the term January 30, 2023, to January 30, 2024 in the amount of \$5 Million at a cost of \$64,000 (plus applicable taxes) be approved and funded through the 2023 Risk Management Services Budget.
- (b) That the update on the Cyber Insurance renewal be received as information.
- (c) That the 2023 insurance renewal of the property insurance coverages be received as information.
- (d) That the City Solicitor be authorized to execute all associated documents related to the renewal of the Paramedic Medical Malpractice coverage for the term January 30th, 2023 to January 30th, 2024, through Arthur J. Gallagher Canada Ltd. and Marsh Canada Ltd. on behalf of the City.

EXECUTIVE SUMMARY

The purpose of this report is three-fold:

- (A) to obtain approval for renewal of the Paramedic Medical Malpractice Insurance Policy which expires January 30, 2023;
- (B) to provide an update regarding the status of the renewal of the Cyber Insurance Policy; and
- (C) to provide information on the renewal of Property Insurance policies that were renewed through delegated authority of the City Solicitor.

2023 Paramedic Medical Malpractice Insurance Policy Renewal

Staff are recommending that this policy be placed with a new insurer, with the term to run from January 30, 2023 to January 30, 2024, with a premium of \$64,800 and a deductible increase to \$1,000,000 as compared to the current policy which had a premium of \$36,750 and a \$250,000 deductible.

The City has received quotes for the renewal of the Paramedic Medical Malpractice Insurance policy, which will expire on January 30, 2023. The chart below outlines the quotes received by the City’s broker and includes a quote from the incumbent insurer, Berkley Canada, for the 2023-2024 term:

2023-2024	Premium (not incl. taxes)	Deductible
Berkley Canada	\$75,000	\$1,000,000
Marsh Canada/QBE	\$64,800*	\$1,000,000
Marsh Canada/QBE	\$102,500	\$250,000

*Recommended alternative.

The premium quote the City has received from the current insurer, Berkley Canada, for the term of 2023 to 2024 reflects an increase of 104% and includes a mandatory increase in the policy deductible to \$1,000,000 from \$250,000. The recommended alternative provides a lower premium for the same coverage and deductible. Even so, the premium increase is 75% which exceeds the delegated authority provided by Council’s approvals in Report LS22036 and therefore requires Council approval prior to January 30th.

The City’s broker, Arthur J. Gallagher Canada Limited, assisted in obtaining the quote for a lower premium through a market search. As indicated in the chart above, two additional quotes were received from the Marsh Canada Liability Program, underwritten by QBE. The first quote of \$64,800 provides the same coverage as the expiring policy

with an increased deductible of \$1 Million. The second quote maintains the lower and current \$250,000 deductible. The premium for this alternative is an increase in excess of 175% from the expiring premium. For reasons outlined further in the Analysis section of this report, this alternative is not recommended.

2023 Cyber Insurance Renewal

The City has not yet received a renewal quote from the Cyber Insurance underwriters. Staff have requested an extension of the coverage expiring January 31, 2023 to allow time to obtain appropriate approvals once a quote is received but are awaiting a response to this request and what, if any, is the associated cost.

It is possible that the City’s current policy will expire at the end of January, leaving the City self-insured and relying on its own resources to address cyber liabilities, meaning that any cyber losses would be solely funded by the City without the benefit of insurance. Other businesses and municipalities are finding themselves in similar non-insured positions due to the rapidly changing risks and cyber protection measures required by insurers. At the time of the writing of this report there is no cyber premium quote or response for coverage. An update of any new information will be provided to Committee at the meeting.

Property Coverages

Pursuant to Report LS22036, Council approved the Municipal Liability Insurance policy renewal and granted delegated authority to the City Solicitor to renew the Property Insurance coverages for 2023, provided premiums do not exceed a 15% increase from the expiring term, and report back to the General Issues Committee. In accordance with that delegated authority the property insurance coverages identified in the chart below were renewed with an overall increase of 6.11% from the expiring term at a premium cost of \$6,922,300.

Policy	2022-2023 Premium	2023-2024 Premium
Environmental 2Yr Policy Period -Expires 2024	\$169,455	n/a
Terrorism	\$120,000	\$140,000
CBNR (Chemical, Biological, Nuclear, Radiation)	\$80,000	\$92,500
Fleet	\$1,555,237	\$1,687,969
Transit	\$2,328,384	\$2,500,153
Garage	\$6,610	\$6,810
Property	\$ 2,194,526	\$ 2,422,868
Crime	\$20,000	\$20,000
Excess Crime	\$49,613	\$52,000

Total (less applicable tax)	\$6,523,825	\$6,922,300
		Overall 6.11% increase

The City’s broker has advised that despite the continuing hard market within the insurance industry, the City’s overall increase in premiums were minimal for the property insurance policies when compared to other municipal accounts. Premium increases are attributed mainly to inflationary increases in value for City assets and infrastructure as well as industry rate increases under specific lines. The coverages, limits and deductibles remain unchanged.

Alternatives for Consideration – see page 6

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The Paramedic Medical Malpractice Insurance policy premium of \$64,800 plus taxes 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). A higher deductible of \$1,000,000 will mean the City will bear any costs from claims up to that amount, as compared to the previous policy which had a \$250,000 deductible.

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

As detailed in the prior Report LS22036, the insurance marketplace continues to be challenging for specific insurance lines such as Paramedic Medical Malpractice Liability as claims continue to grow in severity and frequency. Medical malpractice coverage for paramedics used to be covered under the City’s Municipal General Liability Insurance. Since 2019, insurers of municipalities have restricted Medical Malpractice Liability insurance relating to the operations of paramedics. A stand-alone insurance policy has been in place for municipal paramedic operations. There is a growing trend of claims against municipalities for failing to deliver paramedic services in accordance with the applicable standards.

The City’s broker, Arthur J. Gallagher Canada Limited (“Gallagher”), has advised that the current insurer, Berkley Canada, indicates that the reason for the substantial increase in premiums is as a result of the size and scope of the paramedic operations of the City of Hamilton, the overall trending and adverse development of open claims industry wide, and the City’s claim history.

As indicated earlier in this report, the broker solicited quotations from other insurers in an attempt to secure reduced rates. The insurers who are able and willing to provide quotations for municipalities are very limited and most domestic insurers declined to quote.

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.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

2023 Paramedic Medical Malpractice

The City has robust mandatory training in place for its paramedic services. As well, paramedic staff are required to review and understand the Ministry of Health (MOH) Basic Life Support Patient Care Standards, and Advanced Life Support Patient Care Standards along with any associated updates or changes to those standards when launched by the MOH. Hamilton Paramedic Service's policy and procedures are reviewed on a continual basis as part of a Collaborative High Reliability (Just Culture) process for quality reviews.

In the past five years, the City has incurred one claim which expenses are approaching the current \$250,000 deductible. All other claims incurred under this line of coverage have been resolved far below the deductible limit and have not been submitted to the City's insurers. By accepting the policy coverage offered by the Marsh Canada Liability Program with QBE as the underwriter with a \$5 million limit, with the higher \$1 million deductible, the City will benefit from the lowest quote received for such coverage, while still protecting the City should a large loss occur.

Staff will continue to monitor claims under this line of coverage when reviewing annual renewal of the coverage limits and deductibles for any adjustments that may be necessary in future terms to protect the City's interests.

Staff are recommending approval of the Paramedics Medical Malpractice Policy with Marsh Canada Liability Program/QBE for the period January 30, 2023 to January 30, 2024.

2023 Cyber Insurance

Since the third quarter of 2022, staff have been in regular contact with the City's broker and current insurer, to provide necessary information to obtain the renewal quotes for its annual cyber insurance policy. The insurer has received all requested information, however, at the time of the writing of this report, staff continue to receive and respond to additional requests for information from the underwriter. A renewal quote has yet to be received for this policy which has an expiry date of January 31, 2023.

Given the extremely short turnaround time to provide authorization to bind coverage, staff have requested from the broker and insurer an extension of the coverage be granted into February to allow for a further report to Committee for proper authorization to be obtained once a renewal quote is received. Staff await confirmation of this extension as well as the renewal quote. Staff will report back to Council upon receipt of the renewal terms and conditions for the Cyber Insurance Policy.

ALTERNATIVES FOR CONSIDERATION

The broker has marketed for the City to obtain the best quotes for the necessary coverages. All viable options have been presented.

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

None.