

## **COMMITTEE OF THE WHOLE (WORKING SESSION) - APRIL 10, 2012**

### **RFP 12-063 - GENERAL INSURANCE AND RISK MANAGEMENT SERVICES**

#### **Recommendation**

The Commissioner of Legal and Administrative Services & City Solicitor and City Clerk, in consultation with the Commissioner of Finance and City Treasurer and the Director of Purchasing Services recommend:

1. That the City enter into an Ontario Municipal Insurance Exchange (OMEX) Subscriber Agreement for insurance and risk management services commencing May 1, 2012;
2. That the savings in insurance premium cost for the balance of 2012 (approximately \$733,000) be reallocated to fund an additional FTE (Claims Analyst) at an approximate cost of \$100,000, inclusive of benefits, and that any balance remaining be transferred into the Insurance Reserve to build a contingency balance for potential retro assessments; and
3. That staff report annually through the budget process on upcoming annual premiums and projected insurance reserve levels.

#### **Contribution to Sustainability**

The provision of general insurance and risk management services is a key component to ensuring the financial stability of the City. By acquiring appropriate insurance coverages and implementing risk management practices, risk exposure can be managed and mitigated.

#### **Economic Impact**

The OMEX premium for the balance of 2012 will be \$1,575,554, and \$2,363,320 for 2013. Minor adjustments in premium cost may result from the opening of additional facilities such as community centres and libraries, and other minor refinements made as the reciprocal agreement is finalized.

Funding for the 2012-2013 Insurance program (premium cost) has been budgeted at \$3.8M. Reciprocal membership with OMEX would translate into premium cost savings of approximately \$1.1 million (annualized) along with the ability to gain autonomy over claims handling.

Staff recommends that the savings for the balance of 2012 (approximately \$733,000 pro-rated) be reallocated to fund an additional FTE (Claims Analyst) at an approximate annual cost of \$100,000, inclusive of benefits, and transfer any balance remaining into the Insurance Reserve to build a contingency balance for potential retro assessments.

Retro assessments are a factor of the reciprocal agreement and introduce a need to maintain reserves to mitigate impacts to the annual budget.

Responsibility for administrative functions, including claims analysis, that the incumbent insurer previously handled would be transferred to the City's insurance and risk management unit and would require one additional FTE. The Additional Resource Request for the Claims Analyst position included in the 2013 budget plan, would be implemented within the 2012 budget.

## **Communications Plan**

Details about the City's insurance program will be conveyed to all City departments through the, Risk Management program. Information pertaining to the filing of Claims will be posted to the City of Vaughan On Line website.

## **Purpose**

The purpose of this report is report on the results of RFP 12-063 and to seek Council approval to enter into a subscriber agreement with the Ontario Municipal Insurance Exchange (OMEX) for the purpose of obtaining insurance and risk management services.

## **Background - Analysis and Options**

At the Council meeting of December 13, 2011, Council directed staff to proceed with a Request for Proposal (RFP) for the City's insurance coverage and related risk management services and approved that an industry consultant be retained to assist in the preparation and evaluation of the RFP.

To raise awareness and identify barriers to bidding, staff approached the insurance industry through a Request for Expression of Interest (RFEI). The RFEI was directed to the various insurers that had previously responded to the City's RFP. The RFEI requested potential respondents to comment on the City's typical Request For Proposal document for General Insurance & Risk Management Services. In addition, the RFEI sought to elicit from potential respondents any challenges or limitations they might face in responding to any future related Request for Proposal, and asked for suggestions to simplify the submission process. The RFEI was advertised on the Bidding and Ontario Public Buyers Association web sites with a closing date of January 6, 2012.

A total of six (6) proponents picked up the RFEI documents from the Purchasing Services Department. Submissions were received from the following:

1. BFL Canada- Toronto, Ontario
2. Ontario Municipal Insurance Exchange- Markham, Ontario
3. Frank Cowan Company- Princeton, Ontario
4. CG and B- Mississauga, Ontario
5. Jardine Lloyd Thompson –Toronto, Ontario

Staff took the submissions into consideration in preparing the RFP for General Insurance and Risk Management Services which is the subject of this report.

Concurrently with the RFEI staff issued an RFP for consulting services to review the City's current insurance coverage and claims and risk management services, assist in the preparation of the RFP for insurance and risk management services for 2012-2013 and to analyze submissions and assist in recommending an insurance provider for the City of Vaughan. Cameron and Associates Insurance Consultants, a firm, experienced in similar reviews conducted in similar sized municipalities, was retained at the conclusion of the process..

## **Changes to the Insurance RFP structure**

To encourage the best insurance solution possible, the scope for proposals was expanded to encourage proponents to present their best options and not be restricted to the current insurance program. Proponents were specifically requested to:

- Consider higher limits,

- Propose alternative deductibles,
- Recommend new coverage or amend existing coverage
- Expand Services

On February 6, 2012, the City of Vaughan issued RFP-12-063 for General Insurance and Risk Management Services with a closing date of March 5, 2012. A total of five (5) proponents picked up the RFP document. Two addendums were issued in response to clarifying questions received from the various proponents.

The following proponents submitted proposal envelopes:

1. Frank Cowan Company Limited
2. BFL Canada; and
3. Ontario Municipal Insurance Exchange (OMEX)

The five member evaluation committee comprised of Vaughan staff and the City's consultant evaluated the proposals between March 7<sup>th</sup> and 9<sup>th</sup> in accordance with the evaluation criteria set out in the RFP document. Each of the proponents were invited to present their proposals in person and be interviewed by the evaluating committee.

RFP Evaluation Results

The coverages and services offered by proponents were similar, as were the qualifications of the proponent's personnel. The distinguishing difference amongst the proposals was cost. OMEX, followed by BFL, offered pricing which was significantly less expensive than the City's current insurance premium.

Of the three Proponents, OMEX offered the lowest premium and the highest limit with comparable coverage, resulting in the highest score being awarded to that proposal. Table 1 compares the cost saving between the incumbent insurer's premium for the 2011-2012 policy term and OMEX's annualized rate. The current premium is 47% higher than the OMEX annualized premium.

Table 1

<b>Insurance Premium Cost Comparison</b>			
<b>Company</b>	<b>Limit</b>	<b>Deductible</b>	<b>Annual Premium</b>
Incumbent FCC	\$10 Million	\$50,000	\$3,464,282
OMEX*	\$50 Million	\$50,000	\$2,363,320
* Annualized Premium Comparison based on present rate			

OMEX policy terms are guided by their underwriting period which commences from January 1 of a policy term year to January 1 of the following year. Accordingly they have provided a quote for the remainder of their current policy period, effective up to the end of December 2012. OMEX has agreed to maintain their quoted rate for liability coverage through to the end of 2013, a 20 month period, subject to minor adjustments for additional facilities opening and property valuation,

resulting in an adjustment to the property rate. Property rates will be confirmed in October 2012 and are not expected to change significantly.

### **OMEX Coverage Requires Reciprocal Membership**

#### **Current Claims Process:**

The City's incumbent insurer is the Frank Cowan Company, which operates under a traditional insurance structure, through which the City pays a premium for the management of claims and transfer of risk.

The Incumbent has its own claims department with authority to settle on behalf of the City. The City of Vaughan's claims are similar to those of other municipalities, being predominantly slip/trip and falls where there may be some liability. The Incumbent reserves at the discretion of its claims examiners, based on its analysis of the type of claims received.

The City has historically reported all claims involving bodily injury or claims made over the City's \$50,000 deductible to the current insurer. This reporting requirement was established by the insurer based on the City's deductible limit. As a result of this reporting requirement any claims identified as bodily injury regardless of whether the City was liable or if it settled within the City's deductible limit are recorded by the insurer. All claims reported to the insurer contribute to the City's overall loss experience and accordingly become a major factor in how the insurer perceives the cost of the City's risk exposure. Since 2006 to present, 64% of the City's liability claims have been closed and/or settled for less than the \$50,000 deductible, yet funds for these claim would have been set aside (reserved) by the insurer ultimately affecting the City's premium.

Our current insurer's reporting arrangement does not allow the City autonomy nor input on overall claims handling. Within this structure staff is limited in directing the outcomes of claims, the majority of which the City will ultimately pay through deductible payments.

Within the current arrangement the insurer sets the reserves for the purposes of forecasting the related costs, i.e. legal fees, adjusting fees, and settlement costs. Reserves will normally increase the longer a claim remains open as a result of accumulating expenses. The present policy allows the insurer to settle claims at its discretion with very little input by the municipality. As noted above 64% of the City's claims have been closed or settled for less than the City's deductible.

It is in the City's best interest to ensure that claims are being investigated and resolved in an expedient manner to avoid the perception of a poor loss experience to industry underwriters, which may result in higher premiums charged to the City for future insurance services. Rapid investigation and resolution also supports the City's Risk Management strategy by informing operational choices to reduce the reoccurrence of similar incidents.

#### **Claims Process as a Member of OMEX:**

OMEX is a Reciprocal owned by Municipalities and is licensed and governed by the *Insurance Act* and monitored by the Financial Services Commission of Ontario (FSCO). It provides broad coverage to its members, with high limits of \$50 million for each of liability and errors and omissions, and up to \$300 million for property coverage. Municipalities choose to join OMEX and upon becoming a Member, insurance renewal is automatic. The annual premium is based upon the rates negotiated by OMEX with its reinsurers, operating costs and loss experience. They are audited annually and provide Members with a financial report.

OMEX is a not for profit operation so premium collected is used for the benefit of Members, who are subject to the Reciprocal Agreement which contains the conditions for membership, including

any financial liability the members might bear. The objective of a Reciprocal is to receive sufficient premium from its Members to satisfy all losses incurred during the policy period insured, even if these are not reported until several years after the policy period has expired. If known losses are under-reserved, or there is an unexpected shock loss, or OMEX fails to account for incurred but Not Reported losses (IBNR), there will be a short-fall and a retro-assessment will be levied to correct this negative balance.

For a retro-assessment to apply, the shortfall must occur during the period the municipality was a member. For example, if the short-fall is for the 2004-2005 underwriting period but the Member did not join OMEX until 2012, it will not pay a retro assessment for the earlier period. Conversely, if the municipality is a Member when there have been several years of short-falls, then the member will pay several retro-assessments. Reimbursement is made over a multi-year payment plan and once known can be incorporated into multi year budgets. The obligation to pay for the applicable period of risk continues even after a Member leaves OMEX, and any retro-assessment assessed prior to the departure date becomes immediately due.

OMEX has previously assessed several millions of dollars to its members, with individual assessments numbering several hundreds of thousands of dollars. In recent years approximately nine (9) Members left OMEX, many of which had been Members for considerable time, principally because of the retro-reassessments. OMEX currently has 20 Members, of which the three largest are the City of Brampton, the City of London and the City of Windsor.

Based on previous retro-assessments reported by the Region of York over a twelve year period from 1998 to 2009, retro-assessments added approximately 35% to the total premium over that period.

Although this history of retro-assessments is a consideration, these can be attributed to decisions made during the years when the shortages were incurred. The City's Consultant has advised that OMEX has introduced greater oversight into its underwriting and claims practices to prevent or minimize circumstances where a retro-assessment might be necessary. OMEX retains an independent actuary to review reserves and steps have been taken to introduce greater underwriting discipline. OMEX currently assumes the first \$1.5 million of every liability and errors and omissions claim, reinsuring the remainder, and has purchased Stop-Loss Insurance to cap its exposure for loss to \$12.5 million for the policy term.

### **Insurance and Risk Management Program Changes Required as a Consequence of Joining a Reciprocal**

The OMEX proposal allows the City's risk management section greater control over claims up to the deductible limit. Claims can be handled more efficiently and expeditiously reducing the cost of keeping a claim open or in the alternative sending the file to legal counsel to deal with opposing counsel.

To properly manage Vaughan's claims, a claims management system is required. A \$50,000 expenditure has been approved in the 2012 capital budget for the purpose of acquiring such a system. A request to hire an experienced claims analyst to operate the system and manage the City's claims program has been deferred to the 2013 operating budget process. Since becoming a member of OMEX increases the City's responsibility to manage claims within its deductible, a sound business practice in any event, it is recommended that a claims analyst be hired as soon as possible, to be funded from the insurance operating budget of the insurance and risk management section (in effect funded by a portion of the gap created by the substantially lower premium cost under OMEX membership).

The City's existing practice of retaining the services of an independent insurance adjuster and using in-house counsel to manage litigation within the limits of the deductible, will be maintained.

### **Property Coverage**

The present policy of insurance provides blanket coverage for the City's property inventory which is stated to be approximately \$418M. The OMEX quotation provided a coverage limit of \$100 Million dollars for any one loss, with an option to increase coverage to \$300 Million. OMEX has provided a quotation to increase the limit to \$300M, at a cost of \$9,738. Staff is of the opinion that the \$300M is sufficient given that the likelihood of catastrophic loss of the City's entire infrastructure at one time is remote. However, staff has asked for a quotation to purchase excess insurance to top up coverage to \$418M.

### **Recreational Affiliates**

The City of Vaughan presently carries liability insurance for recreational groups, associations and committees that cooperate with the municipality to offer services to the community using municipally owned or operated facilities. The present limit of liability is \$1 Million with a deductible of \$1,000. The policy does not extend coverage for Directors and Officers liability.

OMEX provided a separate premium quote of \$7950 plus applicable taxes for similar coverage. In light of recent discussions surrounding limits of liability for such groups staff has requested OMEX provide a quote for 5 Million on liability, and to offer to the affiliate groups coverage for Directors and Officers liability, if available.

### **Conflict of Interest/ Legal Expense/ Errors and Omissions**

#### **Conflict of Interest – Council Members**

The OMEX program offers \$50,000 deductible, per claim, with no aggregate, and no separate limit. The incumbent program has a \$250,000 limit of reimbursement per claim, with no deductible and no aggregate.

#### **Legal Expense/Errors and Omissions**

This insurance provides for the reimbursement of legal fees and expenses incurred by elected or appointed members and employees for any charges under any statute or regulation whether or not found guilty in the province of Ontario or Canada except under the Highway Traffic Act, Municipal Conflict of Interest Act or if a person insured has deliberately contravened any statute or regulation. Coverage applies to charges under the criminal code if the person is found not guilty or charges are dismissed.

The OMEX program has a \$50,000 deductible per claim, with no aggregate and no separate limit for both Errors and Omissions and Legal Expenses. The incumbent program has a \$50,000 deductible, with a \$10 million limit and no aggregate for Errors and Omissions; and \$250,000 per claim with an aggregate of \$500,000 for legal expense.

### **Benefits of OMEX Membership**

Under the membership arrangement with OMEX, the City would gain more control over the claims handling process as staff would have access to claims information for the purposes of directing outcomes. Staff would be able to track claims status and be part of the rationale as it pertains to settling or denying a claim. Greater control contributes to lower premiums as reserving practices have a more direct relationship with the actual costs of paying and

administering claims. It also affords the City the opportunity to collect data on its claims history, which, if another RFP is issued in the future, will provide for the most conservative pricing by proponents.

Greater control also requires increased resources such as staff dedicated to the claims management function, and any associated enhancements, in technology. To protect against the possibility of retro assessments in the future, a possibility under a Reciprocal, it would be prudent for the City to place in a reserve a portion of what it would otherwise pay in premiums to ensure that funds would be available for retro assessments, losses and associated expenses. The Insurance-Risk Management Section's role becomes broader as it assumes functions similar to an insurer with respect to examination of files handled by the adjuster, setting & monitoring reserves, and tracking fees related to investigation and defence.

### **Relationship to Vaughan Vision 2020/Strategic Plan**

This report is consistent with the priorities previously set by Council as sent out in Vaughan's Vision 2020 particularly: Management Excellence demonstrated leadership and promote effective governance.

### **Regional Implications**

N/A

### **Conclusion**

Entering into an OMEX Subscriber Agreement for insurance and risk management services provides the City with significant savings and the opportunity to take greater control and responsibility over management of its claims. The money required to add an FTE for this purpose is made available as a result of lower premium costs. Lower premium costs also provide the opportunity to contribute additional funds to the Insurance Reserve to build a contingency to mitigate the impact of any potential future retro assessments.

### **Attachments**

None

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