

2G. Consideration of *not* waiving monetary limits on municipal tort liability established by Minnesota Statutes

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| Prepared by: Finance Director | Meeting Date: 5/22/2023 | <input checked="" type="checkbox"/> Consent Agenda Item <input type="checkbox"/> Regular Agenda Item |
| Reviewed by: N/A | Approved by: City Administrator | |

ACTION REQUESTED

Motion to approve not waiving monetary limits on municipal tort liability established by Minnesota Statutes.

REFERENCE AND BACKGROUND

The City’s property and liability insurance coverages are renewable in July of each year. As part of the renewal, the City must decide whether to waive or not waive the statutory limits. There is no right or wrong answer, and it is a discretionary decision each governing body must make.

Currently, statutory municipal tort liability is limited to a maximum of \$500,000 on any claim per individual and \$1,500,000 from all claimants for one incident. If the City chooses to waive the tort limits, per individual claims and per occurrence claims would be limited to \$2,000,000.

- I. **Budget Impact:** None.
- II. **Staff Impact:** None.
- III. **Comprehensive Plan Impact:** N/A

STAFF RECOMMENDED ACTION

City staff recommends approval of not waiving monetary limits on municipal tort liability established by Minnesota Statutes.

SUPPORTING DATA

- Copy of Liability Coverage Waiver Form

LIABILITY COVERAGE – WAIVER FORM

Members who obtain liability coverage through the League of Minnesota Cities Insurance Trust (LMCIT) must complete and return this form to LMCIT before the member's effective date of coverage. Return completed form to your underwriter or email to pstech@lmc.org.

The decision to waive or not waive the statutory tort limits must be made annually by the member's governing body, in consultation with its attorney if necessary.

Members who obtain liability coverage from LMCIT must decide whether to waive the statutory tort liability limits to the extent of the coverage purchased. The decision has the following effects:

- *If the member does not waive the statutory tort limits, an individual claimant could recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits would apply regardless of whether the member purchases the optional LMCIT excess liability coverage.*
- *If the member waives the statutory tort limits and does not purchase excess liability coverage, a single claimant could recover up to \$2,000,000 for a single occurrence (under the waive option, the tort cap liability limits are only waived to the extent of the member's liability coverage limits, and the LMCIT per occurrence limit is \$2,000,000). The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to \$2,000,000, regardless of the number of claimants.*
- *If the member waives the statutory tort limits and purchases excess liability coverage, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.*

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

LMCIT Member Name:

Check one:

- The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by [Minn. Stat. § 466.04](#).
- The member **WAIVES** the monetary limits on municipal tort liability established by [Minn. Stat. § 466.04](#), to the extent of the limits of the liability coverage obtained from LMCIT.

Date of member's governing body meeting: _____

Signature: _____ Position: _____