



## STAFF REPORT

DATE: December 17, 2019  
**REGULAR**

**TO:** Honorable Mayor and City Council  
**FROM:** Jake Dickson, Assistant City Administrator  
**AGENDA ITEM:** 2020 LMCIT Renewal

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### **BACKGROUND:**

The decision to waive, or not waive the statutory municipal tort limits for LMCIT members is typically required to be made by the members governing body. At the November 20, 2018 meeting, Council provided authorization to elect not to waive the statutory municipal tort limits.

If the member *does not waive* the statutory tort limits, an individual claimant would be able to recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits apply regardless of whether the city purchases the optional excess liability coverage.

If the member *waives* the statutory tort limits and does not purchase excess liability coverage, a single claimant could potentially recover up to \$2,000,000 for a single occurrence. (Under this option, the tort cap liability limits are waived to the extent of the member's liability coverage limits, and the LMCIT per occurrence limit is \$2 million.) The total all claimants would be able to 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 would be able to 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.

### **ISSUE BEFORE COUNCIL:**

Should the Council provide authorization for the City to not waive the municipal tort limits for liability coverage from LCMIT and maintain the \$1,000 deductible for Property and Liability coverage?

### **PROPOSAL DETAILS/ANALYSIS:**

Staff recommends that Council elect not to waive the statutory municipal tort limits, and approve the Liability Coverage Waiver Form as such. Staff also recommends maintaining the \$1,000 deductible for the LCMIT property and liability coverage as it was increased in 2017 for 2018 Property and Liability coverage.

### **FISCAL IMPACT:**

As referenced above, if the City maintains the same deductible, the liability and land use claims will carry a deductible of \$1,000.

If the Council *does not waive* the statutory tort limits, an individual claimant would be able to recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total all claimants would be

able to recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000.

If Council ***waives*** the statutory tort limits and does not purchase excess liability coverage, a single claimant could potentially recover up to \$2,000,000 for a single occurrence.

**OPTIONS:**

Liability Coverage – Waiver Form:

- 1) Waive statutory municipal tort limits
- 2) Do not waive statutory municipal tort limits

Property/Liability Deductible:

- 1) Maintain current deductible for property/liability coverage
- 2) Increase deductible for property/liability coverage
- 3) Decrease deductible for property/liability coverage

**RECOMMENDATION:**

***“Move to approve maintaining the current \$1,000 deductible for the City’s property and liability insurance, and authorize election to not waive the statutory tort limits.”***

**ATTACHMENTS:**

- LMCIT’s 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 [psstech@lmc.org](mailto:psstech@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.

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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: \_\_\_\_\_