

**City of Menahga
Action Memorandum 18-031**

Subject: Approve the League of Minnesota Cities Waiver Form

Agenda of: May 14, 2018

Council action: Approved _____

Summary statement: Action Memorandum 18-031 approves the League of Minnesota Cities Waiver Form, stating the City does not waive the monetary limits.

The Waiver Form is a yearly League of Minnesota Insurance Trust requirement. The City traditionally does not waive the monetary limits on municipal tort liability established by Minnesota States, Section 466.04.

Fiscal information:

Total amount of funds listed in this legislation: \$ _____

This legislation (✓):

Has no fiscal impact Creates a positive impact in the amount of: \$ _____
 Creates a negative impact in the amount of: \$ _____

Funds are (✓):

Budgeted Line items(s): _____
 Not budgeted Affected line item(s): _____



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LIABILITY COVERAGE – WAIVER FORM

LMCIT members purchasing coverage must complete and return this form to LMCIT before the effective date of the coverage. Please return the completed form to your underwriter or email to pstech@lmc.org

This decision must be made by the member's governing body every year. You may also wish to discuss these issues with your attorney.

League of Minnesota Cities Insurance Trust (LMCIT) members that 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 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.

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

City of Menahga
LMCIT Member Name

Check one:

The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by Minnesota Statutes, Section 466.04.

The member **WAIVES** the monetary limits on municipal tort liability established by Minnesota Statutes, Section 466.04 to the extent of the limits of the liability coverage obtained from LMCIT.

Date of city council/governing body meeting _____

Signature _____ Position _____

466.04 MAXIMUM LIABILITY.

Subdivision 1. **Limits; punitive damages.** (a) Liability of any municipality on any claim within the scope of sections 466.01 to 466.15 shall not exceed:

(1) \$300,000 when the claim is one for death by wrongful act or omission and \$300,000 to any claimant in any other case, for claims arising before January 1, 2008;

(2) \$400,000 when the claim is one for death by wrongful act or omission and \$400,000 to any claimant in any other case, for claims arising on or after January 1, 2008, and before July 1, 2009;

(3) \$500,000 when the claim is one for death by wrongful act or omission and \$500,000 to any claimant in any other case, for claims arising on or after July 1, 2009;

(4) \$750,000 for any number of claims arising out of a single occurrence, for claims arising on or after January 1, 1998, and before January 1, 2000;

(5) \$1,000,000 for any number of claims arising out of a single occurrence, for claims arising on or after January 1, 2000, and before January 1, 2008;

(6) \$1,200,000 for any number of claims arising out of a single occurrence, for claims arising on or after January 1, 2008, and before July 1, 2009;

(7) \$1,500,000 for any number of claims arising out of a single occurrence, for claims arising on or after July 1, 2009;

(8) twice the limits provided in clauses (1) to (7) when the claim arises out of the release or threatened release of a hazardous substance, whether the claim is brought under sections 115B.01 to 115B.15 or under any other law; or

(9) \$1,000,000 for any number of claims arising out of a single occurrence, if the claim involves a nonprofit organization engaged in or administering outdoor recreational activities funded in whole or in part by a municipality or operating under the authorization of a permit issued by a municipality.

(b) No award for damages on any such claim shall include punitive damages.

Subd. 1a. **Officers and employees.** The liability of an officer or an employee of any municipality for a tort arising out of an alleged act or omission occurring in the performance of duty shall not exceed the limits set forth in subdivision 1, unless the officer or employee provides professional services and also is employed in the profession for compensation by a person or persons other than the municipality.

Subd. 1b. **Total claim.** The total liability of the municipality on a claim against it and against its officers or employees arising out of a single occurrence shall not exceed the limits set forth in subdivision 1.

Subd. 2. **Inclusions.** The limitation imposed by this section on individual claimants includes damages claimed for loss of services or loss of support arising out of the same tort.

Subd. 3. **Disposition of multiple claims.** Where the amount awarded to or settled upon multiple claimants exceeds the applicable limit under subdivision 1, paragraph (a), clauses (4) to (9), any party may apply to any district court to apportion to each claimant a proper share of the total amount limited by subdivision 1.

The share apportioned each claimant shall be in the proportion that the ratio of the award or settlement made to each bears to the aggregate awards and settlements for all claims arising out of the occurrence.

History: *1963 c 798 s 4; 1976 c 264 s 1-3; 1983 c 121 s 28; 1983 c 331 s 2,3; 1986 c 444; 1989 c 325 s 50; 1997 c 210 s 3,4; 2006 c 232 s 2; 2012 c 131 s 2,3*