City of Blaine
Anoka County, Minnesota

Legislation Text

File #: MO 22-124, **Version:** 1

Consent Agenda - *Alison Bong, Deputy Finance Director*

Title
Notifying League of Minnesota Cities Insurance Trust That Monetary Limits on Tort Liability are Not Waived

Executive Summary
The city's decision to waive or not waive the statutory tort limits must be made annually at the time of policy renewal. Historically, the City has elected not to waive the statutory tort limits.

Background
LMCIT makes it possible for cities to obtain excess coverage without waiving the statutory liability limit of $500,000 per person, $1,500,000 per occurrence. For cities that choose not to waive the statutory limits, the city's liability is limited by the statute to no more than $500,000 per claimant and $1.5 million per occurrence for tort claims. The LMCIT's higher coverage limits would only apply to those types of claims that aren't covered by the statutory limits. Alternately, cities may choose to waive the statutory liability limits. Under this option, the higher coverage limits would be available for all claims, including claims that otherwise would have been limited by the statutory liability limits.

LMCIT offers excess liability (umbrella coverage) options in the amounts of $1 million to $5 million. To purchase the umbrella coverage under the League Program, city councils must take action to either waive or not waive statutory limits.

Staff has reviewed the alternatives with the City Attorney and the City's risk consultant. Staff feels that the liability limits under M.S. 466.04 **should not be waived** . If the City 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 (as opposed to being able to recover up to the standard limit of $2 million if city waived the statutory limits). Also, the total which 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. As long as Blaine does not waive these limits as staff proposes, these statutory tort limits would apply regardless of whether or not the City purchases the optional excess liability coverage.

Additionally, this excess liability coverage would provide coverage in the following areas where statutory limits do not apply:
- Liability under the federal civil rights act. This includes Section 1983, the American's with Disabilities Act.
- Certain types of liability that the City may assume contractually, which occurs when a member agrees in contract to defend and indemnify a private party.
- Liability for actions in another state, i.e., by a City official attending a conference, or under a mutual aid agreement with a political subdivision across state borders.

- Liability for zoning action under an inverse condemnation "taking" theory.
- In a case where the EDA is named a covered party on the City's insurance, the claimant might be able to get a ruling that the EDA and City are two separate political subdivisions and receive a maximum settlement for both.

Claims to which the statutory municipal tort limits do not apply are not affected by this decision, nor are claims made at the Federal level where Minnesota statutory limits would not otherwise apply.

Strategic Plan Relationship
This action supports the strategic plan initiative of Financial Sustainability.

Board/Commission Review
Not required

Financial Impact
While there is no immediate financial impact, the action assesses the risk of paying a tort claim that exceeds the statutory limit versus the cost of obtaining excess coverage.

Public Outreach/Input
N/A

Staff Recommendation
As Staff finds no compelling reason to waive the statutory tort limits, it is recommended that the Council, by motion, direct Staff to notify LMCIT that the City of Blaine <u>does not</u> waive monetary limits on tort liability established by M.S. 466.04.

Attachment List
None