CITY OF TONKA BAY
ITEM NO. 9B

Memo

To: Honorable Mayor and City Council

From: Joe Kohlmann, City Administrator

Date: August 15, 2012

Re: Waiver on Tort Liability Limits for the LMCIT

Each year the city must decide whether or not to waive the statutory tort liability limits in order to comply with LMCIT requirements for insurance purposes.

The recommended option is that the city "Does Not Waive the monetary limits on municipal tort liability established by Minnesota Statutes 466.04". Last year, the City chose to "not waive" the monetary limits. The LMC Insurance Trust indicated that the overwhelming majority of the cities within the trust do not waive the coverage. The attached memo from the League provides a more in depth analysis. Since 2004 the City has purchased the excess liability insurance of $1m and has decided to not waive liability coverage limits. This excess coverage costs the city $2,454 per year.

Council Action Requested:
Motion for the City Administrator to sign the attached Waiver Form checking "The City Does Not Waive the monetary limits on municipal tort liability established by Minnesota Statutes 466.04".

SECTION I: LIABILITY COVERAGE WAIVER FORM

Cities obtaining liability coverage from the League of Minnesota Cities Insurance Trust must decide whether or not to waive the statutory tort liability limits to the extent of the coverage purchased. The decision to waive or not to waive the statutory limits has the following effects:

- *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. 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. These statutory tort limits would apply regardless of whether or not the city purchases the optional excess liability coverage.

- *If the city waives the statutory tort limits and does not purchase excess liability coverage*, a single claimant could potentially recover up to $1,500,000. on a single occurrence. The total which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would also be limited to $1,500,000., regardless of the number of claimants.

- *If the city 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 which 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.

This decision must be made by the city council. **Cities purchasing coverage must complete and return this form to LMCIT before the effective date of the coverage.** For further information, contact LMCIT. You may also wish to discuss these issues with your city attorney.

City of Tonka Bay accepts liability coverage limits of $ 500,000 / 1,500,000 from the League of Minnesota Cities Insurance Trust (LMCIT).

Check one:

[X] The city **DOES NOT WAIVE** the monetary limits on municipal tort liability established by Minnesota Statutes 466.04.

[ ] The city **WAIVES** the monetary limits on tort liability established by Minnesota Statutes 466.04, to the extent of the limits of the liability coverage obtained from LMCIT.

Date of city council meeting _____

Signature_____ Position City Administrator

Return this completed form to LMCIT, 145 University Ave. W., St. Paul, MN. 55103-2044