

MEMORANDUM

TO: Board of Managers

FROM: Terry Jeffery, Administrator

DATE: July 12, 2023

RE: Municipal Tort Liability

At the June 7, 2023, regular meeting of the Board of Managers, it was requested that the administrator look into two items prior to the board deciding whether they should waive the municipal tort liability limits set forth in Minn. Stat. §466.04. First, if the RPBCWD had ever, in our past, waived the limits. In discussion with our insurance broker, looking back to the 2012-2013 policy year, no instance could be found wherein the district waived the tort liability limits.

The Board also asked what the additional premium fees would be if the RPBCWD were to waive the limits. The increase in premium fees would amount to a 3.5% increase for all general liability coverage as well as a 3.5% increase for auto liability. Based upon the 2022-2023 policy year, this would be approximately \$1,350 extra. It is unknown what the 2023-2024 policy year premiums will be at this time.

RESOLUTION NO. 23-039

**RILEY PURGATORY BLUFF CREEK WATERSHED DISTRICT
BOARD OF MANAGERS**

DECLINING TO WAIVE STATUTORY LIABILITY LIMITS

Manager _____ offered the following resolution and moved its adoption, seconded by
Manager _____:

WHEREAS the Riley Purgatory Bluff Creek Watershed District is a governmental subdivision of the State of Minnesota, to which the liability limits in Minnesota Statutes Section 466.04 apply;

WHEREAS, the Board of Managers is duly authorized by Minnesota Statutes Section 103D.335, subdivision 12 to obtain insurance the managers find necessary for the protection of the watershed district; and

WHEREAS, in renewing the District’s property and liability insurance coverage with the League of Minnesota Cities Insurance Trust, the Board of Managers must decide whether to waive the statutory tort liability limits to the extent of the coverage purchased;

NOW, THEREFORE, BE IT RESOLVED that the Riley Purgatory Bluff Creek Watershed District Board of Managers does not waive the monetary limits on municipal tort liability in Minnesota Statutes Section 466.04;

BE IT FURTHER RESOLVED that the Board of Managers directs the administrator to transmit a copy of this resolution to the District’s insurance provider along with the District’s renewal of its insurance coverage.

The question was on the adoption of the resolution and there were _____ yeas and _____ nays as follows:

Yea Nay Abstain Absent

CRAFTON
DUEVEL
KOCH
PEDERSEN
ZIEGLER

Upon vote, the chair declared the resolution _____.

Dated: July 12, 2023.

* * * * *

I, Dorothy Pedersen, secretary of the Riley Purgatory Bluff Creek Watershed District, do hereby certify that I have compared the above resolution with the original thereof as the same appears of record and on file with the District and find the same to be a true and correct transcription thereof.

IN TESTIMONY WHEREOF, I set my hand this _____ day of _____, 2023.

Dorothy Pedersen, Secretary

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 their effective date of coverage. [Email completed form to your city's underwriter, to pstech@lmc.org](mailto:pstech@lmc.org), or fax to 651.281.1298.

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: Riley Purgatory Bluff Creek

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: