

## Exhibit "A"

December 1, 2004

Mayor & City Council  
County-City Building  
Lincoln, Nebraska 68508

RE: Report of Claims Against the City of Lincoln for November 16 through November 30, 2004

Dear Mayor & Council:

The following is a report of claims against the City of Lincoln which have been disposed of, or are pending, for the period of November 16 through November 30, 2004. This report will describe the claims and the dispositions or status of these claims.

### **ALLOWED/SETTLED CLAIMS:**

The claim of **Cynthia C. Siems** and the subrogation claim of **American Family Insurance Group** for damages incurred as the result of a motor vehicle accident involving a police vehicle have been **settled** in the amount of \$8,000.

**Therahlee and Cornelio Guevara** filed a claim during the month of October, 2004, in the amount of \$1,500.11 for expenses incurred as the result of a sanitary sewer back-up. This claim has been reviewed by this office and has been **allowed** in the amount of \$1,500.11.

**Christopher Rood** filed a claim during the month of November, 2004, in an unspecified amount for damage incurred to his vehicle as the result of an accident involving a City-owned vehicle. This claim has been **settled** by the Risk Management Office in the amount of \$995.92.

**Pete and Marsha Robinson** filed a claim during the month of November, 2004, for damage incurred to driveway while Parks personnel were removing a tree. This claim has been reviewed by this office and has been **settled** in the amount of \$1,600.00.

**Edward Goff** filed a claim during the month of November, 2004, in the amount of \$100 for damage incurred to his mailbox when it was struck by a City vehicle. This claim has been reviewed by this office and has been **settled** in the amount of \$70.00.

### **DENIED CLAIMS:**

**Farmers Insurance Group (Claim No. 099 SUB 1005177481-1/Dewey & Joy Simmons, Insured)** filed a subrogation claim during the month of September, 2004, in the amount of \$1,000 for medical payments made for the treatment of an injury incurred to a Linda Duitsman who allegedly fell on a sidewalk adjacent to insured's property. This claim has been reviewed by this office and has been **denied**.

**Maryann Rezac** filed a claim during the month of November, 2004, in the amount of \$3,442.52 for damage allegedly incurred to her vehicle as the result of a fallen tree limb. This claim has been reviewed by this office and has been **denied**.

**Micah Cluck** filed a claim during the month of November, 2004, in the amount of \$405.18 for damage incurred to tires as the result of driving over a street construction sign that was allegedly lying in the street. This claim has been referred to the sign contractor for processing and therefore the claim against the City of Lincoln has been **denied**.

**Eddie L. James** filed a claim during the month of November, 2004, in the amount of \$938.27 for damage allegedly incurred to his vehicle as the result of a fallen tree limb. This claim has been reviewed by this office and has been **denied**.

**Larry E. Maas** filed a claim during the month of November, 2004, in an unspecified amount for damage allegedly incurred to tires as the result of a pothole. This claim has been reviewed by this office and has been **denied**.

**Charles Hanna** filed a claim during the month of November, 2004, in the amount of \$514.08 for damage incurred to tire and wheel as the result of a pothole. This claim has been reviewed by this office and has been **denied**.

**Matthew F. Wright** filed a claim during the month of November, 2004, in the amount of \$53.00 for reimbursement of tow fee. This claim has been reviewed by this office and has been **denied**.

#### **LIGATION SETTLEMENT:**

**Leo M. Weiler** filed a claim during the month of July, 2003, in the amount of \$150,000. Claimant alleged that Lincoln police officers violated his rights under Neb. Rev. Stat. § 20-152 and the Americans With Disabilities Act. This claim was reviewed by this office and denial of this claim was approved the City Council on September 15, 2003. Claimant filed suit in the Lancaster County District Court on or about October 15, 2003. Weiler also filed suit in the U.S. District Court on or about March 4, 2004. The case in the District Court was dismissed with prejudice on March 22, 2004. The U.S. District Court case has been **settled** in the amount of \$175.00.

#### **PENDING CLAIMS:**

**County of Lancaster** filed a claim during the month of October, 2001, for medical expenses incurred as the result of an arrest by Lincoln police of an individual who was taken to the hospital for treatment of injuries allegedly incurred during his arrest. The County alleges that they inadvertently paid for part of the medical expenses. This claim is under review and is **pending**.

**Carl Campbell, President of Campbell Properties Corporation** filed a claim during the month of April, 2003, in the amount of \$306,500 alleging that the City failed to remove obstructions consisting of trees, limbs, debris, and rubbish in the watercourse running through Beal Slough allegedly causing water flowing through Beal Slough to erode the property of the claimant. This claim is under review and is **pending**.

**Awards Unlimited** filed a claim during the month of December, 2003, in the amount of \$23,939.63 for alleged damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Scott Cather** filed a claim during the month of December, 2003, in an unspecified amount for damage incurred to mailbox when it was struck by a StarTran bus. This claim is under review and is **pending**.

**State Farm Insurance Company (Richard D. Scholl, Insured)** filed a subrogation claim during the month of January, 2004, for expenses incurred as the result of a motor vehicle accident involving a vehicle driven by Tammy Scholl and a Lincoln police vehicle. **Tammy J. Scholl** filed a claim during the month of August, 2004, in an unspecified amount for injuries incurred as the result of the accident with the police vehicle. These claims are under review and **pending**.

**Randall Heiliger** filed a claim during the month of February, 2004, in the amount of \$1,200.79 for damage incurred to his vehicle as the result of an accident involving a City snowplow. This claim is under review and is **pending**.

**Deanna Zaffke** filed a claim during the month of March, 2004, in an unspecified amount for damage incurred to the windshield of her vehicle as the result of debris from a City mower. This claim is under review and is **pending**.

**Underground Systems Construction, Inc.** filed a claim during the month of April, 2004, in the amount of \$10,119.98 for work stoppage and lost billable footage due to shutdown and repairs. Claimant was replacing a 4" gas main for Aquila at Fallbrook Road. Claimant alleges that City Water Department locator did not mark or flag the water main, but indicated where claimant's crew were to dig to miss the water main. Claimant alleges that location was 5' off which caused claimant's crew to hit water main. This claim is under review and is **pending**.

**Homes by Hart** filed a claim during the month of May, 2004, in the amount of \$3,328.78 for damage incurred to basement floor at their construction site which they claim was due to an improperly located water service line. This claim is under review and is **pending**.

**Roberto Mancilla, Rubia Menendez, and David Mancilla Menendez** filed a claim during the month of May, 2004, in an unspecified amount for damages incurred as the result of a motor vehicle accident involving a Lincoln police vehicle. This claim is under review and is **pending**.

**James P. Ihrig** filed a claim during the month of June, 2004, in an unspecified amount for injury incurred when claimant fell as the result of an alleged defect in the street. This claim is under review and is **pending**.

**Raymond Phillips** filed a claim during the month of June, 2004, in the amount of \$30,000 for damages incurred as the result of a motor vehicle accident involving a vehicle driven by a Health Department employee. The property damage portion of this claim has been settled by the Risk Management Office in the amount of \$1,680.00. The personal injury portion of this claim remains **pending**. **American Family Insurance Group** filed a subrogation claim during the month of August, 2004, in an unspecified amount for medical expenses paid on behalf of its insured, Raymond Phillips. The subrogation claim is **pending**.

**Andrea Helmkamp** filed a claim during the month of July, 2004, in an unspecified amount for alleged injury incurred when claimant was a passenger in a vehicle that was involved in an accident with a police vehicle. This claim is under review and is **pending**.

**John Kentopp** filed a claim during the month of July, 2004, in an unspecified amount. Claimant alleges that his bicycle was stolen after he was arrested at a City park by a Lincoln police officer. Claimant alleges that police officer did not allow him to secure his bicycle. This claim is under review and is **pending**.

**Nicholas Starr Becker** filed a claim during the month of August, 2004, in the amount of \$100,000 for alleged injury incurred during claimant's arrest by Lincoln police. This claim is under review and is **pending**.

**John and Jolene Walker** filed a claim during the month of August, 2004, in an unspecified amount for damages incurred as the result of a motor vehicle accident involving a City-owned vehicle. The property damage portion of this claim has been settled by the Risk Management Office in the amount of \$23,000. The personal injury portion of the claim is **pending**.

**Ashley Farringer** filed a claim during the month of August, 2004, in the amount of \$2,285.70 for damage incurred to her vehicle as the result of an accident involving a Public Works vehicle. This claim is under review and is **pending**.

**Jason Goetsch** filed a claim during the month of September, 2004, in the amount of \$1,225.83 for damage incurred to his vehicle when it was struck by a Lincoln police vehicle. This claim is under review and is **pending**.

**Prairie Homebuilders, Inc.** filed a claim during the month of September, 2004, in the amount of \$105.00 for property damage incurred as the result of a rock thrown from a City mower. This claim is under review and is **pending**.

**Fred Fleming** filed a claim during the month of September, 2004, in an unspecified amount for damage incurred to his driveway as the result of a water main break. This claim is under review and is **pending**.

**Kidzone Child Care Center** filed a claim during the month of September, 2004, in the amount of \$3,700 for loss incurred as the result of a water main break. This claim is under review and is **pending**.

**Mark and Peggy Edwards** filed a claim during the month of October, 2004, in the amount of \$11,260.00 for alleged damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Timothy J. and Chastity A. Kriz** filed a claim during the month of October, 2004, in the amount of \$24,352.99 for alleged damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Tom and Cindy Slocum** filed a claim during the month of October, 2004, in the amount of \$6,017.69 for alleged damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Melanie Nelson** filed a claim during the month of November, 2004, in the amount of \$206.94 for damage incurred to the windshield of her vehicle when it was allegedly struck by debris in an area of street construction. This claim is under review and is **pending**.

**Sarmite Pinney** filed a claim during the month of November, 2004, in an unspecified amount for injury allegedly incurred when claimant fell on a StarTran bus. This claim is under review and is **pending**.

**Betty Maxfield** filed a claim during the month of November, 2004, in the amount of \$40,127.44 for alleged damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Jerry Weiberg** filed a claim during the month of November, 2004, in the amount of \$2,737.35 for alleged damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**State Farm Insurance (Dean Hoy, Agent)** filed a claim during the month of November, 2004, in the amount of \$369.15 for cleaning expenses incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Donald H. Frank** filed a claim during the month of November, 2004, in an unspecified amount for expenses incurred as the result of sewer back-ups. This claim is under review and is **pending**.

**Gary and Charlotte Elliott** filed a claim during the month of November, 2004, in the amount of \$6,579.44 for damage incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Rachel Kaiser** filed a claim during the month of November, 2004, in the amount of \$1,860.19 for damage incurred to a vehicle owned by **Jim and Kay Wunderlich** when it was struck by a StarTran bus. This claim is under review and is **pending**.

**ZC Sterling Insurance Agency, Inc./Claim No. 04-08496** filed a subrogation claim during the month of November, 2004, in the amount of \$2,562.04 for damage incurred as the result of water flooding the basement of insured's property. This claim is under review and is **pending**.

**Carla Paulsen** filed a claim during the month of November, 2004, in an unspecified amount for injury incurred when claimant fell on a sidewalk. This claim is under review and is **pending**.

**Carl J. Metz** filed a claim during the month of November, 2004, in the amount of \$1,078.65 for damage incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Kevin Thurmond** filed a claim during the month of November, 2004, in the amount of \$10.00 for reimbursement of a parking ticket fine. This claim is under review and is **pending**.

**Mary and Brian Egger** filed a claim during the month of November, 2004, in the amount of \$497.86 for damage incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

#### **PENDING TORT LITIGATION:**

**Sharon Mitchell** filed a claim during the month of March, 2001, in an unspecified amount for damages allegedly incurred as the result of a pothole in an alley. This claim was reviewed by this office and denial of this claim was approved by the City Council on June 4, 2001. Counsel for claimant filed a petition in the Lancaster County Court on September 24, 2001. Plaintiff prays for special damages in the amount of \$4,014.13, general damages, interest, and costs of action. Litigation is **pending**.

**Jason Blair** filed a claim during the month of December, 2000, for injuries incurred as the result of a motor vehicle accident which was allegedly related to a police chase. This claim was reviewed by this office and denial of this claim was approved by the City Council on September 17, 2001. Counsel for claimant filed a petition in the Lancaster County District Court on September 26, 2001. Plaintiff prays for judgment in the amount of \$10,875.23, general damages, and costs of action. Litigation is **pending**.

**Robert Blankenship** filed a claim during the month of December, 2000, for injuries incurred as the result of a motor vehicle accident which was allegedly related to a police chase. This claim was reviewed by this office and denial of this claim was approved by the City Council on September 17, 2001. Counsel for claimant filed a petition in the Lancaster County District Court on December 20, 2001. Litigation is **pending**.

**Sue and Bill Wilson** filed a claim during the month of April, 2002, in an unspecified amount for alleged damages incurred when Sue Wilson tripped on a mat at the Ager Play Center. This claim was reviewed by this office and denial of this claim was approved by the City Council on April 29, 2002. Litigation was filed in the Lancaster County District Court and is **pending**.

**Patricia and James Dodson** filed a claim during the month of March, 2002, on behalf of their minor daughter, Jean Dodson, who was playing keyboard with her high school pep band at State basketball tournaments at Pershing Auditorium, when she allegedly received an electrical shock while adjusting an amplifier which was connected to an extension cord supplied by Pershing Auditorium. Claimants alleged that the extension cord was faulty. This claim was referred to the insurer for Pershing Auditorium. Claimants withdrew their claim on January 21, 2003. A petition was filed in the Lancaster County District Court on January 30, 2003. Plaintiffs are praying for special damages in the amount of \$29,478.26 for medical expenses incurred to date, future medical expenses, temporary and permanent disability, pain and suffering to date and likely to be suffered in the future and loss of future earning capacity. Litigation is **pending**.

**Sandra Mueller** filed a claim during the month of January, 2003, in the amount of \$650,000 for alleged damages incurred as the result of an alleged incident involving a vehicle operated by a Lincoln Electric System employee. Sandra Mueller's husband, **Duane Mueller**, has filed a claim in the amount of \$250,000 for alleged damages incurred as a result of the alleged incident. These claims were referred to counsel for Lincoln Electric System. Counsel for the Muellers filed a petition in the Lancaster County District Court on August 5, 2003. Litigation is **pending**.

**James Blake** filed a claim during the month of March, 2002, in the amount of \$10,139.77 for injury incurred when claimant fell into a water meter pit. This claim was reviewed by this office and denial of this claim was approved by the City Council on April 29, 2002. Counsel for claimant has filed suit in the Lancaster County District Court naming Kwik Shop, Inc., Lincoln Lease Partners, and the City of Lincoln as Defendants. Litigation is **pending**.

**Elizabeth Tufts** filed a claim during the month of October, 2002, in the amount of \$1,000,000 for damages incurred when claimant was a passenger in a police vehicle that was involved in an accident. This claim was reviewed by this office and denial of this claim was approved by the City Council on November 25, 2002. Counsel for claimant filed suit in the Lancaster County District Court on September 26, 2003. Litigation is **pending**.

**Leonard Hernoud d/b/a Century Towing** filed a claim during the month of December, 1998, in the amount of \$4,590.00 for alleged damages resulting from an incident wherein claimant alleges he was instructed by Lincoln police to release a vehicle to an individual without payment of towing and storage charges. This claim was reviewed by this office and denial of the claim was approved by the City Council on July 12, 1999. Counsel for claimant filed a petition in the Lancaster County Court on July 27, 1999. The case was dismissed by the County Court for lack of prosecution on April 5, 2000. Counsel for claimant refiled a petition in the Lancaster County Court on March 25, 2002, captioned Leonard Hernoud II v. Officer Kocian #940. Pursuant to Defendant's motion for summary judgment, the County Court found that the Defendant in this case (Officer Kocian) is immune from being sued for damages and that the statute of limitations has run. Counsel for Plaintiff filed a notice of appeal to the District Court on July 1, 2003. On November 20, 2003, the District Court affirmed the judgment of the County Court in favor of Defendant, Officer Kocian. The case has now been appealed to the Nebraska Court of Appeals. Litigation is **pending**.

**Jeffrey Meyers** filed a claim during the month of July, 2003, in the amount of \$113,121.20 for damages incurred when the tire of the bicycle he was riding fell into a crevice in the street ejecting him from the bicycle. This claim was reviewed by this office and denial of this claim was approved by the City Council on October

27, 2003. Counsel for claimant filed suit in the Lancaster County District Court on January 27, 2004. Litigation is **pending**.

**Suzanne Cain** filed a claim during the month of July, 2003, in the amount of \$500,000 for injury allegedly incurred as the result of a trip and fall on sidewalk. This claim was reviewed by this office and denial of this claim was approved by the City Council on February 2, 2004. **American International Recovery, Inc. (Omni Behavioral Health, Insured)** filed a subrogation claim during the month of April, 2003, for workers compensation benefits paid on behalf of the insured's employee, Suzanne Cain, as a result of her trip and fall accident. This claim was reviewed by this office and denial of this claim was approved by the City Council on February 23, 2004. Counsel for Suzanne Cain filed suit in the Lancaster County District Court on March 10, 2004, naming Gold's Limited Partnership and City of Lincoln, Nebraska as Defendants and Omni Behavioral Health, Inc. and American International Recovery, Inc. as Third-Party Defendants. Litigation is **pending**.

**Neil and April Kringle and Neil and April Kringle on behalf of their minor child, Blake Kringle**, filed a claim during the month of May, 2002, in the amount of \$1,000,000 for damages allegedly incurred when Blake Kringle fell off of his bicycle and into a culvert. This claim was reviewed by this office and denial of this claim was approved by the City Council on May 12, 2003. Counsel for the Kringles filed suit in the Lancaster County District Court on March 12, 2004. Litigation is **pending**.

**Thomas L. Lannin** filed a claim during the month of March, 2004, in the amount of \$5,300.62 for damage incurred to his vehicle as the result of an accident involving a Public Works vehicle. This claim was reviewed by this office and denial of this claim was approved by the City Council on March 29, 2004. Counsel for Mr. Lannin filed suit in the Lancaster County Court on May 17, 2004. Litigation is **pending**.

**Jeremy Tumbleson** filed a claim during the month of March, 2003, in the amount of \$849.30 for damage incurred to his vehicle as the result of an accident involving a City snow plow. This claim was reviewed by the Risk Management Office and denial of this claim was approved by the City Council on April 21, 2003. Counsel for Mr. Tumbleson filed suit in the Lancaster County Court on May 21, 2004. Litigation is **pending**.

**Rafael Torres and Pratt Pest Control** filed a claim during the month of April, 2004, as the result of a motor vehicle accident involving a StarTran bus. The claim alleges damage incurred to the vehicle owned by Pratt Pest Control in the amount of \$7,827.73 and medical expenses for injury incurred to Rafael Torres in the amount of \$1,274.00. This claim was reviewed by this office and denial of this claim was approved by the City Council on May 3, 2004. Counsel for Rafael Torres and Pratt Pest Control filed suit in the Lancaster County Court on June 1, 2004. Litigation is **pending**.

**Ricky Austin** filed a claim during the month of December, 2003, in the amount of \$500,000 for alleged injury incurred while claimant was in police custody in the back seat of a police vehicle when it was rear-ended by another police vehicle. This claim was withdrawn by counsel for the claimant on June 8, 2004, and suit was filed in the Lancaster County District Court on June 11, 2004. Litigation is **pending**.

Respectfully submitted,

James D. Faimon  
Assistant City Attorney

JDF/skb  
c: Risk Management