

## Exhibit "A"

October 3, 2005

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

RE: Report of Claims Against the City of Lincoln for September 16 through September 30, 2005

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 September 16 through September 30, 2005. This report will describe the claims and the dispositions or status of these claims.

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

**David Graff** filed a claim during the month of September, 2005, in the amount of \$212.93 for expense 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 \$212.93.

**Edward Weisser** filed a claim during the month of September, 2005, in the amount of \$146.30 for expense 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 \$146.30.

**Giocondo Navek** filed a claim during the month of September, 2005, in the amount of \$661.21 for damage incurred to vehicle as the result of an accident involving a Lincoln police vehicle. This claim has been **settled** by the Risk Management Office in the amount of \$661.21.

**Demon Wimes** filed a claim during the month of September, 2005, in the amount of \$696.49 for damage incurred to vehicle when it was struck by an Animal Control vehicle. This claim has been **settled** by the Risk Management Office in the amount of \$696.49.

**Ben Neher** filed a claim during the month of September, 2005, in the amount of \$871.06 for damage incurred to vehicle when it was struck by a City-owned vehicle. This claim has been **settled** by the Risk Management Office in the amount of \$871.06.

**Julie Clark** filed a claim during the month of September, 2005, in the amount of \$1,324.05 for damage incurred to vehicle as the result of an accident involving a StarTran bus. This claim has been **settled** by the Risk Management Office in the amount of \$1,342.05.

**Shawn McCoy** filed a claim during the month of September, 2005, in the amount of \$11.25 for reimbursement of the cost to replace claimant's driver's license which was misplaced during a police investigation. This claim has been reviewed by this office and has been **allowed** in the amount of \$11.25.

**Rainbow Sprinkler Co. (Jason Yost, owner)** filed a claim during the month of September, 2005, in the amount of \$558.15 for damage incurred to vehicle when it was struck by an L.E.S. vehicle. This claim has been **settled** by the Risk Management Office in the amount of \$558.15.

#### **LITIGATION SETTLEMENTS:**

**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. Suit that was filed on December 20, 2001, has now been **settled** in the amount of \$22,500.00.

**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 was settled by the Risk Management Office in the amount of \$1,680.00. **American Family Insurance Group** filed a subrogation claim for medical expenses paid on behalf of its insured, Raymond Phillips. Suit was filed in the Lancaster County Court on June 24, 2005, for alleged personal injury incurred as the result of the accident. The suit and subrogation claim of American Family have been **settled** in the amount of \$14,000.00.

#### **DENIED CLAIMS:**

**Robert M. Ihrig d/b/a Bob's Gridiron Grille** filed a claim during the month of June, 2005, in the amount of \$506,181.50 for alleged damages incurred as the result of the Lincoln Smoking Regulation Act. This claim has been reviewed by this office and has been **denied**.

**Beverly Loseke** filed a claim during the month of July, 2005, in the amount of \$512.32 for damage incurred to vehicle when a gust of wind allegedly blew a street construction sign into her vehicle. This claim has been reviewed by this office and has been **denied**.

**Richard Schaffer** filed a claim during the month of September, 2005, in the amount of \$750.00 for damage incurred to vehicle as the result of a fallen tree branch. This claim has been reviewed by this office and has been **denied**.

**AJ Kelly** filed a claim during the month of September, 2005, in the amount of \$122.00 for damage incurred to vehicle as the result of a pothole in street. This claim has been reviewed by this office and has been **denied**.

**SAIA** filed a claim during the month of September, 2005, in an unspecified amount for damage incurred to truck trailer as the result of striking an alleged low hanging tree branch. This claim has been reviewed by this office and has been **denied**.

**Ashley S. Chaves** filed a claim during the month of September, 2005, in an unspecified amount for damages incurred as the result of an accident involving a Lincoln fire truck. This claim has been reviewed by this office and has been **denied**.

**Karen Callahan** filed a claim during the month of September, 2005, in the amount of \$53.00 for reimbursement of tow fee. This claim has been reviewed by this office and has been **denied**.

**PENDING CLAIMS:**

**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**.

**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**.

**Brainard HVAC, Inc.** filed a claim during the month of January, 2005, for damages incurred as the result of an accident involving a StarTran bus. The property damage portion of this claim has been **settled** in the amount of \$20,500. The injury portion of this claim is **pending**.

**Travis Kimathi** filed a claim during the month of January, 2005, in an unspecified amount for alleged injury incurred as the result of an accident involving a Fire Department vehicle. **Abayomi Cousins**, who was a passenger in the vehicle driven by Mr. Kimathi, has filed a claim for medical expenses incurred as a result of the accident. **Geico Direct** has filed a subrogation claim. These claims are under review and are **pending**.

**Eric Kowalski** filed a claim during the month of May, 2005, in the amount of \$200 for damage incurred to tire as the result of a pothole. This claim is under review and is **pending**.

**Maria Arellano** filed a claim during the month of June, 2005, in the amount of \$660.24 for damage allegedly incurred to her vehicle as the result of an accident involving a City vehicle. This claim is under review and is **pending**.

**Kevin and Lauren Connick** filed a claim during the month of July, 2005, in an unspecified amount for expenses incurred to repair sewer. This claim is under review and is **pending**.

**Troy and Shari Stonacek** filed a claim during the month of July, 2005, in an unspecified amount for alleged damages incurred due to alleged failure to provide claimants with proper base flood elevations prior to construction of claimants' home. This claim is under review and is **pending**.

**George and Lori Bristol** filed a claim during the month of July, 2005, in an unspecified amount for alleged damages incurred due to alleged failure to provide claimants with proper base flood elevations prior to construction of claimants' home. This claim is under review and is **pending**.

**Thomas and Amy Banderas** filed a claim during the month of July, 2005, in an unspecified amount for alleged damages incurred due to alleged failure to provide claimants with proper base flood elevations prior to construction of claimants' home. This claim is under review and is **pending**.

**Bradley and Jennifer Sheaff** filed a claim during the month of July, 2005, in an unspecified amount for alleged damages incurred due to alleged failure to provide claimants with proper base flood elevations prior to construction of claimants' home. This claim is under review and is **pending**.

**Ettamae Branstetter** filed a claim during the month of July, 2005, in an unspecified amount for injury incurred when the automated door at the Easley Library struck her causing her to fall. This claim is under review and is **pending**.

**James L. Wortman/J&M Foundations** filed a claim during the month of August, 2005, in an unspecified amount for damages incurred as the result of an accident involving a Public Works vehicle. This claim is under review and is **pending**.

**Melissa Eckert** filed a claim during the month of August, 2005, in an unspecified amount for alleged injury incurred while claimant was a passenger on a StarTran bus. This claim is under review and is **pending**.

**Courtney Wrick** filed a claim during the month of August, 2005, in an unspecified amount for damages incurred as the result of an accident involving a Parks & Recreation van. The property damage claim was settled by the Risk Management Office in the amount of \$3,500. The personal injury portion of this claim is **pending**.

**Stacy Mueller** filed a claim during the month of August, 2005, in the amount of \$1,299.50 for damages incurred as the result of an accident involving a Lincoln police vehicle. This claim is under review and is **pending**.

**Richard Kister** filed a claim during the month of August, 2005, in an unspecified amount for damages incurred as the result of an accident involving a StarTran bus. This claim is under review and is **pending**.

**American Family Insurance Group (Claim No. 00-071-423264-0422/Shannon Johnson, Insured)** filed a subrogation claim during the month of August, 2005, in an unspecified amount for damages incurred as the result of an accident involving insured's vehicle and a Lincoln police vehicle. This claim is under review and is **pending**.

**Dorothy Porath** filed a claim during the month of August, 2005, in the amount of \$685.53 for medical expenses incurred on behalf of her minor daughter, **Sarah Porath**, who was a passenger in a vehicle that was involved in an accident with a Parks & Rec. vehicle. This claim is under review and is **pending**.

**Teri Chambers** filed a claim during the month of August, 2005, in the amount of \$961.76 for medical expenses incurred on behalf of her minor daughter, **Aivree Chambers**, who was a passenger in a vehicle that was involved in an accident with a Parks & Rec. vehicle. This claim is under review and is **pending**.

**Edward Weisser** filed a claim during the month of September, 2005, in the amount of \$116.00 for damage incurred to sprinkler system as the result of a repaving project. This claim is under review and is **pending**.

**Kelly Spellman and Amy Warner Spellman** filed a claim during the month of September, 2005, in the amount of \$7,672.72 for damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Kevin Hays** filed a claim during the month of September, 2005, in the amount of \$899.17 for damage to tires allegedly incurred at the site of a street repair project. This claim is under review and is **pending**.

**Thomas and Carol Beran, husband and wife, individually, and as natural guardians and next friend of Brady Beran**, filed a claim during the month of September, 2005, in an unspecified amount. Claimants allege that as a result of acts and omissions of the City, injuries that Brady Beran incurred during a high school football game were not promptly treated and that the delayed treatment caused exacerbated injuries. This claim is under review and is **pending**.

**Max and Marilyn Osborn** filed a claim during the month of September, 2005, in the amount of \$346.13 for damage allegedly incurred to home as the result of vibrations from a street construction project. This claim is under review and is **pending**.

**Brian Johnson** filed a claim during the month of September, 2005, in the amount of \$185.88 for damage incurred to vehicle as the result of a piece of concrete curb lying in the street. This claim is under review and is **pending**.

**Susan LaDuke** filed a claim during the month of September, 2005, in the amount of \$196.88 for damage incurred to vehicle as the result of a water main break. This claim is under review and is **pending**.

**Zane Schulte** filed a claim during the month of September, 2005, in the amount of \$30,000 for alleged injury incurred as the result of a motor vehicle accident involving a police vehicle. This claim is under review and is **pending**.

**Lana Gabel** filed a claim during the month of September, 2005, in the amount of \$400.00 for reimbursement of plumbing expenses incurred when claimant was notified by City personnel that the sewer service to her residence had broken away from the main. Claimant alleges that the notification was erroneous. This claim is under review and is **pending**.

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

**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. A suit was filed 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**.

**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. A suit was filed 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. A suit was filed in the Lancaster County District Court naming Kwik Shop, Inc., Lincoln Lease Partners, and the City of Lincoln as Defendants. 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. A suit was filed 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. A suit was filed in the Lancaster County District Court on March 12, 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. A suit was filed in the Lancaster County Court on May 21, 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 a suit was filed in the Lancaster County District Court on June 11, 2004. Litigation is **pending**.

**Barbara and Arthur Poppe** filed a claim during the month of November, 2003, in the amount of \$1,000,000 in connection with the death of their daughter, Heather Poppe, as the result of a motor vehicle accident involving a vehicle that was driven by a Robin Siefker. Claimants allege that Lincoln police had been notified that Mr. Siefker was likely to be a danger to himself or others, and therefore, claimants allege that Mr. Siefker should have been in police custody at the time of the accident. This claim was reviewed by this office and denial of this claim was approved by the City Council on December 5, 2003. A suit was filed in the Lancaster County District Court on November 24, 2004. On February 14, 2005, the Court sustained the City of Lincoln's motion to dismiss. Plaintiff has appealed. Litigation is **pending**.

**Allied Insurance (Claim No. 26E29478/Allan Albers, Insured)** filed a claim during the month of March, 2004, in the amount of \$1,685.50 for damage incurred to insured's vehicle as the result of an accident involving a City street sweeper. This claim was reviewed by this office and denial of this claim was approved by the City Council on December 6, 2004. A suit was filed in the Lancaster County Court on February 28, 2005. Litigation is **pending**.

**Donna Lilly and Michael Lilly** filed a claim during the month of September, 2004, against the City of Lincoln, Lancaster County, and the Public Building Commission in the amount of \$1,000,000 for alleged damages incurred as the result of injuries Donna Lilly sustained when she allegedly slipped and fell on the steps of the County/City Building, which claimant alleges were ice and snow-covered. The claim against the City of Lincoln was reviewed by this office and denial was approved by the City Council on September 27, 2004. A suit was filed in the Lancaster County District Court on March 23, 2005, naming the Public Building Commission, Lancaster County, and the City of Lincoln as Defendants. Plaintiffs are seeking special damages in the amount of \$34,000 and general damages. Litigation 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. A suit was filed in the Lancaster County District Court on April 28, 2005, naming Lincoln Police Officer Champoux and the City of Lincoln as Defendants. Plaintiffs are seeking special damages in the amount of \$21,872.55, future medical expenses, and general damages for pain and suffering. Litigation is **pending**.

**Fleet Systems, Inc./William F. Dugan** filed a claim during the month of September, 2004, in the amount of \$1,705.65 for damage incurred to vehicle as the result of an accident involving a StarTran bus. This claim was reviewed by this office and denial of this claim was approved by the City Council on October 11, 2004. A suit was filed in the Lancaster County Court on May 23, 2005. Litigation is **pending**.

**Kim Roehrs-Lary** filed a claim during the month of January, 2005, in the amount of \$100,000 for injury incurred when claimant allegedly fell in a hole located in alley behind Bethany Christian Church. A suit was filed in the Lancaster County District Court on September 7, 2005, naming the City of Lincoln and Bethany Christian Church as Defendants. Litigation is **pending**.

Respectfully submitted,

James D. Faimon  
Assistant City Attorney

JDF/skb  
c: Risk Management