

## Exhibit "A"

February 2, 2009

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

RE: Report of Claims Against the City of Lincoln for January 16 through January 31, 2009

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 January 16 through January 31, 2009. This report will describe the claims and the dispositions or status of these claims.

### **DENIED CLAIMS:**

**Zach Goodwin** filed a claim during the month of November, 2008, in the amount of \$3,060.00 for damage allegedly incurred to vehicle as the result of a fallen tree limb. This claim has been reviewed by this office and has been **denied**.

**Michelle Houfek** filed a claim during the month of December, 2008, in the amount of \$1,958.23 for expense incurred for repair of water service which claimant alleges was damaged as the result of a City storm sewer project. This claim has been reviewed by this office and has been **denied**.

**Bob Davis** filed a claim during the month of January, 2009, in the amount of \$889.84 for damage allegedly incurred to vehicle when it struck a median. Claimant alleges that the median was not visibly marked. This claim has been reviewed by this office and has been **denied**.

**Richard Kenneth German** filed a claim during the month of January, 2009, in the amount of \$3,394.91 for damage incurred to vehicle as the result of an accident which claimant alleges occurred due to improper maintenance of street. This claim has been reviewed by this office and has been **denied**.

**Randy Burianek** filed a claim during the month of January, 2009, in the amount of \$93.30 for damage incurred to mailbox on April 26, 2007, when struck by a police vehicle. This claim has been reviewed by this office and has been **denied**.

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

**Progressive Insurance (Scott LeBlanc, Insured)** filed a claim during the month of August, 2008, in the amount of \$645.28 for damage incurred to Insured's vehicle as the result of an accident involving a police vehicle. This claim has been reviewed by this office and has been **settled** in the amount of \$322.64.

**Corwin Stevenson** filed a claim during the month of November, 2008, in the amount of \$203.30 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 \$203.30.

**Julie Carmer** filed a claim during the month of December, 2008, in the amount of \$4,342.32 for expense incurred to connect sewer to new main which was not connected when new main was installed. This claim has been reviewed by this office and has been **allowed** in the amount of \$4,342.32.

**Dave Pauley** filed a claim during the month of January, 2009, in the amount of \$1,949.35 for damage 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 \$1,949.35.

**Cherise Stortvedt** filed a claim during the month of January, 2009, in the amount of \$100 for reimbursement of improper registration fine. This claim has been reviewed by this office and has been **allowed** in the amount of \$100.

#### **PENDING CLAIMS:**

**Joni Thomas** filed a claim during the month of June, 2007, in an unspecified amount for injury allegedly incurred while claimant was a passenger on a StarTran bus. This claim is under review and is **pending**.

**Michelle Stoneman on behalf of her minor child, Jackson Stoneman**, filed a claim during the month of August, 2007, in an unspecified amount for injury allegedly incurred at Woods pool. This claim is under review and is **pending**.

**Kathy Hoefs** filed a claim during the month of October, 2007, in the amount of \$500,000 for injury allegedly incurred as the result of an accident involving a police vehicle. This claim is under review and is **pending**.

**David Neylon** filed a claim during the month of November, 2007, in the amount of \$936.33 for damage incurred to vehicle as a result of an accident involving a City vehicle. **GEICO (Claim #0300221840101025; Shanna Neylon, Insured)** filed a subrogation during the month of January, 2008, in the amount of \$1,529.13 for damage incurred to insured's vehicle as a result of the accident. **Julia M. Norvell**, the driver of the vehicle owned by David Neylon, filed a claim in an unspecified amount for possible injury incurred as the result of the accident. These claims are under review and are **pending**.

**Lance Nussbaumer** filed a claim during the month of November, 2007, in the amount of \$680.00 for medical expenses incurred for alleged injury incurred during claimant's arrest. This claim is under review and is **pending**.

**Tina Tafoya** filed a claim during the month of January, 2008, in the amount of \$500,000 for alleged damages incurred as the result of an accident involving a City street sweeper. This claim is under review and is **pending**.

**Catherine A. Munoz** filed a claim during the month of January, 2008, in the amount of \$100,000 for alleged injury incurred as the result of an accident involving a City snow plow. This claim is under review and is **pending**.

**University of Nebraska-Lincoln** filed a claim during the month of February, 2008, in the amount of \$4,360.81 for alleged error made by City personnel in locating City sewer line during a construction project. This claim is under review and is **pending**.

**Cyril Sloup** filed a claim during the month of February, 2008, in an unspecified amount for injury incurred as the result of fall on ice on hiker/biker trail at 33<sup>rd</sup> and Browning. This claim is under review and is **pending**.

**Kristine A. Truex** filed a claim during the month of April, 2008, in the amount of \$100 for reimbursement of improper registration fine. This claim is under review and is **pending**.

**Claudia Perez** filed a claim during the month of May, 2008, in an unspecified amount for damage incurred to vehicle as the result of an accident involving a City vehicle driven by an employee of Downtown Lincoln Association. This claim has been referred to the insurer for Downtown Lincoln Association and is **pending**.

**Loretta McGeisey** filed a claim during the month of July, 2008, in the amount of \$15,000 for alleged injury incurred as the result of a motor vehicle accident involving a police vehicle. This claim is under review and is **pending**.

**Robert Niemeyer, Personal Representative of the Estate of Alvin Niemeyer** filed a claim during the month of July, 2008, in the amount of \$1,000,000. Claimant alleges that a motor vehicle accident which caused injuries that allegedly led to the death of Alvin Niemeyer was caused by the negligence of the City of Lincoln in failing to maintain weeds at an intersection. This claim is under review and is **pending**.

**Gerry Krolkowski** filed a claim during the month of July, 2008, in the amount of \$366.09 for damage incurred to windshield of vehicle when it was allegedly struck by a rock from a City mower. This claim is under review and is **pending**.

**Christine Shield** filed a claim during the month of July, 2008, in the amount of \$6,638.90 for damage incurred to vehicle as the result of a fallen tree branch. This claim is under review and is **pending**.

**Claritus, Inc.** filed a claim during the month of August, 2008, in the amount of \$213.54 for damage incurred to vehicle as the result of an accident involving a Public Works vehicle. This claim is under review and is **pending**.

**Betty Beecham** filed a claim during the month of August, 2008, in an unspecified amount for injury incurred as the result of an accident involving a City-owned vehicle. **State Farm Insurance (Claim No. 27-7809-744)** filed a subrogation claim for medical payments made on behalf of its insured, Betty Beecham, and the passengers in its insured's vehicle, Alice Peterson and Bernadette Thiel. These claims are under review and are **pending**.

**Alice Peterson** filed a claim during the month of September, 2008, in an unspecified amount for injury incurred as the result of an accident involving a City-owned vehicle. This claim is under review and is **pending**.

**Bernadette Thiel** filed a claim during the month of September, 2008, in an unspecified amount for injury incurred as the result of an accident involving a City-owned vehicle. This claim is under review and is **pending**.

**Nebraska Intergovernmental Risk Management Association (NIRMA File No. VAWASHI026958; Washington County, Insured; Donald B. Morgan, Insured's Driver)** filed a subrogation claim during the month of September, 2008, in an unspecified amount for injury incurred to insured's driver as the result of a motor vehicle accident involving a Lincoln police vehicle. This claim is under review and is **pending**.

**Sheri Broche-Koebel on behalf of her minor child, Dillon C. Broche** filed a claim during the month of October, 2008, in an unspecified amount for alleged injury incurred when Dillon was a passenger on a StarTran bus that was involved in an accident. This claim is under review and is **pending**.

**Paul Meder** filed a claim during the month of October, 2008, in the amount of \$85,000 for alleged injury incurred as the result of an accident involving a StarTran bus. **USAA Insurance (Claim No. 8506654-7101-3-8508)** has filed a subrogation claim as a result of the accident. This claim is under review and is **pending**.

**Cincinnati Insurance Co. (Burden Enterprises, Insured; Claim #950379)** filed a worker's compensation subrogation claim during the month of October, 2008, in an unspecified amount for medical expenses paid on behalf of Insured's employee who was involved in a motor vehicle accident involving a City vehicle. This claim is under review and is **pending**.

**Joseph Carden** filed a claim during the month of October, 2008, in the amount of \$1,516.23 for damage incurred to vehicle as the result of a fallen tree limb. This claim is under review and is **pending**.

**Evey Lesoing** filed a claim during the month of November, 2008, in the amount of \$502.44 for alleged injury incurred as the result of fall on sidewalk. This claim is under review and is **pending**.

**Larry Stoll** filed a claim during the month of December, 2008, in the amount of \$478.79 for damage incurred to door of property as the result of action by Lincoln police. This claim is under review and is **pending**.

**Realty Trust Group, Inc. and MJM Inc.** filed a claim during the month of December, 2008, in the amount of \$17,000,000. Claimants allege \$1,000,000 damage to the value of their property by eliminating access to "O" Street and \$16,000,000 in lost lease payments for causing a breach of the lease. This claim is under review and is **pending**.

**State Farm Insurance (Courtney Harrison, Insured)** filed a subrogation claim during the month of December, 2008, in an unspecified amount for damage incurred to Insured's vehicle and medical expenses paid on behalf of Insured as the result of an accident involving a Building and Safety vehicle. This claim is under review and is **pending**.

**Cornhusker Dental Clinic; Dayton W. Lyman, DDS** filed a claim during the month of December, 2008, in the amount of \$945.00 for damage incurred to building when struck by a StarTran bus. This claim is under review and is **pending**.

**Ricky E. Beenblossom** filed a claim during the month of January, 2009, in the amount of \$25,000 for damages incurred as the result of alleged negligent actions by Lincoln police. This claim is under review and is **pending**.

**Elizabeth A. Olson-Jones** filed a claim during the month of January, 2009, in the amount of \$665.00 for damage incurred to vehicle as the result of an accident involving a police vehicle. This claim is under review and is **pending**.

**Nadine and Bill Wiley** filed a claim during the month of January, 2009, in an unspecified amount for expense incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Anthony Grazziano** filed a claim during the month of January, 2009, in the amount of \$350,000 for damages that claimant alleges he incurred when his employment with the Lincoln Fire Department was terminated. This claim is under review and is **pending**.

**Michael W. Reeder** filed a claim during the month of January, 2009, in the amount of \$246.72 for damage incurred to vehicle when allegedly struck by a City snowplow. This claim is under review and is **pending**.

**Damon Gruber** filed a claim during the month of January, 2009, in the amount of \$297.95 for injury incurred to claimant's dog when allegedly struck by a City snowplow. This claim is under review and is **pending**.

**GE Capital Corp.** filed a claim during the month of January, 2009, in the amount of \$7,500 for proceeds from sale of 2004 Freightliner at police auction. This claim is under review and is **pending**.

**Nationwide Insurance Co. (Claim No. 72 26 20 010972 12082008 01; Patrick & Diane Shuster, Insured)** filed a claim during the month of January, 2009, in an unspecified amount for damage incurred to Insured's vehicle as the result of an accident involving a Public Works vehicle. This claim is under review and is pending.

**Gail Wilkinson** filed a claim during the month of January, 2009, in the amount of \$112.30 for alleged expense incurred as the result of a water main break. This claim is under review and is **pending**.

**Darnell Utley** filed a claim during the month of January, 2009, in an unspecified amount for hospital expense incurred when claimant's wheelchair tipped over on a StarTran handivan. This claim is under review and is **pending**.

**Windstream** filed a claim during the month of January, 2009, in the amount of \$9,456.32 for damage allegedly incurred to fiber optic cable during installation of new water main. This claim is under review and is **pending**.

**Ron Coniglio** filed a claim during the month of January, 2009, in the amount of \$1,091.64 for damage allegedly incurred to vehicle when claimant drove over a ridge of snow that had pieces of concrete curb in it. Claimant alleges that a snow plow struck a curb and created the hazard. This claim is under review and is **pending**.

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

**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 the claimant as she was exiting the Library causing her to fall. Claimant was a volunteer at the Library. This claim was reviewed by this office and denial of this claim was approved by the City Council on March 6, 2006. A Complaint was filed in the Lancaster County District Court on April 19, 2006. Litigation is **pending**.

**Troy Stonacek and Shari Stonacek, Bradley Sheaff and Jennifer Sheaff, George Bristol and Lori Bristol** filed claims during the month of July, 2005, for alleged damages incurred as the result of alleged failure to provide claimants with proper base flood elevations prior to construction of claimants' homes. These claims were withdrawn on February 3, 2006, and claimants filed suit in the Lancaster County District Court naming Home Real Estate, Merle Jahde, LPT, Inc., Lyle Loth, and the City of Lincoln as defendants. Litigation is **pending**.

**Beth Hollon** filed a claim during the month of January, 2007, in an unspecified amount for injury incurred when claimant allegedly fell in a hole in the right-of-way. This claim was reviewed by this office and denial of this claim was approved by the City Council on February 26, 2007. A suit was filed in the Lancaster County District Court on August 28, 2007. Litigation is **pending**.

**Steve Cummings** filed a claim during the month of December, 2006, in an unspecified amount for alleged injury incurred when claimant was a passenger on a StarTran bus. This claim was reviewed by this office and denial of this claim was approved by the City Council on January 22, 2007. A suit was filed in the Lancaster County District Court on October 5, 2007. Litigation is **pending**.

**Deborah Chinnow, Conservator of Jena I. Van Groningen** filed a claim during the month of April, 2007, for injuries incurred when Jena was struck by a police vehicle as she was crossing a city street. This claim was withdrawn by counsel for claimant on October 30, 2007, and suit was filed in the Lancaster County District Court on November 2, 2007. Litigation is **pending**.

**Jeffrey Harris** filed a claim during the month of January, 2007, in the amount of \$900,000 for injury incurred when a manhole cover allegedly flipped up and struck claimant. This claim was denied by this office for the reason there was not sufficient evidence to support the claim. Denial of this claim was approved by the City Council on June 4, 2007. A suit was filed in the Lancaster County District Court on October 18, 2007. Litigation is **pending**.

**Charles L. Teeters and Kristina D. Teeters** filed a claim during the month of October, 2005, for damage incurred to vehicle and alleged injuries incurred to Kristina Teeters and the minor children of Charles and Kristina Teeters, Walter, Marjorie, and Charles E.F. Teeters, as the result of an accident involving a StarTran bus. The property damage portion of this claim was settled in the amount of \$2,879.16, however, required medical records to support the personal injury claims were not provided, therefore, the personal injury claims were denied. Denial was approved by the City Council on May 14, 2007. A suit was filed in the Lancaster County District Court. Litigation is **pending**.

**Eric Fitzgerald Lewis** filed seven claims in the Small Claims Court in the total amount of \$18,900 for various vehicles allegedly sold at police auction between August 1996 and August 2003. These claims were transferred to the Civil Docket of Lancaster County Court and were dismissed. Plaintiff has appealed to the Lancaster County District Court and the Nebraska Court of Appeals. Litigation is **pending**.

**Rita J. Choquette, Personal Representative of the Estate of Emy C. Choquette** filed a claim during the month of October, 2007, in the amount of \$1,200,000. Claimant alleges that Lincoln Fire and Rescue personnel failed to provide required services. This claim was withdrawn by counsel for claimant and suit has been filed in the Lancaster County District Court on July 11, 2008. Litigation is **pending**.

**Kerry Rupe** filed a claim during the month of February, 2008, in the amount of \$25,000 for alleged injury incurred as the result of an accident involving an Aging van. A suit was filed in the Lancaster County Court on September 2, 2008. Litigation is **pending**.

**Laura Sheldon** filed a claim during the month of April, 2008, in the amount of \$500,000 for alleged injury incurred as the result of fall in alley at 4750 Calvert. This claim was withdrawn by counsel for claimant on November 4, 2008, and suit was filed in the Lancaster County District Court on November 24, 2008. Litigation is **pending**.

**Susan Chocholousek** filed a claim during the month of December, 2006, in the amount of \$43,314.00 for alleged injury incurred when claimant was a passenger on a StarTran bus. This claim was withdrawn and suit was filed in the Lancaster County District Court on December 17, 2008. Litigation is **pending**.

**Sandra Eadie** filed a claim during the month of April, 2008, in the amount of \$200,000 for injury allegedly incurred when the tires of the bicycle claimant was riding slid in mud that had accumulated on the street near a construction site causing claimant to fall from the bicycle. A suit was filed in the Lancaster County District Court on December 24, 2008. Litigation is **pending**.

**Rasta Kennedy** filed a claim during the month of August, 2007, in the amount of \$1,654.14 for damage incurred to vehicle as the result of an accident involving a City vehicle. A notice of tort claim was received in the City Clerk's Office on January 15, 2008, from counsel for claimant stating a demand for damages in the amount of \$100,000 as a result of the accident. This claim was withdrawn by counsel for claimant on July 30, 2008, and suit was filed in the Lancaster County District Court on January 13, 2009. Litigation is **pending**.

Submitted by City Law Department

c: Risk Management