

**NOTICE OF TORT CLAIM**

To: Teresa J. Meyer, Clerk of the City of Lincoln, Lincoln City Clerk's Office, 555 S 10<sup>th</sup> St., Ste. 103, Lincoln, NE 68508, and Dan Nolte, Clerk of Lancaster County, Lancaster County Clerk's Office, 555 S. 10<sup>th</sup> St., Lincoln, NE 68508.

Notice is hereby given by Charlie R. Johnson and Labor Max, his employer, and Gallagher Bassett, their workers' compensation carrier, that he has a Tort Claim against the City of Lincoln and/or Lancaster County, Nebraska.

**I. TIME AND PLACE OF OCCURRENCE, GIVING RISE TO CLAIM**

A. On July 15, 2016, the City of Lincoln, d/b/a Lincoln City Landfill, contracted with Labor Max to supply employees to perform work on the Lincoln City Landfill premises, owned by the City of Lincoln, located at 5101 N 48<sup>th</sup> St., Lincoln, Lancaster County, NE. On this day, the City of Lincoln, d/b/a Lincoln City Landfill, also contracted with JJ Westhoff Construction Company to perform work on their premises, owned by the City of Lincoln, located at the same address. On this day, while performing work at the direction and under the control of the City of Lincoln, d/b/a Lincoln City Landfill, on their premises, Charlie R. Johnson was a passenger on a 2014 Polaris LE EPS 570 Ranger, operated by Nathan Sandall, an employee of JJ Westhoff Construction Company. Upon coming to a complete stop by the trailers, located on the Lincoln City Landfill premises, Nathan Sandall hit the accelerator and turned sharply, resulting in said Ranger spinning and rolling, which threw Charlie Johnson, landing on top of him, resulting in life threatening injuries and significant damages.

**II. ALLEGATIONS OF NEGLIGENCE**

- A. Charlie R. Johnson claims the aforementioned injuries and damages were a proximate result of The City of Lincoln's negligence in one or more of the following particulars:
1. As owner in possession and in control of said premises, failing to recognize the directed work involving the operation of the four-wheeled Gator would likely create a peculiar risk of physical harm, including the propensity to rollover, unless special precautions were taken;
  2. Failing to take special precautions, when they supervised the work being done on said premises, and knew the four-wheeled Gator would be operated to perform work, including:
    - Failure to provide personal protective equipment to all individuals working on their premises including knee-high riding boots, gloves and helmets.
    - Failure to implement and conduct safety meetings specifically instructing individuals working on the premises on the safe operation of said four-wheeled Gator.

- Failure to post warning signs specifically warning of the four-wheeled Gator's propensity to rollover while making sharp turns, and prohibiting horseplay while operating the said four-wheeled Gator.
- Failure to provide a safety checklist regarding the use of the four-wheeled Gator.

### **III. COMPENSABLE DAMAGES**

- A. As a proximate result of the aforementioned accident, Charlie R. Johnson has suffered the following compensable injuries and damages:
1. Nature and Extent of the Injury, including a right open comminuted, displaced fracture in his tibia and fibula, as well as severing of arteries, bilateral shoulder injuries and low back injuries, resulting in the need for 70 surgeries, in order to save his leg, as well as permanent impairment and disability;
  2. Medical expenses to date in the amount of \$1,250,000.00;
  3. Future cost of medical treatment reasonably definite and certain to be incurred;
  4. Lost wages to date in the amount of \$20,800.00;
  5. Cost of future lost wages reasonably definite and certain to be incurred in the future;
  6. Past physical and mental pain and suffering experienced to date;
  7. The reasonable value of future physical and mental pain and suffering reasonably definite and certain to be incurred.

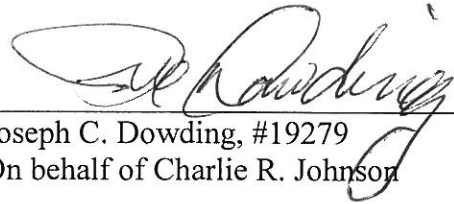
### **IV. LEGAL BASIS OF CLAIM**

- A. Pursuant to Neb. Rev. Stat. §§ 13-905, 13-919, and 13-920 (Reissue 2007), of the Political Subdivisions Tort Claims Act, Charlie R. Johnson is filing a written claim with Teresa Meyer, Lincoln City Clerk's Office and Dan Nolte, Lancaster County Clerk's Office, or other official whose duty it is to maintain the official records of Lincoln, Lancaster County, Nebraska, or the governing body of Lincoln, Lancaster County, Nebraska, and directs said official to present the claim to the governing body.
- B. Charlie R. Johnson presents his claim to the governing body to render disposition within six (6) months of the date of filing.

The notice is hand delivered to the following people:

- A. Teresa J. Meyer, Clerk of the City of Lincoln, Lincoln City Clerk's Office, 555 S 10th St., Ste. 103, Lincoln, NE 68508
- B. Dan Nolte, Clerk of Lancaster County, Lancaster County Clerk's Office, 555 S. 10th St., Lincoln, NE 68508

DATED this 7<sup>th</sup> day of July, 2017.



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Joseph C. Dowding, #19279  
On behalf of Charlie R. Johnson

Prepared by:  
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