

Exhibit "A"

August 16, 2001

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

RE: Report of Claims Against the City of Lincoln for August 1 through 15, 2001

Dear Mayor & Council:

The following is a report of new and pending claims against the City of Lincoln, as well as claims which have been disposed of, for the period of August 1 through August 15, 2001. This report shall indicate the types of claims filed and the status and dispositions of these claims.

CLAIMS FILED IN PREVIOUS MONTHS:

Marc Matthews filed a claim during the month of December, 1999, in the amount of \$500,000 for alleged damages incurred as the result of claimant being injured by an electrical charge. Claimant alleges that Lincoln Electric System failed to disconnect the power supply from the pole to the house and that Lincoln Electric System allegedly informed claimant's employer that the power was shut off when it was not. This claim has been forwarded to Lincoln Electric System and is **PENDING**.

Richard A. Eastep d/b/a Eastep's Wheels, Inc. filed a claim during the month of April, 2000, in the amount of \$47,298.70 for damage incurred to property as the result of a water main break. This claim is under review and is **PENDING**.

Auto-Owners Insurance Co. filed a subrogation claim during the month of May, 2000, in the amount of \$16,304.14 for damages allegedly incurred by their insured, Richard and Laveda Eastep/Eastep's Wheels, whose property was allegedly damaged as the result of a water main break. This claim is under review and is **PENDING**.

Roland F. Bouska filed a claim during the month of September, 2000, in the amount of \$10,000 for alleged damages incurred as the result of an accident involving a Lincoln police vehicle. This claim has been referred to the City's fleet carrier and is **PENDING**.

The Estate of Traci Prickett filed a wrongful death claim during the month of November, 2000, in the amount of \$500,000 as the result of a motor vehicle accident allegedly related to an attempt by Lincoln police to apprehend the driver of one of the vehicles in the accident. This claim is under review and is **PENDING**.

Cindy Schumacher filed a claim during the month of December, 2000, in the amount of \$500,000 for alleged injury incurred when claimant was allegedly struck by a water bottle that was thrown into the stands by a cheerleader at a Lincoln Lightning football game at Pershing Auditorium. This claim has been referred to the insurer for Pershing Auditorium and is **PENDING**.

Robert Blankenship filed a claim during the month of December, 2000, in the amount of \$950,000 for injuries incurred as the result of a motor vehicle accident which was allegedly related to a police chase. This claim is under review and is **PENDING**.

Jason Blair filed a claim during the month of December, 2000, in the amount of \$1,000,000 for injuries incurred as the result of a motor vehicle accident which was allegedly related to a police chase. This claim is under review and is **PENDING**.

Husker Cabs Inc. filed a claim during the month of January, 2001, in the amount of \$1,897.04 for alleged damage incurred to vehicle as the result of an accident involving a StarTran bus. This claim is under review and is **PENDING**.

The Estate of J. Michael Lawlor and Sue Lawlor filed claims during the month of February, 2001, in unspecified amounts alleging negligence by Lincoln Fire Department personnel in their care and treatment of J. Michael Lawlor. These claims are under review and are **PENDING**.

Chris Nielsen filed a claim during the month of March, 2001, in the amount of \$75,000 alleging false arrest. This claim is under review and is **PENDING**.

Scott and Simone Vampola filed a claim during the month of April, 2001, in the amount of \$22,475.54 for alleged damages incurred as the result of a sanitary sewer back-up at 4211 Southgate Blvd. This claim is under review and is **PENDING**.

William Mann filed a claim during the month of April, 2001, in the amount of \$25,000 for alleged damages incurred when claimant was a passenger in an ambulance that was involved in an accident. This claim has been referred to the City's fleet carrier and is **PENDING**.

Sheena Hines filed a claim during the month of April, 2001, in the amount of \$1,247.63 for alleged damages incurred to her vehicle when it was allegedly struck by a StarTran bus. This claim is under review and is **PENDING**.

Theodore R. Wilcox filed a claim during the month of May, 2001, in the amount of \$100,000 for alleged injury incurred when he allegedly fell in a hole after exiting a StarTran bus. This claim is under review and is **PENDING**.

David McQuinn filed a claim during the month of May, 2001, in the amount of \$15,000 for alleged injury incurred when he allegedly stepped in a hole in the street in front of his residence. This claim is under review and is **PENDING**.

The Personal Representative for the Estate of Mildred Youngquist filed a claim during the month of May, 2001, in an unspecified amount for alleged damages incurred when Mildred Youngquist fell out of her wheelchair on a StarTran bus. This claim is under review and is **PENDING**.

Cindy Frye filed a claim during the month of May, 2001, in an unspecified amount for alleged injury incurred when she fell in an alleged "pothole" in the parking lot at Antelope Park. This claim is under review and is **PENDING**.

Robert and Beverly Renfro filed a claim during the month of June, 2001, in the amount of \$329.15 for expenses incurred as the result of a sanitary sewer back-up. This claim is under review and is **PENDING**.

Frank Martinez filed a claim during the month of June, 2001, in the amount of \$168.50 for expenses incurred as the result of a sanitary sewer back-up at his rental property. This claim is under review and is **PENDING**.

The Estate of Connie McCullough, Michael McCullough, individually and as natural parent of Shane and Michelle McCullough, and Tom Grafton, Personal Representative of the Estate of Connie McCullough, filed a claim during the month of July, 2001, in an unspecified amount for damages arising from a motor vehicle accident wherein Anthony Waadah was driving on "O" Street during the 2000 Americruise event and collided with Connie McCullough who was along side the street watching the event with her two children. The claim alleges negligence by the City in failing to provide proper traffic control, failing to require a parade or special event permit, and failing to warn the public of the dangerous condition created by the excessive volume of cars participating in the Americruise event. This claim is under review and is **PENDING**.

William Volkmer filed a claim during the month of July, 2001, in the amount of \$2,009.74 for damage incurred to trailer at the Landfill. This claim is under review and is **PENDING**.

Shaun P. Fleming filed a claim during the month of July, 2001, in the amount of \$4,798.70 for medical expenses and pain and suffering incurred as the result of Animal Control's alleged failure to take action in capturing an injured stray cat which had bitten claimant. This claim has been reviewed by this office and has been **DENIED**.

Paul Carlson filed a claim during the month of July, 2001, in the amount of \$325.56 for damage incurred to his vehicle when it was struck by a StarTran bus. This claim has been **ALLOWED** in the amount of \$325.56.

Jessi Gray filed a claim during the month of July, 2001, in the amount of \$943.17 for damage incurred to her vehicle as the result of an accident involving a City-owned vehicle. This claim has been referred to the City's fleet carrier and is **PENDING**.

CLAIMS FILED AUGUST 1 THROUGH AUGUST 15, 2001:

Cathy Schaffer filed a claim in the amount of \$70.00 for reimbursement of tow fees. This claim has been reviewed by this office and has been **DENIED**.

Carlos Asarta filed a claim in the amount of \$430.00 for clothing which was damaged when a water main broke and flooded claimant's basement. This claim has been processed by the Water Department.

Dirk Allgood filed a claim in an unspecified amount for injury allegedly incurred when claimant tripped on an alleged defect in a pedestrian passageway underneath the BNSF railroad track line located on 1st Street between "G" and "H". This claim is under review and is **PENDING**.

Tess Logan filed a claim in an unspecified amount for alleged damage incurred to her vehicle at a street construction site. This claim has been referred to the contractor for processing, and therefore, the claim against the City of Lincoln is **DENIED**.

General Vending Service Co. filed a claim in the amount of \$200.00 for damage allegedly incurred to curb as the result of snow removal activity. This claim is under review and is **PENDING**.

Ronnie L. Davis filed a claim in the amount of \$611.47 for damage allegedly incurred to tires as the result of a displaced water main cap in the street. This claim is under review and is **PENDING**.

Sarah Ratcliffe filed a claim in the amount of \$1,100.04 for alleged damages incurred to her vehicle when it was struck by a StarTran bus. This claim is under review and is **PENDING**.

John C. Sterns filed a claim in the amount of \$379.00 for property which was allegedly misplaced when claimant was arrested. This claim is under review and is **PENDING**.

PENDING TORT LITIGATION:

Weston F. & Betty Benjamin filed a claim during the month of July, 1994, against the City of Lincoln d/b/a Lincoln General Hospital for alleged injuries incurred when a nurse allegedly improperly placed an intramuscular injection in Mr. Benjamin's hip. This claim has been referred to Lincoln General Hospital's insurance carrier. Counsel for claimant filed a petition in the Lancaster County District Court on May 30, 1996. Neil Danberg is the attorney assigned by Phico Insurance Company to undertake the defense of this case for the City of Lincoln d/b/a Lincoln General Hospital. On March 16, 2000, District Court Judge Bernard J. McGinn awarded \$872,615 to Weston Benjamin. This case has been appealed to the Nebraska Court of Appeals and is **PENDING**.

Bill L. and Becky A. Ocker filed a claim during the month of May, 1997, against the City of Lincoln d/b/a Lincoln General Hospital in the amount of \$2,500,000 for damages incurred as the result of alleged negligence by employees and agents of Lincoln General Hospital in failing to meet the applicable standard of care in the labor of Becky Ocker and the delivery of McKenzie Ocker resulting in permanent injuries to McKenzie Ocker. A claim in the amount of \$7,500,000 has also been filed on behalf of McKenzie Mae Ocker, by and through her parents and next friends, Bill L. and Becky A. Ocker. These claims were referred to Phico Insurance Company, which is the hospital's liability carrier. Counsel for claimants filed two petitions in the Lancaster County District Court on November 25, 1997, captioned Becky Ocker v. City of Lincoln d/b/a Lincoln General Hospital and McKenzie Ocker, by and through her parents, Bill Ocker and Becky Ocker v. City of Lincoln d/b/a Lincoln General Hospital and Donald Gibbens. Mark Christensen is the attorney assigned by Phico Insurance Company to undertake the defense of these cases for the City of Lincoln d/b/a Lincoln General Hospital. The case of Becky Ocker v. City of Lincoln d/b/a Lincoln General Hospital was dismissed with prejudice on February 7, 2000. The case of McKenzie Ocker, by and through her parents, Bill Ocker and Becky Ocker v. City of Lincoln d/b/a Lincoln General Hospital and Donald Gibbens is **PENDING**.

Teri and Matthew Juranek filed a claim during the month of June, 1998, in the amount of \$40,000 for alleged damages incurred as the result of an accident involving a Lincoln police vehicle. Council for claimants withdrew his clients' claim and filed a petition in the District Court of Lancaster County on May 25, 1999. Litigation is **PENDING**.

George Sadd filed a claim during the month of February, 1999, in the amount of \$1,000,000 for alleged injuries sustained when he fell while jogging on the Murdock Trail. Counsel for claimant withdrew his client's claim on September 3, 1999, and filed a petition in the Lancaster County District Court. Litigation is **PENDING**.

Mary Owens, Personal Representative of the Estate of Richard R. Owens, filed claims for damages arising from the hospitalization and subsequent incarceration of the deceased, Richard R. Owens. The claim against Lincoln General Hospital was referred to the new owners of the hospital. The claim concerning the deceased's incarceration was reviewed by this office and denial was approved by the City Council on August 31, 1998. Petitions have been filed in the Lancaster County District Court and litigation is **PENDING**.

Woo Yol Chung filed a claim during the month of March, 1999, in the amount of \$1,000,000 for injuries incurred while working in the Lincoln-Lancaster County Hall of Justice and Law Enforcement Center. This claim was addressed to the Lincoln City Council, but the claim itself is a claim against the Lincoln-Lancaster County Public Building Commission. Counsel for claimant, by letter of June 2, 1999, asserted that his client has filed a claim against the City of Lincoln. Counsel for Mr. Chung was advised that the alleged claim has not been filed against the City of Lincoln and it was recommended to the Lincoln City Council not to consider the March 2, 1999, letter nor the June 2, 1999, letter. On November 16, 1999, counsel for Mr. Chung filed a petition in the Lancaster County District Court against the City of Lincoln, County of Lancaster, Lincoln/Lancaster County Public Building Commission, and Builders, Inc. Litigation is **PENDING**.

Raymond J. Koziol, Personal Representative of the Estates of LeAnn M. Koziol, Kevin J. Koziol, Aaron J. Koziol, and Raymond J. Koziol, individually and as father and next friend of his minor children, Matthew R. Koziol and Brian L. Koziol, filed claims on April 13, 1999, in an amount totaling \$5,100,000. These claims involve an automobile accident that occurred on April 15, 1998, at the intersection of 70th & Pine Lake Road. Claimant alleges that the proximate cause of the accident was the presence of construction equipment which was parked next to the roadway and allegedly prevented LeAnn Koziol, who was the driver of the family's van, from seeing the stop sign. T.J. Osborn Construction was contracted by the City of Lincoln to conduct the work that was being performed at 70th & Pine Lake Road. This claim was withdrawn by claimant's counsel on October 21, 1999. On March 24, 2000, counsel for Mr. Koziol filed five separate petitions in the Lancaster County District Court against T.J. Osborn Construction Company, the County of Lancaster and City of Lincoln, Nebraska. Litigation is **PENDING**.

Alan Patocka filed a claim during the month of July, 1998, in an unspecified amount for alleged injuries incurred when he fell out of his wheelchair on a StarTran bus. This claim was withdrawn by counsel for claimant on March 6, 2000. Counsel for claimant filed a petition in the Lancaster County District Court on March 2, 2000. Summons and petition were served upon the City of Lincoln on June 23, 2000. Litigation is **PENDING**.

The Estate of Rachel Quintana and her children, Catalina Quintana, Thomas Quintana, Randy Quintana, Samuel Quintana, Felisa Quintana, and Victoria Gallegos, filed a claim in the amount of \$500,000 during the month of November, 1999, for damages incurred when Rachel Quintana fell from her wheelchair while exiting a StarTran Handivan. Counsel for claimants withdrew his clients' claim on July 6, 2000, and filed a petition in the Lancaster County District Court on July 20, 2000. Litigation is **PENDING**.

Sharon and Larry Zweerink filed claims in the amounts of \$250,000 for Sharon Zweerink and \$100,000 for Larry Zweerink during the month of July, 1999, for damages incurred as the result of Sharon Zweerink's fall on a City sidewalk. This claim was reviewed by this office and denial was approved by the City Council on January 20, 2000. Counsel for claimants filed a petition in the Lancaster County District Court on July 20, 2000. Litigation is **PENDING**.

Gail P. Frasier filed a claim during the month of December, 1999, in an unspecified amount for alleged injury incurred as the result of falling on a sidewalk. This claim was reviewed by this office and denial was approved by the City Council on January 20, 2000. Counsel for claimant filed a petition in the Lancaster County District Court on September 25, 2000. Plaintiff prays for special damages in the amount of \$13,500 and general damages. Litigation is **PENDING**.

Brian Harman filed a claim during the month of October, 1999, in an unspecified amount for alleged injuries incurred as the result of a motor vehicle accident involving a City-owned vehicle. Claimant was a passenger in a vehicle that was rear-ended by a City-owned vehicle. This claim was referred to the City's fleet carrier. Counsel for claimant withdrew his client's claim on October 6, 2000, and filed a petition in the Lancaster County District Court on October 9, 2000. Plaintiff prays for special damages in the amount of \$2,500 and general damages. Litigation is **PENDING**.

Lori J. Shipferling filed a claim during the month of August, 1997, in an unspecified amount for injury incurred when claimant stepped onto an alleged defective meter vault lid. This claim was reviewed by this office and denial was approved by the City Council on March 16, 1998. Ms. Shipferling filed suit in the Lancaster County District Court against Gale and Carolyn Cook, the owners of the property where the meter vault is located, and the Cooks have filed a Third Party Petition against the City of Lincoln. Litigation is **PENDING**.

Mark Hundley filed a claim during the month of May, 2000, for damages incurred when he was struck by a rock while riding his motorcycle. Claimant alleges the rock was thrown from a City mowing machine. This claim was reviewed by this office and denial was approved by the City Council on July 31, 2000. Counsel for claimant filed a petition in the Lancaster County District Court on December 1, 2000. Plaintiff prays for special damages in the amount of \$979.92 and general damages. Litigation is **PENDING**.

Dawn R. McFarland filed a claim during the month of June, 2000, in the amount of \$6,888.00 for alleged damages incurred as the result of a fallen tree. Denial of this claim was approved by the City Council on October 25, 2000. Counsel for claimant filed a petition in the Lancaster County District Court on January 19, 2001. Plaintiff prays for special damages in the amount of \$6,828.50 and general damages in the amount of \$15,000. Litigation is **PENDING**.

David E. Hawkins filed a claim during the month of March, 2000, in the amount of \$60,717.03 for alleged damages incurred as the result of a sanitary sewer back-up at his residence at 5336 Knox. Denial

of this claim was approved by the City Council on August 28, 2000. Counsel for claimant filed a petition in the Lancaster County District Court on March 2, 2001. Litigation is **PENDING**.

Scott Williams filed a claim during the month of September, 2000, in the amount of \$75,000 for injuries incurred when he fell off bleachers during a Lincoln Lightning football game at Pershing Auditorium. Counsel for claimant withdrew his client's claim and filed a petition in the Lancaster County District Court on March 15, 2001. Litigation is **PENDING**.

Dale S. Nelson filed a claim during the month of October, 2000, in the amount of \$1,000,000 for alleged damages incurred as the result of a motor vehicle accident. Claimant alleges that the accident was the result of a police pursuit of a vehicle which struck his vehicle. Counsel for claimant withdrew his client's claim on May 2, 2001, and filed a petition in the Lancaster County District Court on May 3, 2001. Litigation is **PENDING**.

Summer P. Thomason filed a claim during the month of August, 2000, in the amount of \$1,000,000 for damages incurred as the result of a motor vehicle accident involving a vehicle driven by claimant and a vehicle driven by Teresa Zuerlein, a Health Department employee. This claim was referred to the City's fleet carrier and was denied. Denial of this claim was approved by the City Council on March 5, 2001. Counsel for claimant filed a petition in the Lancaster County District Court on May 3, 2001. Litigation is **PENDING**.

Kim Roehrs Lary filed a claim during the month of October, 2000, in the amount of \$25,000 for injury allegedly incurred when she tripped on a sidewalk at Herbert Park. This claim was reviewed by this office and was denied. Denial of this claim was approved by the City Council on January 22, 2001. Counsel for claimant filed a petition in the Lancaster County District Court on June 21, 2001. Litigation is **PENDING**.

David and Doreen Miller, on behalf of their minor child, Dustin Miller, filed a claim during the month of July, 2000, in the amount of \$50,000 for alleged damages incurred as the result of employees of Animal Control allegedly failing to properly mark or address a package which contained the remains of a cat that had bitten Dustin Miller and was being sent by Fed Ex to Kansas State University to be tested for rabies. Subsequently, the package arrived too late and the cat remains had deteriorated in such a manner that it could not be tested for rabies, and thus, Dustin had to undergo a series of rabies shots. Denial of this claim was approved by the City Council on December 18, 2001. Counsel for claimant filed a petition in the Lancaster County District Court on July 25, 2001. Litigation is **PENDING**.

Respectfully submitted,

James D. Faimon
Assistant City Attorney

JDF/skb
c: Risk Management