

Exhibit "A"

November 16, 2001

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

RE: Report of Claims Against the City of Lincoln for November 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 November 1 through November 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**.

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**.

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**.

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**.

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**.

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**.

John C. Sterns filed a claim during the month of August, 2001, in the amount of \$379.00 for property which was allegedly misplaced when claimant was arrested. This claim is under review and is **PENDING**.

Shane Martinez filed a claim during the month of September, 2001, in the amount of \$45.00 for reimbursement of tow fee. This claim is under review and is **PENDING**.

Gary Wimmer filed a claim during the month of September, 2001, in the amount of \$1,806.05 for damage incurred to vehicle when it was struck by a Lincoln police cruiser. This claim has been referred to the City's fleet carrier and is **PENDING**.

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**.

Karen Kammann filed a claim during the month of October, 2001, in an unspecified amount for alleged injury incurred as the result of falling on a sidewalk. This claim is under review and is **PENDING**.

Jeffery B. Itkin filed a claim during the month of October, 2001, in the amount of \$45.00 for reimbursement of tow fee. This claim has been reviewed by this office and has been **ALLOWED** in the amount of \$45.00.

Rex Miller filed a claim during the month of October, 2001, in the amount of \$20,000 for alleged injury incurred when the swing that claimant was swinging on at Ballard Park allegedly failed and dropped claimant to the ground. This claim is under review and is **PENDING**.

Nancy Carpenter filed a claim during the month of October, 2001, in an unspecified amount for alleged injury incurred while a passenger on a StarTran bus. This claim has been reviewed by this office and has been **DENIED**.

Kristin Holmes filed a claim during the month of October, 2001, in the amount of \$40.00 for expenses incurred for the removal of tar from her vehicle. This claim has been reviewed by this office and has been **ALLOWED** in the amount of \$40.00.

CLAIMS FILED NOVEMBER 1 THROUGH NOVEMBER 15, 2001:

Jennifer Melton filed a claim in an unspecified amount for alleged injury incurred as the result of a trip and fall on sidewalk. This claim is under review and is **PENDING**.

James Juhler 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 **ALLOWED** in the amount of \$70.00.

Mark Becher filed a claim in the amount of \$872.49 for alleged damage incurred at rental property as the result of a water main break. This claim is under review and is **PENDING**.

Allied Insurance (Jodi Walker, Insured) filed a subrogation claim in an unspecified amount for damage incurred to Insured's vehicle when it was struck by a downed traffic signal cable. This claim is under review and is **PENDING**.

Ken J. Keber filed a claim in an unspecified amount for alleged damage incurred to door at rental property which he claims was damaged when an officer was attempting to contact the tenant. This claim has been reviewed by this office and has been **DENIED**.

Sandra Whitacre and Kathy Krsul filed a claim in the amount of \$76.00 for reimbursement of tow fees incurred after claimants' vehicle was reported stolen and then was recovered by Lincoln police. This claim has been reviewed by this office and has been **DENIED**.

Ronald Schied filed a claim in the amount of \$600.00 for damages incurred as the result of the draining of the water storage reservoir at NW 12th and Alvo Road, which reservoir was drained to allow for inspection and cleaning. As the water drained from the reservoir, it flowed across his field as he was trying to harvest his crop making it muddy and impassable. Claim is for increased drying costs due to increased moisture content in the grain. This claim has been reviewed by this office and has been **ALLOWED** in the amount of \$600.00.

Amie C. Martinez filed a claim in the amount of \$45.00 for reimbursement of tow fee. This claim has been reviewed by this office and has been **ALLOWED** in the amount of \$45.00.

Richard Hedrick filed a claim in the amount of \$25,420 for alleged loss of personal property that he had stored at 535 and 537 North 27th Street, which he sold to the City of Lincoln. Claimant alleges that he

was not allowed to go onto the property to remove his personal property. This claim has been reviewed by this office and has been **DENIED**.

Richard Hedrick filed a claim in the amount of \$50.00 for expenses incurred for the repair of water service to his rental property allegedly arising from the replacement of the main line connected to the property. 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. Petition was filed in the Lancaster County District Court. This case has been **SETTLED** and the settlement was approved by the City Council at a Pre-Council meeting on November 19, 2001.

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**.

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. This case has been **SETTLED** and the settlement was approved by the City Council at a Pre-Council meeting on November 19, 2001.

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**.

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**.

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. Counsel for claimant withdrew his client's claim on August 13, 2001, and filed a petition in the Lancaster County District Court on August 15, 2001. Litigation is **PENDING**.

Scott and Simone Vampola filed a claim during the month of April, 2001, for alleged damages incurred as the result of a sanitary sewer back-up at 4211 Southgate Blvd. A settlement could not be reached and counsel for the Vampolas filed an inverse condemnation action in the Lancaster County Court on August 23, 2001. The initial hearing resulted in a finding of damages in the amount of \$32,473.00, together with \$4,844.00 statutory expenses and fees, for a total of \$37,317.00. The case is being appealed to the Lancaster County District Court and is **PENDING**.

Fleming's Flower Fields, Inc. filed a claim during the month of February, 2001, in the amount of \$1,000,000 for alleged damages incurred when Dobson Brothers Construction, while installing a sanitary sewer line, allegedly crossed the easement line on claimant's property and excavated claimant's hibiscus plants. This claim was referred to Dobson Brothers Construction for disposition, and, therefore, the claim against the City of Lincoln was denied. Denial of this claim was approved by the City Council on April 9, 2001. Counsel for claimant filed a petition in the Lancaster County District Court on August 29, 2001. Litigation is **PENDING**.

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**.

Respectfully submitted,

James D. Faimon
Assistant City Attorney

JDF/skb
c: Risk Management