

Exhibit "A"

July 1, 2003

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

RE: Report of Claims Against the City of Lincoln for June 16 through June 30, 2003

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 June 16 through June 30, 2003. This report will describe the claims and the dispositions or status of these claims.

DENIED CLAIMS:

Brian Biltoft filed a claim during the month of May, 2003, in the amount of \$50,000 for injury allegedly incurred as the result of a fall from a swing at a City park. This claim has been reviewed by this office and has been **denied**.

David M. Barker filed a claim during the month of June, 2003, in an unspecified amount for damage incurred to his vehicle as the result of a fallen tree. This claim has been reviewed by this office and has been **denied**.

Eric A. Johnson filed a claim during the month of June, 2003, in the amount of \$50.00 for shoes which claimant alleges were ruined after he was arrested and booked into jail. This claim has been reviewed by this office and has been **denied**.

James Rokke filed a claim during the month of June, 2003, in an unspecified amount for damage incurred to his vehicle as the result of a fallen tree. This claim has been reviewed by this office and has been **denied**.

Norval D. Emery filed a claim during the month of June, 2003, in the amount of \$965.50 for damages incurred to door and window of his trailer when Lincoln police were serving an arrest warrant for claimant's grandson. This claim has been reviewed by this office and has been **denied**.

ALLOWED/SETTLED CLAIMS:

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 was referred to the City's fleet carrier and has been **settled** in the amount of \$1,130.32.

Amy Bruning filed a claim during the month of December, 2001, in an unspecified amount for alleged injuries incurred as the result of a motor vehicle accident wherein claimant was a passenger in a vehicle that was in collision with a Lincoln police cruiser. This claim was referred to the City's fleet carrier and has been **settled** in the amount of \$14,400.

Calvin and Kelly Brown filed a claim during the month of April, 2003, in the amount of \$1,238.50 for alleged damages incurred as the result of a sanitary sewer back-up. This claim has been reviewed by this office and has been **settled** in the amount of \$750.00.

Todd Eno filed a claim during the month of June, 2003, in the amount of \$837.82 for damage incurred to his vehicle when struck by a fire truck. This claim has been **settled** by the Risk Management Office in the amount of \$837.82.

James Small filed a claim during the month of June, 2003, in the amount of \$2,006.36 for damage incurred to his vehicle when it was struck by a StarTran bus. This claim has been **settled** by the Risk Management Office in the amount of \$1,144.95.

Emzudin Smajic filed a claim during the month of June, 2003, in the amount of \$1,489.00 for damage incurred to vehicle as the result of an accident involving an L.E.S. vehicle. This claim has been **settled** by the Risk Management Office in the amount of \$1,489.00.

Helmsman Management Services, Inc. filed a claim during the month of June, 2003, in the amount of \$1,023.71 for damage incurred to vehicle as the result of an accident involving a City-owned vehicle. This claim has been **settled** by the Risk Management Office in the amount of \$1,023.71.

Dianne Warren filed a claim during the month of June, 2003, in the amount of \$997.92 for damage incurred to her vehicle as the result of an accident involving a City-owned vehicle. This claim has been **settled** by the Risk Management Office in the amount of \$997.92.

Larry and Mikah Meyer filed a claim during the month of June, 2003, in the amount of \$858.23 for damages 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 \$858.23.

DISMISSED LITIGATION:

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. Case was **dismissed** on February 21, 2003, and a motion to reinstate case was denied on June 30, 2003.

PENDING CLAIMS:

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**.

Duane Benck filed a claim during the month of September, 2002, in the amount of \$146.43 for damage incurred when a traffic counter cable across the road came loose causing damage to his tire. This claim is under review and is **pending**.

Karen Rice filed a claim during the month of October, 2002, in the amount of \$300 for damage incurred to her vehicle when she drove through tar that had been spilled on the street. This claim is under review and is **pending**.

Donald W. Rohla filed a claim during the month of October, 2002, in the amount of \$315.80 for yellow street paint on his vehicle. This claim is under review and is **pending**.

Lincoln Little Chiefs/Little League Baseball filed a claim during the month of October, 2002, in an unspecified amount for missing lawn mower that was being stored in a shed at a Parks & Rec baseball field. This claim is under review and is **pending**.

Rolland Victor filed a claim during the month of November, 2002, in the amount of \$8,438.90 for injury incurred as the result of a trip and fall on sidewalk. This claim is under review and is **pending**.

Sara (Herbst) Free filed a claim during the month of November, 2002, in the amount of \$50,976.22 for damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

Steven Wiltshire filed a claim during the month of November, 2002, in the amount of \$3,509.66 for damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

United Services Automobile Association (Brian A. Vigil, Insured) filed a claim during the month of December, 2002, for damage incurred to Insureds' property as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

AMCO/Nationwide Insurance (Kim and Mike Anderson, Insureds) filed a subrogation claim during the month of December, 2002, in the amount of \$1,389.91 for alleged damages incurred to Insureds' vehicle as the result of a rock thrown from a City Parks mower. The claim set out the following: (1) repair of the vehicle's window in the amount of \$549.92 (AMCO paid \$299.92 to Auto Glass Center and Insured's deductible of \$250.00 was applied to the repair of the window); (2) estimate to repair the door of the vehicle in the amount of \$839.99, which AMCO paid to its Insured based on the estimate. The repair of the vehicle's window in the amount of \$549.92 has been allowed. The remaining portion of the claim for alleged damage to the door of the vehicle is **pending** receipt of verification from AMCO that the funds were actually expended for damages incurred as a result of the accident.

Payless Shoe Source filed a claim during the month of January, 2003, in the amount of \$2,296.70 for damage allegedly incurred to sprinkler system as the result of street construction. This claim is under review and is **pending**.

Norm and Janet Pavlish and Melissa Pavlish filed a claim during the month of January, 2003, in an unspecified amount for alleged damages incurred as the result of a motor vehicle accident involving a Lincoln police vehicle. This claim is under review and 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 have been referred to counsel for Lincoln Electric System and are **pending**.

Jolene Howell filed a claim during the month of January, 2003, in an unspecified amount for injury allegedly incurred as the result of claimant's fall on a sidewalk located on Centennial Mall. This claim is under review and is **pending**.

Inspro Insurance filed a claim on behalf of **Darrin Brittenham** during the month of February, 2003, in the amount of \$1,900.98 for damage incurred to vehicle when it was struck by a Lincoln police vehicle. This claim is under review and is **pending**.

Timothy K. Rodriguez and Kimberly Rodriguez filed a claim during the month of February, 2003, in the amount of \$180,000 for alleged damages incurred when Timothy Rodriguez slipped on an icy sidewalk in the area of 13th & "P" Streets in the City of Lincoln. This claim is under review and is **pending**.

Sheridan Lutheran Church filed a claim during the month of March, 2003, in the amount of \$157.33 for expense incurred as the result of a water main break. This claim is under review and is **pending**.

Don and Nicole McCormick filed a claim during the month of March, 2003, in the amount of \$27,144.29 for damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

David and Lynne Haumont filed a claim during the month of March, 2003, in the amount of \$172.30 for damage incurred to their mailbox as the result of snow removal activity. This claim is under review and is **pending**.

Scott Kiefer filed a claim during the month of April, 2003, in an unspecified amount for damage incurred to sod and curb allegedly incurred as the result of snow removal activity. This claim is under review and is **pending**.

Mutual of Omaha Insurance Co. filed a claim during the month of April, 2003, in the amount of \$3,210.00 for alleged damage incurred to voice mail system allegedly as the result of a City construction project. This claim is under review and is **PENDING**.

Scott Henson filed a claim during the month of April, 2003, in the amount of \$2,955.74 for damage incurred to his vehicle when it was struck by a Lincoln fire truck. This claim is under review and is **pending**.

Dale M. Schneider filed a claim during the month of April, 2003, in the amount of \$96.63 for damage allegedly incurred to his sprinkler system as the result of snow removal activity. This claim is under review and is **pending**.

Carl Campbell, President of Campbell Properties Corporation filed a claim during the month of April, 2003, in the amount of \$306,500 alleging that the City failed to remove obstructions consisting of trees, limbs, debris, and rubbish in the watercourse running through Beal Slough allegedly causing water flowing through Beal Slough to erode the property of the claimant. This claim is under review and is **pending**.

Kory and Diana Lind/Lind Lawn Service and Farm Bureau Insurance Company filed a claim during the month of May, 2003, in the amount of \$915.97 for damage incurred to their vehicle when it was struck by a StarTran bus. This claim is under review and is **pending**.

American Family Insurance Group, filed a claim during the month of May, 2003, on behalf of its insureds, **Robin Furmanski, Summer Potthoff, and Stella Morehouse** for damages and injuries incurred as the result of a motor vehicle accident involving a StarTran bus. Robin Furmanski, who was the driver of the vehicle involved in the accident with the bus, has also filed a claim on her own behalf and on behalf of her passengers, Summer Potthoff and Stella Morehouse. These claims are under review and are **pending**.

Linda Voss filed a claim during the month of May, 2003, for damages and injuries incurred as the result of a motor vehicle accident involving a StarTran bus. **Farmers Insurance** filed a subrogation claim during the month of June, 2003, for expenses paid on behalf of its insured, Linda Voss. These claims are under review and are **pending**.

Charles Bacon filed a claim during the month of June, 2003, in an unspecified amount for alleged injuries incurred as the result of a slip and fall on sidewalk at 14th and "O" Street on February 18, 2003. This claim is under review and is **pending**.

K2 Construction Services filed a claim during the month of June, 2003, in the amount of \$4,995.11 for damage incurred to front-end loader when it was struck by a fire truck. This claim is under review and is **pending**.

Craig A. Workman filed a claim during the month of June, 2003, in the amount of \$454.75 for damage incurred to his vehicle when it was allegedly sprayed with paint that was being used to mark manholes in the area of the 70th and "O" street construction project. This claim is under review and is **pending**.

Kristy Westerhold filed a claim during the month of June, 2003, in the amount of \$2,164.05 for damage incurred to her vehicle when it was struck by a Parks & Recreation vehicle. This claim is under review and is **pending**.

State Farm Insurance Co. (Julia M. Larson, Insured) filed a claim during the month of June, 2003, in the amount of \$20,102.23 for damages and injuries incurred as the result of a motor vehicle accident involving a StarTran bus. This claim is under review and is **pending**.

Terry Lee Dunn filed a claim during the month of June, 2003, in an unspecified amount for damage incurred to his vehicle as the result of a fallen tree limb. This claim is under review and is **pending**.

Susan Hickerson Lorenz filed a claim during the month of June, 2003, in the amount of \$1,265.84 for damage incurred to her vehicle when it was struck by a StarTran bus. This claim is under review and is **pending**.

Marie Pohlmeier filed a claim during the month of June, 2003, in the amount of \$485.57 for damage incurred to her vehicle as the result of an accident involving a Parks & Recreation vehicle. This claim is under review and is **pending**.

PENDING TORT LITIGATION:

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. Pursuant to jury verdict returned on January 28, 2002, judgment was entered in favor of defendants and against Plaintiff Shipferling. Counsel for Plaintiff filed a motion for new trial, which motion was overruled. On March 27, 2002, Plaintiff filed a notice of appeal to the Nebraska Court of Appeals. 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**.

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**.

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. Counsel for claimant filed a petition in the Lancaster County District Court on December 20, 2001. Litigation is **pending**.

Leonard Hernoud d/b/a Century Towing filed a claim during the month of December, 1998, in the amount of \$4,590.00 for alleged damages resulting from an incident wherein claimant alleges he was instructed by Lincoln police to release a vehicle to an individual without payment of towing and storage charges. This claim was reviewed by this office and denial of the claim was approved by the City Council on July 12, 1999. Counsel for claimant filed a petition in the Lancaster County Court on July 27, 1999. The case was dismissed by the court for lack of prosecution on April 5, 2000. Counsel for claimant

refiled a petition in the Lancaster County Court on March 25, 2002, captioned Leonard Hernoud II v. Officer Kocian #940. Pursuant to Defendant's motion for summary judgment, the court found that the Defendant in this case (Officer Kocian) is immune from being sued for damages and that the statute of limitations has run. Counsel for Plaintiff filed a notice of appeal with the court on July 1, 2003.

Litigation is **pending**.

State Farm Insurance Co. filed a subrogation claim during the month of November, 2000, regarding an accident involving a vehicle driven by their insured, Robin Baker, and a StarTran bus. This claim was reviewed by this office and denial of this claim was approved by the City Council on July 2, 2001. Counsel for Robin Baker filed a petition in the Lancaster County Court on June 5, 2002. Litigation is **pending**.

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 was reviewed by this office and denial of this claim was approved by the City Council on January 14, 2002. Counsel for Rex Miller filed a petition in the Lancaster County District Court on June 27, 2002. Litigation 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 \$56,102.00 for damage incurred to property as the result of a water main break. This claim was denied for the reason that claimant had not pursued the matter for over a year. Denial of this claim was approved by the City Council on January 14, 2002. Counsel for claimant filed a petition in the Lancaster County District Court on July 25, 2002. Richard and Laveda Eastep are praying for judgment in the amount of \$13,448.94 and Eastep's Wheels, Inc. is praying for judgment in the amount of \$53,075.70. Litigation is **pending**.

The Estate of J. Michael Lawlor and Sue Lawlor individually 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. Counsel for claimant withdrew his client's claim on February 20, 2002, for the purpose of initiating legal action. A petition was filed in the Lancaster County District Court on August 13, 2002. Litigation is **pending**.

Lois Lockman filed a claim during the month of June, 2002, in the amount of \$500,000 for alleged injury 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 December 2, 2002. Counsel for Lois Lockman filed a petition in the Lancaster County District Court. Litigation is **pending**.

Sue and Bill Wilson filed a claim during the month of April, 2002, in an unspecified amount for alleged damages incurred when Sue Wilson tripped on a mat at the Ager Play Center. This claim was reviewed by this office and denial of this claim was approved by the City Council on April 29, 2002. Litigation was filed in the Lancaster County District Court and is **pending**.

Patricia and James Dodson filed a claim during the month of March, 2002, on behalf of their minor daughter, Jean Dodson, who was playing keyboard with her high school pep band at State basketball tournaments at Pershing Auditorium, when she allegedly received an electrical shock while adjusting an amplifier which was connected to an extension cord supplied by Pershing Auditorium. Claimants alleged that the extension cord was faulty. This claim was referred to the insurer for Pershing Auditorium. Claimants withdrew their claim on January 21, 2003. A petition was filed in the Lancaster County District Court on January 30, 2003. Plaintiffs are praying for special damages in the amount of

\$29,478.26 for medical expenses incurred to date, future medical expenses, temporary and permanent disability, pain and suffering to date and likely to be suffered in the future and loss of future earning capacity. Litigation is **pending**.

Steven Shelor filed a claim during the month of August, 2002, for alleged injury incurred when claimant was playing catch with a softball in the vicinity of a culvert. This claim was reviewed by this office and denial of this claim was approved by the City Council on September 16, 2002. Counsel for Steven Shelor filed a petition in the Lancaster County District Court on February 3, 2003, naming the Lincoln Airport Authority and the City of Lincoln as defendants. Plaintiff is praying for special damages in the amount of \$1,270.00 and general damages. Litigation is **pending**.

Diane Schwieger filed a claim during the month of March, 2002, in the amount of \$789.61 for alleged damage incurred to her vehicle as the result of an accident involving an Animal Control vehicle. This claim was reviewed by this office and denial of this claim was approved by the City Council on April 15, 2002. Counsel for Diane Schwieger filed a petition in the Lancaster County Court on April 14, 2003. Litigation is **pending**.

Merlyn H. Pohlmann filed a claim during the month of July, 2002, in the amount of \$11,172.20 for alleged damages incurred as the result of a sanitary sewer back-up at his rental property at 420 North Cotner Blvd. A review of the claim showed that the stoppage that caused the sanitary sewer back-up was caused by an improperly installed segment of the sanitary sewer line which had been modified by General Excavating. This claim was referred to General Excavating and denial of the claim against the City of Lincoln was approved by the City Council on September 9, 2002. Counsel for Merlyn Pohlmann filed a petition in the Lancaster County District Court on May 22, 2003. Litigation is **pending**.

Respectfully submitted,

James D. Faimon
Assistant City Attorney

JDF/skb
c: Risk Management