

## Exhibit "A"

December 1, 2003

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

RE: Report of Claims Against the City of Lincoln for November 16 through November 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 November 16 through November 30, 2003. This report will describe the claims and the dispositions or status of these claims.

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

**Charles Tomek and Debbie Tomek** filed a claim on behalf of their minor child, Chelsea, during the month of July, 2003, for medical expenses incurred as the result of an injury incurred to Chelsea's foot at Woods swimming pool during the Cornhusker State Games. This claim has been reviewed by this office and has been **settled** in the amount of \$622.39.

**Ron Hinkley** filed a claim during the month of October, 2003, in the amount of \$449.40 for expenses incurred as the result of a sanitary sewer back-up at his rental property. This claim has been reviewed by this office and has been **allowed** in the amount of \$449.40.

**Justin Wills** filed a claim during the month of October, 2003, in the amount of \$525.92 for damage 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 \$275.00.

**Amy Johnson** filed a claim during the month of November, 2003, in the amount of \$451.81 for damage incurred to her vehicle when it was struck by a StarTran bus. This claim has been **settled** by the Risk Management Office in the amount of \$451.81.

### **DENIED CLAIMS:**

**United Services Automobile Association (Brian A. Vigil, Insured)** filed a claim during the month of April, 2003, in the amount of \$893.69 for alleged damages incurred to Insureds' property as the result of a sanitary sewer back-up. This claim has been reviewed by this office and has been **denied**.

**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 in the amount of \$839.99 for alleged damage to the door of the vehicle has been **denied**.

**David and Lynne Haumont** filed a claim during the month of March, 2003, in the amount of \$172.30 for alleged damage incurred to their mailbox as the result of snow removal activity. This claim has been reviewed by this office and has been **denied**.

**John Newland** filed a claim during the month of August, 2003, in an unspecified amount for injury incurred when claimant was riding his bicycle on a sidewalk and allegedly fell as the result of a section of the sidewalk that had been removed due to street construction. This claim has been reviewed by this office and has been **denied**.

**Sue Gilleland** filed a claim during the month of October, 2003, in an unspecified amount for injury incurred when she fell after exiting a StarTran bus. This claim has been reviewed by this office and has been **denied**.

**Citadel Communications, L.L.C. d/b/a KLKN-TV, Channel 8** filed a claim during the month of October, 2003, in the amount of \$8,305.78 for damage incurred to camera equipment at a motor vehicle fatality accident scene. Claimant alleges that camera equipment was allegedly struck by a vehicle driven by a chaplain for Lincoln Police and Fire Departments. This claim has been reviewed by this office and has been **denied**.

**Marcus Tooze** filed a claim during the month of November, 2003, in the amount of \$962.93 for damage incurred to his vehicle when he struck a temporary "road closed" sign lying in the street. A review of this claim reveals that General Excavating is the contractor responsible for the sign and thus the claim has been referred to General Excavating and the claim against the City of Lincoln has been **denied**.

**State Farm Insurance Co. (Donald D. Sronce, Insured)** filed a claim during the month of November, 2003, in the amount of \$1,891.98 for damage incurred to insured's vehicle as the result of a motor vehicle accident involving street construction equipment. This claim has been reviewed by this office and has been **denied**.

**Barbara and Aurthur Poppe** filed a claim during the month of November, 2003, in connection with the death of their daughter, Heather Poppe, as the result of a motor vehicle accident involving a vehicle that was driven by a Robin Siefker. Claimants allege that because Lincoln police had been notified that Mr. Siefker was likely to be a danger to himself or others, that Mr. Siefker should have been in police custody at the time of the accident. This claim has been reviewed by this office and has been **denied**.

#### **LITIGATION:**

**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 County 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 County 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 to the District Court on July 1, 2003. **On November 20, 2003, the District Court affirmed the judgment of the County Court in favor of Defendant, Officer Kocian.**

**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**.

**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**.

**Inspiro 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**.

**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**.

**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**.

**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 70<sup>th</sup> and "O" street construction project. This claim is under review and is **pending**.

**Samuel Salguero** filed a claim during the month of July, 2003, in an unspecified amount for injury incurred as the result of an accident involving a Lincoln police vehicle. This claim is under review and is **pending**.

**Suzanne Cain** filed a claim during the month of July, 2003, in the amount of \$500,000 for injury allegedly incurred as the result of a trip and fall on sidewalk. This claim is under review and is **pending**.

**Pam Brady** filed a claim during the month of August, 2003, in the amount of \$2,085.00 for alleged damages incurred as the result of a broken water main. This claim is under review and is **pending**.

**Ray Hill** filed a claim during the month of September, 2003, in the amount of \$430.16 for damage incurred to his vehicle when it was struck by debris from a broken water main. This claim is under review and is **pending**.

**Juanita Williamson** filed a claim during the month of September, 2003, in the amount of \$53,797.47 for alleged damages incurred to two of her rental properties as the result of a damaged water main. This claim is under review and is **pending**.

**Steve and Patsy Meyer** filed a claim during the month of September, 2003, in the amount of \$9,851.86 for alleged damages incurred as the result of storm water flooding the basement of their residence. This claim is under review and is **pending**.

**Williamsburg Partnership d/b/a Williamsburg Apartments** filed a claim during the month of September, 2003, in the amount of \$47,311.76 for alleged damages incurred as the result of a water main break. This claim is under review and is **pending**.

**Todd Johns** filed a claim during the month of October, 2003, in the amount of \$1,321.62 for alleged damages incurred as the result of a damaged water main. L.E.S. contractor allegedly struck water main causing damage. This claim is under review and is **pending**.

**Deborah Dilbeck, on behalf of her minor child, Morgan Dilbeck,** filed a claim during the month of October, 2003, for injury incurred when Morgan tripped and fell on a sidewalk near Rousseau Elementary School. This claim is under review and is **pending**.

**Laura Levy** filed a claim during the month of November, 2003, in the amount of \$843.16 for cleaning expense incurred as the result of a water main break. This claim is under review and is **pending**.

**Mary M. Tutt** filed a claim during the month of November, 2003, in the amount of \$581.54 for damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Judith Yeck** filed a claim during the month of November, 2003, in the amount of \$74.85 for cleaning expense incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Vernah C. Petersen** filed a claim during the month of November, 2003, in the amount of \$253.00 for hospital expense incurred as the result of a trip and fall on sidewalk. This claim is under review and is **pending**.

**James E. Ford** filed a claim during the month of November, 2003, in the amount of \$94.00 for damage incurred to lawn sprinkler head as the result of the placement of a "traffic caution" sign. This claim is under review and is **pending**.

**Bryan and Patti Clark** filed a claim during the month of November, 2003, in the amount of \$17,819.06 for alleged damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Mark Sneddeker** filed a claim during the month of November, 2003, in the amount of \$73.00 for reimbursement of parking fine and tow fee. This claim is under review and is **pending**.

**Kris Renner** filed a claim during the month of November, 2003, in the amount of \$394.90 for reimbursement of tow and storage fees incurred on a vehicle that was held as evidence in a criminal matter. This claim is under review and is **pending**.

**Allied Insurance (Lauterbach, Insured)** filed a claim during the month of November, 2003, in an unspecified amount for property which was held as evidence in a criminal matter and was sold at auction. The insurance company is seeking the proceeds from the auction. This claim is under review and is **pending**.

**John Chapman** filed a claim during the month of November, 2003, in an unspecified amount for damage allegedly incurred to his vehicle as the result of striking a manhole in an alley. This claim is under review and is **pending**.

**Wendy Bolls** filed a claim during the month of November, 2003, in an unspecified amount for damage incurred to her vehicle when it was struck by a Lincoln fire truck. This claim is under review and is **pending**.

**Scott Stovall** filed a claim during the month of November, 2003, in the amount of \$267.00 for damage allegedly incurred to his vehicle when it was struck by a Parks & Recreation vehicle. This claim is under review and is **pending**.

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

**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**.

**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**.

**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**.

**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 were referred to counsel for Lincoln Electric System. Counsel for the Muellers filed a petition in the Lancaster County District Court on August 5, 2003. Litigation is **pending**.

**Norval D. Emery** filed a claim during the month of June, 2003, in the amount of \$965.50 for damages incurred to a door and a window of his trailer when Lincoln police were serving an arrest warrant for claimant's grandson. This claim was reviewed by this office and denial of this claim was approved by the City Council on July 28, 2002. Claimant filed a claim in the Small Claims Court of Lancaster County on July 31, 2003. The case is being transferred to the Civil Docket of the Lancaster County Court and is **pending**.

**Ella Banks Barbee** filed a claim during the month of May, 2002, in the amount of \$75,000. Claimant alleges that she was wrongfully arrested. This claim was reviewed by this office and denial of this claim was approved by the City Council on June 17, 2002. Counsel for claimant filed a complaint in the U.S. District Court on September 8, 2003. Litigation is **pending**.

**James Blake** filed a claim during the month of March, 2002, in the amount of \$10,139.77 for injury incurred when claimant fell into a water meter pit. This claim was reviewed by this office and denial of this claim was approved by the City Council on April 29, 2002. Counsel for claimant has filed suit in the Lancaster County District Court naming Kwik Shop, Inc., Lincoln Lease Partners, and the City of Lincoln as Defendants. Litigation is **pending**.

**Elizabeth Tufts** filed a claim during the month of October, 2002, in the amount of \$1,000,000 for damages incurred when claimant was a passenger in a police vehicle that was involved in an accident. This claim was reviewed by this office and denial of this claim was approved by the City Council on November 25, 2002. Counsel for claimant filed suit in the Lancaster County District Court on September 26, 2003. Litigation is **pending**.

**Leo M. Weiler** filed a claim during the month of July, 2003, in the amount of \$150,000. Claimant alleged that Lincoln police officers violated his rights under Neb. Rev. Stat. § 20-152 and the Americans With Disabilities Act. This claim was reviewed by this office and denial of this claim was approved the City Council on September 15, 2003. Claimant filed suit in the Lancaster County District Court on October 15, 2003. Litigation is **pending**.

**Nancy K. Carpenter** filed a claim during the month of October, 2002, in an unspecified amount for injury allegedly incurred while 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 November 25, 2002. Counsel for claimant filed suit in the Lancaster County Court on October 23, 2003. Litigation is **pending**.

Respectfully submitted,

James D. Faimon  
Assistant City Attorney

JDF/skb  
c: Risk Management