

Exhibit "A"

April 16, 2004

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

RE: Report of Claims Against the City of Lincoln for April 1 through April 15, 2004

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 April 1 through April 15, 2003. This report will describe the claims and the dispositions or status of these claims.

ALLOWED/SETTLED CLAIMS:

Plaza Mall South filed a claim during the month of February, 2004, in the amount of \$1,164.70 for expenses incurred as the result of a sanitary sewer back-up. This claim has been reviewed by this office and has been **allowed** in the amount of \$1,164.70.

Luci McGowen filed a claim during the month of March, 2004, in the amount of \$465.42 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 \$465.42.

Peggy Wolfe on behalf of Larry Wolfe filed a claim during the month of March, 2004, in the amount of \$68.00 for damage incurred to Mr. Wolfe's wheelchair when it allegedly tipped over while he was a passenger on a StarTran handivan. This claim has been reviewed by this office and has been **allowed** in the amount of \$68.00.

Allstate Insurance (Claim No. 2234138424/Cheryl Hauck, Insured) filed a subrogation claim during the month of April, 2004, in the amount of \$530.56 for damage incurred to insured's vehicle as the result of a motor vehicle accident involving an Lincoln Electric System vehicle. This claim has been **settled** by the Risk Management Office in the amount of \$530.56.

Diane Hoy filed a claim during the month of April, 2004, in the amount of \$110.86 for damage incurred to her vehicle when it was struck by equipment being unloaded from a City vehicle by a City employee. This claim has been **settled** by the Risk Management Office in the amount of \$110.86.

Claims Management Resources (Alltel) filed a claim during the month of April, 2004, in the amount of \$1,458.87 for damage incurred to its utility pole when struck by a StarTran bus. This claim has been **settled** by the Risk Management Office in the amount of \$1,458.87.

Wilder Intenano filed a claim during the month of April, 2004, in the amount of \$735.34 for damage incurred to vehicle when it was struck by a City-owned vehicle. This claim has been **settled** by the Risk Management Office in the amount of \$735.34.

John and Jennifer Culver filed a claim during the month of April, 2004, in an unspecified amount for damage incurred to vehicle when it was struck by a StarTran bus. This claim has been **settled** by the Risk Management Office in the amount of \$2,950.00.

Steve M. Pottelbaum filed a claim during the month of April, 2004, in the amount of \$278.87 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 \$278.87.

DENIED CLAIMS:

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 sprayed with paint that was allegedly being used to mark manholes in the area of the 70th and "O" Street construction project. This claim was previously denied on March 15, 2004, for the reason that it was thought that a contractor was involved. Upon further review, it has been discovered that the contractor was not responsible for the claimed damage to claimant's vehicle. The claim has now been **denied** for lack of evidence concerning who actually may have sprayed the vehicle.

NAI FMA Realty / B & J Partnership / Brewsky's filed a claim during the month of December, 2003, in the amount of \$12,399.13 for alleged damages incurred as the result of a sanitary sewer back-up. This claim has been reviewed by this office and has been **denied**.

Daniel Nelson filed a claim during the month of January, 2004, in the amount of \$608.98 for reimbursement of attorney fees he incurred for his defense of citations which he claims were wrongfully issued by a Lincoln police officer. This claim has been reviewed by this office and has been **denied**.

Diane Miller filed a claim during the month of March, 2004, in the amount of \$110.00 for the removal of tar from vehicle. Claimant alleges that the tar came from a vehicle that was being used for pothole repair. This claim has been reviewed by this office and has been **denied**.

Craig Loeck filed a claim during the month of March, 2004, in the amount of \$1,050.00 for damage incurred to sod and curb as the result of snow removal activity. This claim has been reviewed by this office and has been **denied**.

Pam and Jim Moore filed a claim during the month of March, 2004, in the amount of \$800.00 for damage allegedly incurred to retaining wall as the result of snow removal activity. This claim has been reviewed by this office and has been **denied**.

Terry Montgomery filed a claim during the month of March, 2004, in the amount of \$29.00 for damage allegedly incurred to the windshield of his vehicle when it was struck by a rock which he claims was thrown from the wheels of a Lincoln Electric System vehicle. This claim has been reviewed by this office and has been **denied**.

Melanie Leung filed a claim during the month of April, 2004, in the amount of \$95.00 for the removal of tar on claimant's vehicle. This claim has been reviewed by this office and has been **denied**.

Big Red Storage filed a claim during the month of April, 2004, in the amount of \$160.00 for damage incurred to sod and sprinkler system as the result of snow removal activity. This claim has been reviewed by this office and has been **denied**.

Amy L. Smetter filed a claim during the month of April, 2004, in an unspecified amount for injury incurred to her daughter, Theresa L. Smetter, when she was a passenger on a StarTran bus that was involved in a motor vehicle accident. This claim has been reviewed by this office and has been **denied**.

Rafael Torres and Pratt Termite Pest Control filed a claim during the month of April, 2004, as the result of a motor vehicle accident involving a StarTran bus. The claim alleges damage incurred to the vehicle owned by Pratt Termite Pest Control in the amount of \$7,827.73 and medical expenses for injury incurred to Rafael Torres in the amount of \$1,274.00. This claim has been reviewed by this office and has been **denied**. **Travelers** insurance company (Pratt Pest Control, Insured) filed a subrogation claim during the month of April, 2004, in the amount of \$1,273.90 for workers' compensation benefits paid on behalf of insured's employee, Rafael Torres, as the result of the motor vehicle accident involving a StarTran bus. This claim has been reviewed by this office and has been **denied**.

D.R. Mullet filed a claim during the month of April, 2004, in the amount of \$40.00 for damage incurred to mailbox as the result of snow removal activity. This claim has been reviewed by this office and has been **denied**.

LITIGATION:

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. This case was **dismissed** by the Court on January 29, 2004.

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**.

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**.

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**.

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. 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**.

Liberty Mutual Insurance (Richard Rung/United Parcel Service , Insured) filed a claim during the month of December, 2003, in an unspecified amount for alleged injury incurred to Richard Rung when he, while delivering a package, stepped into an 18-inch hole between the sidewalk and the street, which was allegedly covered by leaves. This claim is under review and is **pending**.

Awards Unlimited filed a claim during the month of December, 2003, in the amount of \$23,939.63 for alleged damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

Scott Cather filed a claim during the month of December, 2003, in an unspecified amount for damage incurred to mailbox when it was struck by a StarTran bus. This claim is under review and is **pending**.

Ricky Austin filed a claim during the month of December, 2003, in the amount of \$500,000 for alleged injury incurred while claimant was in police custody in the back seat of a police vehicle when it was rear-ended by another police vehicle. This claim is under review and is **pending**.

State Farm Insurance Company (Richard D. Scholl, Insured) filed a subrogation claim during the month of January, 2004, for expenses incurred as the result of a motor vehicle accident involving a Lincoln police vehicle. This claim is under review and is **pending**.

Randall Heiliger filed a claim during the month of February, 2004, in the amount of \$1,200.79 for damage incurred to his vehicle as the result of an accident involving a City snowplow. This claim is under review and is **pending**.

Chad D. Hartl filed a claim during the month of February, 2004, in the amount of \$4,981.76 for damage incurred to vehicle as the result of an accident involving a snowplow. This claim is under review and is **pending**.

Sandra L. Thompson filed a claim during the month of February, 2004, in the amount of \$1,547.20 for damage incurred to vehicle when it was struck by a Lincoln fire truck. This claim is under review and is **pending**.

Gaylen Bartling filed a claim during the month of February, 2004, in the amount of \$2,054.71 for damages incurred to rental property as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

Deanna Zaffke filed a claim during the month of March, 2004, in an unspecified amount for damage incurred to the windshield of her vehicle as the result of debris from a City mower. This claim is under review and is **pending**.

Misha Ferguson filed a claim during the month of March, 2004, in the amount of \$1,147.58 for damage incurred to her stolen vehicle during a police chase. This claim is under review and is **pending**.

David L. Bulin filed a claim during the month of March, 2004, in the amount of \$444.05 for expenses incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

Allied/AMCO Insurance (Claim No. 26E29478/Allan Albers, Insured) filed a claim during the month of March, 2004, in the amount of \$1,685.50 for damage incurred to insured's vehicle as the result of an accident involving a City street sweeper. This claim is under review and is **pending**.

Joseph and Betty Borkowski filed a claim during the month of March, 2004, in an unspecified amount for damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

David Johnson filed a claim during the month of March, 2004, in the amount of \$112.35 for carpet cleaning expenses incurred as the result of a broken water main. This claim is under review and is **pending**.

A&B Auto Sales filed a claim during the month of March, 2004, in an unspecified amount for damage incurred to vehicle as the result of an accident involving a stolen vehicle that was being pursued by Lincoln police. This claim is under review and is **pending**.

Tim Woodcock filed a claim during the month of March, 2004, in the amount of \$100 for damage incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

David Giraud filed a claim during the month of April, 2004, in the amount of \$10,166.25 for damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

Steve and Lori Barham filed a claim during the month of April, 2004, in the amount of \$97.88 for damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

Heritage Pines Homeowners Association filed a claim during the month of April, 2004, in the amount of \$194.35 for damage incurred to fence as the result of snow removal activity. 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**.

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**.

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**.

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. The case has now been appealed to the Nebraska Court of Appeals. Litigation is **pending**.

Lawrence Tomsyck filed a claim during the month of October, 2003, in the amount of \$4,763.77 for damage incurred to his vehicle as the result of an accident involving a StarTran bus. This claim was reviewed by this office and denial of this claim was approved by the City Council on November 24, 2003. Counsel for claimant filed suit in the Lancaster County Court on January 28, 2004. Litigation is **pending**.

Jeffrey Meyers filed a claim during the month of July, 2003, in the amount of \$113,121.20 for damages incurred when the tire of the bicycle he was riding fell into a crevice in the street ejecting him from the bicycle. This claim was reviewed by this office and denial of this claim was approved by the City Council on October 27, 2003. Counsel for claimant filed suit in the Lancaster County District Court on January 27, 2004. Litigation 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 was reviewed by this office and denial of this claim was approved by the City Council on February 2, 2004. **American International Recovery, Inc. (Omni Behavioral Health, Insured)** filed a subrogation claim during the month of April, 2003, for workers compensation benefits paid on behalf of the insured's employee, Suzanne Cain, as a result of her trip and fall accident. This claim was reviewed by this office and denial of this claim was approved by the City Council on February 23, 2004. Counsel for Suzanne Cain filed suit in the Lancaster County District Court on March 10, 2004, naming Gold's Limited Partnership and City of Lincoln, Nebraska as Defendants and Omni Behavioral Health, Inc. and American International Recovery, Inc. as Third-Party Defendants. Litigation is **pending**.

Eleanor J. Shirley-Kirkland filed a claim in the Small Claim Court of Lancaster County, Nebraska, on February 24, 2004, naming the Lancaster County Health Dept. Animal Control Division as Defendant. Ms. Shirley-Kirkland alleges that Animal Control failed to properly investigate her personal injury when a dog knocked her down and she fractured her wrist which required two surgeries. Litigation is **pending**.

Neil and April Kringle and Neil and April Kringle on behalf of their minor child, Blake Kringle, filed a claim during the month of May, 2002, in the amount of \$1,000,000 for damages allegedly incurred when Blake Kringle fell off of his bicycle and into a culvert. This claim was reviewed by this office and denial of this claim was approved by the City Council on May 12, 2003. Counsel for the Kringles filed suit in the Lancaster County District Court on March 12, 2004. Litigation is **pending**.

Melissa Pavlish, Norman Pavlish and Janet Pavlish filed a claim during the month of August, 2003, in the amount of \$251,000 for alleged damages incurred as the result of a motor vehicle accident involving a Lincoln police vehicle. This claim was reviewed by this office and denial of this claim was approved by the City Council on March 1, 2004. Counsel for the Pavlishes filed suit in the Lancaster County Court on March 26, 2004. Litigation is **pending**.

Respectfully submitted,

James D. Faimon
Assistant City Attorney

JDF/skb
c: Risk Management