

Exhibit "A"

February 16, 2005

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

RE: Report of Claims Against the City of Lincoln for February 1 through February 15, 2005

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 February 1 through February 15, 2005. This report will describe the claims and the dispositions or status of these claims.

ALLOWED/SETTLED CLAIMS:

Homes by Hart filed a claim during the month of May, 2004, in the amount of \$3,328.78 for damage incurred to basement floor at their construction site which they claim was due to an improperly located water service line. This claim has been reviewed by this office and has been **allowed** in the amount of \$3,328.78.

Sheryl Theriault filed a claim during the month of January, 2005, in an unspecified amount for damages incurred as the result of an accident involving a StarTran bus. The property damage portion of this claim has been **settled** by the Risk Management Office in the amount of \$7,782.84. The personal injury portion of this claim is **pending**.

Angela Wilborn filed a claim during the month of January, 2005, in an unspecified amount for damage incurred to her vehicle as the result of an accident involving a Fire Department vehicle. This claim has been **settled** by the Risk Management Office in the amount of \$3,467.00.

Jon Davis filed a claim during the month of February, 2005, in the amount of \$2,322.32 for damage incurred to his vehicle as the result of an accident involving a Parks & Recreation vehicle. This claim has been **settled** by the Risk Management Office in the amount of \$2,322.32.

Larry Starr filed a claim during the month of February, 2005, in the amount of \$2,342.86 for damage incurred to his vehicle as the result of an accident involving a StarTran bus. This claim has been **settled** by the Risk Management Office in the amount of \$1,874.29.

Eric Hoffman filed a claim during the month of February, 2005, in the amount of \$40.00 for reimbursement of fire hydrant parking fine. This claim has been reviewed by this office and has been **allowed** in the amount of \$40.00.

Kenneth Walton/Walton Construction filed a claim during the month of February, 2005, in the amount of \$3,636.31 for damage incurred to vehicle as the result of an accident involving a City vehicle. This property damage claim has been **settled** by the Risk Management Office in the amount of \$3,575.96. The personal injury claim of Kenneth Walton is **pending**.

Donald E. Brown filed a claim during the month of February, 2005, in the amount of \$278.00 for damage incurred to gate and trellis when struck by a StarTran bus. This claim has been **settled** by the Risk Management Office in the amount of \$278.00.

Autumn Simpson filed a claim during the month of February, 2005, in an unspecified amount for damage incurred to her vehicle as the result of an accident involving a Public Works vehicle. This claim has been **settled** by the Risk Management Office in the amount of \$2,614.08.

Martin Neary and Mary Kunes-Neary filed a claim during the month of February, 2005, in an unspecified amount for damage incurred to their vehicle when it was struck by a snow plow during snow removal activity. This claim has been **settled** by the Risk Management Office in the amount of \$344.69.

DENIED CLAIMS:

Donald H. Frank filed a claim during the month of November, 2004, in an unspecified amount for expenses incurred as the result of sewer back-ups. This claim has been reviewed by this office and has been **denied**.

Gary Chunka filed a claim during the month of January, 2005, in the amount of \$186.55 for alleged damage incurred to mailbox as the result of snow removal activity. This claim has been reviewed by this office and has been **denied**.

Vernon Scharton filed a claim during the month of January, 2005, in the amount of \$159.43 for damage incurred to the windshield of his vehicle when it was struck by gravel allegedly thrown from an orange City truck. This claim has been reviewed by this office and has been **denied**.

Mike Schneider filed a claim during the month of January, 2005, in the amount of \$200.00 for damage incurred to sod allegedly as the result of snow removal activity. This claim has been reviewed by this office and has been **denied**.

Larry Warner filed a claim during the month of January, 2005, in the amount of \$1,753.45 for damages allegedly incurred when Water personnel turned water on at house that claimant purchased. This claim has been reviewed by this office and has been **denied**.

Lyle Gruntorad filed a claim during the month of January, 2005, in an unspecified amount for damage incurred to his vehicle when it was allegedly struck by a street construction sign. This claim has been referred to the sign company for processing and the claim against the City of Lincoln has been **denied**.

Jackson Quality Bilt Homes filed a claim during the month of February, 2005, in an unspecified amount for damage allegedly 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**.

Norma E. Kamtz filed a claim during the month of February, 2005, in the amount of \$520.61 for damage incurred to her vehicle. Claimant alleges that Lincoln police, during an investigation, moved a garbage dumpster causing claimant to strike it as she was backing her vehicle out of a parking space. This claim has been reviewed by this office and has been **denied**.

Kay Krivolavek filed a claim during the month of February, 2005, in an unspecified amount for damage allegedly incurred to her mailbox as the result of snow removal activity. This claim has been reviewed by this office and has been **denied**.

Bruce Toney filed a claim during the month of February, 2005, in an unspecified amount for damage allegedly incurred to sod and sprinkler as the result of snow removal activity. This claim has been reviewed by this office and has been **denied**.

MNB Insurance (Adam Dueland, Insured) filed a claim during the month of February, 2005, in the amount of \$517.08 for damage incurred to insured's vehicle as the result of an accident involving a StarTran bus. This claim has been reviewed by the Risk Management Office and has been **denied**.

Allied Insurance (Claim No. 26E42052/Joseph & Penny Bachmann, Insured) filed a subrogation claim during the month of February, 2005, in the amount of \$4,277.30 for damage incurred to insured's vehicle as the result of an accident involving a StarTran bus. This claim has been reviewed by this office and has been **denied**.

Farmers Insurance Group (Claim No. 099 SUB 1005955509-1/Troy Petersen, Insured) filed a subrogation claim during the month of February, 2005, in the amount of \$5,231.68 for damage incurred to insured's vehicle as the result of an accident involving a Police vehicle. This claim has been reviewed by the Risk Management Office and has been **denied**.

Underground Systems Construction, Inc. filed a claim during the month of April, 2004, in the amount of \$10,119.98 for work stoppage and lost billable footage due to shutdown and repairs. Claimant was replacing a 4" gas main for Aquila at Fallbrook Road. Claimant alleges that City Water Department locator did not mark or flag the water main, but indicated where claimant's crew were to dig to miss the water main. Claimant alleges that location was 5' off which caused claimant's crew to hit water main. This claim has been reviewed by this office and has been **denied**.

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**.

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**.

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**.

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 vehicle driven by Tammy Scholl and a Lincoln police vehicle. **Tammy J. Scholl** filed a claim during the month of August, 2004, in an unspecified amount for injuries incurred as the result of the accident with the police vehicle. These claims are under review and **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**.

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**.

Roberto Mancilla, Rubia Menendez, and David Mancilla Menendez filed a claim during the month of May, 2004, in an unspecified amount for damages incurred as the result of a motor vehicle accident involving a Lincoln police vehicle. This claim is under review and is **pending**.

James P. Ihrig filed a claim during the month of June, 2004, in an unspecified amount for injury incurred when claimant fell as the result of an alleged defect in the street. This claim is under review and is **pending**.

Raymond Phillips filed a claim during the month of June, 2004, in the amount of \$30,000 for damages incurred as the result of a motor vehicle accident involving a vehicle driven by a Health Department employee. The property damage portion of this claim has been settled by the Risk Management Office in the amount of \$1,680.00. The personal injury portion of this claim remains **pending**. **American Family Insurance Group** filed a subrogation claim during the month of August, 2004, in an unspecified amount for medical expenses paid on behalf of its insured, Raymond Phillips. The subrogation claim is **pending**.

Andrea Helmkamp filed a claim during the month of July, 2004, in an unspecified amount for alleged injury incurred when claimant was a passenger in a vehicle that was involved in an accident with a police vehicle. This claim is under review and is **pending**.

John Kentopp filed a claim during the month of July, 2004, in an unspecified amount. Claimant alleges that his bicycle was stolen after he was arrested at a City park by a Lincoln police officer. Claimant alleges that police officer did not allow him to secure his bicycle. This claim is under review and is **pending**.

Nicholas Starr Becker filed a claim during the month of August, 2004, in the amount of \$100,000 for alleged injury incurred during claimant's arrest by Lincoln police. This claim is under review and is **pending**.

John and Jolene Walker filed a claim during the month of August, 2004, in an unspecified amount for damages incurred as the result of a motor vehicle accident involving a City-owned vehicle. The property damage portion of this claim has been settled by the Risk Management Office in the amount of \$23,000. The personal injury portion of the claim is **pending**.

Prairie Homebuilders, Inc. filed a claim during the month of September, 2004, in the amount of \$105.00 for property damage incurred as the result of a rock thrown from a City mower. This claim is under review and is **pending**.

Fred Fleming filed a claim during the month of September, 2004, in an unspecified amount for damage incurred to his driveway as the result of a water main break. This claim is under review and is **pending**.

Jeanette Harris filed a claim during the month of November, 2004, in the amount of \$25,000 for damages incurred as the result of a motor vehicle accident involving a Public Works vehicle. The property damage portion of this claim has been settled by the Risk Management Office in the amount of \$2,747.08. The personal injury portion of this claim is **pending**.

Jerry Weiberg filed a claim during the month of November, 2004, in the amount of \$2,737.35 for alleged damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

Carl J. Metz filed a claim during the month of November, 2004, in the amount of \$1,078.65 for damage incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

Jean A. Lovell filed a claim during the month of December, 2004, in the amount of \$228.66 for damage incurred to tire as the result of rebar protruding from the curb. This claim is under review and is **pending**.

Jeff and Amy Fisher filed a claim during the month of January, 2005, in the amount of \$225.00 for damage incurred to the windshield of their vehicle when it was allegedly struck by sand from a Public Works sand truck. This claim is under review and is **pending**.

Tanja Gilbertson filed a claim during the month of January, 2005, in the amount of \$68.00 for damage incurred to mailbox when it was allegedly struck by a Public Works sand truck. This claim is under review and is **pending**.

Richard Paulsen filed a claim during the month of January, 2005, in an unspecified amount for alleged damage incurred to sod and sprinkler system as the result of snow removal activity. This claim is under review and is **pending**.

Derek Bair filed a claim during the month of January, 2005, in an unspecified amount for alleged damage incurred to sod and sprinkler system as the result of snow removal activity. This claim is under review and is **pending**.

Rick Melichar filed a claim during the month of January, 2005, in the amount of \$1,400.30 for damage incurred to his vehicle when it was allegedly struck by sand from a City sand truck. This claim is under review and is **pending**.

Dominique Chéenne filed a claim during the month of January, 2005, in the amount of \$572.62 for expenses incurred for the repair of water line which claimant alleges was damaged by City tree roots. This claim is under review and is **pending**.

Brainard HVAC, Inc. filed a claim during the month of January, 2005, in the amount of \$25,526.26 for damages incurred as the result of an accident involving a StarTran bus. This claim is under review and is **pending**.

Travis Kimathi filed a claim during the month of January, 2005, in an unspecified amount for alleged injury incurred as the result of an accident involving a Fire Department vehicle. **Abayomi Cousins**, who was a passenger in the vehicle driven by Mr. Kimathi, has filed a claim for medical expenses incurred as a result of the accident. These claims are under review and are **pending**.

Alan and Georgia Schulte filed a claim during the month of January, 2005, in the amount of \$1,256.67 for damages incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

Jerry C. Martin filed a claim during the month of January, 2005, in an unspecified amount for damage incurred to sod allegedly as the result of snow removal activity. This claim is under review and is **pending**.

Kim Roehrs-Lary filed a claim during the month of January, 2005, in the amount of \$100,000 for injury incurred when claimant allegedly fell in a hole located in alley behind Bethany Christian Church. This claim is under review and is **pending**.

Patricia Giese filed a claim during the month of February, 2005, in the amount of \$668.74 for damage incurred to her vehicle as the result of an accident involving a Public Works vehicle. This claim is under review and is **pending**.

John Long filed a claim during the month of February, 2005, in the amount of \$362.73 for expenses incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

James Chase filed a claim during the month of February, 2005, in the amount of \$543.55 for expenses incurred as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

Dorothy E. Gruenmeyer filed a claim during the month of February, 2005, in an unspecified amount for damage allegedly incurred to sod as the result of snow removal activity. This claim is under review and is **pending**.

Cindy Pieschke filed a claim during the month of February, 2005, in an unspecified amount for damage allegedly incurred to mailbox as the result of snow removal activity. This claim is under review and is **pending**.

Shad and Christina Peniska filed a claim during the month of February, 2005, in the amount of \$38.92 for damage allegedly incurred to mailbox as the result of snow removal activity. This claim is under review and is **pending**.

LaVern Verkamp filed a claim during the month of February, 2005, in an unspecified amount for damage allegedly incurred to sod and sprinklers as the result of snow removal activity. This claim is under review and is **pending**.

Glenva Bahr filed a claim during the month of February, 2005, in the amount of \$59.58 for damage allegedly incurred to mailbox as the result of snow removal activity. This claim is under review and is **pending**.

Larry Morris filed a claim during the month of February, 2005, in an unspecified amount for damage allegedly incurred to sprinkler system as the result of snow removal activity. This claim is under review and is **pending**.

Ray Kastl filed a claim during the month of February, 2005, in an unspecified amount for damage allegedly incurred to sod as the result of snow removal activity. This claim is under review and is **pending**.

Roland and June Schessler filed a claim during the month of February, 2005, in the amount of \$75.00 for damage allegedly incurred to mailbox as the result of snow removal activity. This claim is under review and is **pending**.

Charles L. Gomez filed a claim during the month of February, 2005, in the amount of \$959.26 for expenses incurred as the result of sanitary sewer back-ups. This claim is under review and is **pending**.

Jason Schwinck filed a claim during the month of February, 2005, in an unspecified amount for damage allegedly incurred to sod and sprinkler system as the result of snow removal activity. This claim is under review and is **pending**.

Ivan Kutsar filed a claim during the month of February 2005, in the amount of \$4,122.14 for damage incurred to his vehicle as the result of striking a manhole cover that was allegedly laying in the street. This claim is under review and is **pending**.

PENDING TORT LITIGATION:

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**.

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**.

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**.

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**.

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**.

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**.

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**.

Thomas L. Lannin filed a claim during the month of March, 2004, in the amount of \$5,300.62 for damage incurred to his vehicle as the result of an accident involving a Public Works vehicle. This claim was reviewed by this office and denial of this claim was approved by the City Council on March 29, 2004. Counsel for Mr. Lannin filed suit in the Lancaster County Court on May 17, 2004. Litigation is **pending**.

Jeremy Tumbleson filed a claim during the month of March, 2003, in the amount of \$849.30 for damage incurred to his vehicle as the result of an accident involving a City snow plow. This claim was reviewed by the Risk Management Office and denial of this claim was approved by the City Council on April 21, 2003. Counsel for Mr. Tumbleson filed suit in the Lancaster County Court on May 21, 2004. Litigation is **pending**.

Rafael Torres and Pratt 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 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 was reviewed by this office and denial of this claim was approved by the City Council on May 3, 2004. Counsel for Rafael Torres and Pratt Pest Control filed suit in the Lancaster County Court on June 1, 2004. Litigation 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 was withdrawn by counsel for the claimant on June 8, 2004, and suit was filed in the Lancaster County District Court on June 11, 2004. Litigation is **pending**.

Barbara and Arthur Poppe filed a claim during the month of November, 2003, in the amount of \$1,000,000 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 Lincoln police had been notified

that Mr. Siefker was likely to be a danger to himself or others, and therefore, claimants allege that Mr. Siefker should have been in police custody at the time of the accident. This claim was reviewed by this office and denial of this claim was approved by the City Council on December 5, 2003. Suit was filed in the Lancaster County District Court on November 24, 2004. On February 14, 2005, the Court sustained the City of Lincoln's motion to dismiss, however, it is likely that Plaintiff will appeal.

Respectfully submitted,

James D. Faimon
Assistant City Attorney

JDF/skb
c: Risk Management