

**Exhibit "A"**

May 1, 2003

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

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

**DENIED CLAIMS:**

**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 has been reviewed by this office and has been **denied**.

**Trans PaC Solutions** filed a claim on behalf of **Columbia Insurance Group** for recovery of payment in the amount of \$10,262.67 paid to its insured, **Cheryl Priess Dickey School of Dance**, for water damage incurred as the result of a pipe which broke allegedly due to a surge in water pressure. This claim has been reviewed by this office and has been **denied**.

**Bobby and Angela Dasher, parents and next friend of Cody Dasher**, filed a claim during the month of February, 2003, in the amount of \$1,000,000 for injury incurred when Cody Dasher was struck by a motor vehicle. Claimants allege the cause of the accident was the City's failure to provide a crosswalk between Eagles View Park and Arnold Elementary. The action of locating crosswalks throughout the City represents a discretionary function on the part of the City. Such discretionary functions are exempt from liability under the Political Subdivisions Tort Claims Act. Therefore, the Law Department is recommending that this claim be **denied**.

**Warren B. Davis** filed a claim during the month of April, 2003, in the amount of \$330.00 for damage incurred to the windshield of his vehicle allegedly as the result of snow removal activity. This claim has been reviewed by this office and has been **denied**.

**Tricia Essex** filed a claim during the month of April, 2003, in the amount of \$58.15 for reimbursement of tow fee and parking fine. This claim has been reviewed by this office and has been **denied**.

**ALLOWED/SETTLED CLAIMS:**

**Midwest Pump and Equipment Co.** filed a claim during the month of March, 2003, in the amount of \$354.19 for expense 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 \$320.00.

**Paul Bartz** filed a claim during the month of March, 2003, in the amount of \$143.15 for expense 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 \$143.15.

**Lairmore's Carpet & Vinyl** filed a claim during the month of April, 2003, in the amount of \$476.00 for damage incurred to garage as the result of a City alley grading project. This claim has been reviewed by this office and has been **allowed** in the amount of \$476.00.

**Sara Flannigan** filed a claim during the month of April, 2003, 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 \$2,435.94.

**Matt and Pam Bartling** filed a claim during the month of April, 2003, in the amount of \$468.38 for damage incurred to mailbox, driveway and lawn when struck by a StarTran bus. This claim has been reviewed by this office and has been **allowed** in the amount of \$468.38.

**Donald W. Helmuth** filed a claim during the month of April, 2003, in the amount of \$1,617.00 for reimbursement of the cost of compost that he received from the City's Recycling Facility and the cost of hauling the compost. The City's review of this claim has revealed that there may have existed a certain level of a chemical identified as clopyalid in the LinGro compost which damaged the claimant's plantings, therefore, it is recommended that this claim be **allowed** in the amount of \$1,617.00.

**PENDING 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 has been referred to the City's fleet carrier and is **pending**.

**County of Lancaster** filed a claim during the month of October, 2001, for medical expenses incurred as the result of an arrest by Lincoln police of an individual who was taken to the hospital for treatment of injuries allegedly incurred during his arrest. The County alleges that they inadvertently paid for part of the medical expenses. This claim is under review and is **pending**.

**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 has been referred to the City's fleet carrier 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, 2003, for damage incurred to Insureds' property as the result of a sanitary sewer back-up. This claim is under review and is **pending**.

**Ralph and MaryLou Wiegert** filed a claim in the amount of \$1,086.21 for alleged property damage incurred 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**.

**Angela M. Krofta** filed a claim during the month of January, 2003, in the amount of \$54.15 for reimbursement of towing and storage fees. 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 13<sup>th</sup> & "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**.

**Mr. & Mrs. Irwin Lostroh** filed a claim during the month of March, 2003, in the amount of \$193.25 for damage incurred to sod and sprinkler system as the result of snow removal activity. This claim is under review and is **pending**.

**Thomas D. Johnson** filed a claim during the month of March, 2003, in the amount of \$301.20 for expenses incurred as the result of a sanitary sewer back-up. 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**.

**Tim McCarty** filed a claim during the month of March, 2003, in an unspecified amount for damage incurred to his vehicle as the result of a pothole in the street. 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**.

**Russell S. Timmerman** filed a claim during the month of April, 2003, in the amount of \$700.85 for expenses incurred as the result of a sanitary sewer back-up. 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**.

**Leslie L. Holmes on behalf of LeAnn Holmes** filed a claim during the month of April, 2003, in an unspecified amount for alleged injury incurred when LeAnn Holmes' wheelchair tipped over while she was a passenger on a StarTran handivan. 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**.

**Tim Rowland** filed a claim during the month of April, 2003, in the amount of \$1,012.93 for damage allegedly incurred to his satellite receiver and television when electrical work was being performed at the Pioneers Golf Course clubhouse, where claimant is the Director of Golf. This claim is under review and is **pending**.

**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 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**.

**Jackie Glenn** filed a claim during the month of April, 2003, in the amount of \$372.57 for expense incurred as the result of a sanitary sewer back-up. 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**.

**Mark Hundley** filed a claim during the month of May, 2000, for damages incurred when he was struck by a rock while riding his motorcycle. Claimant alleges the rock was thrown from a City mowing machine. This claim was reviewed by this office and denial was approved by the City Council on July 31, 2000. Counsel for claimant filed a petition in the Lancaster County District Court on December 1, 2000. Plaintiff prays for special damages in the amount of \$979.92 and general damages. Litigation is **pending**.

**Summer P. Thomason** filed a claim during the month of August, 2000, in the amount of \$1,000,000 for damages incurred as the result of a motor vehicle accident involving a vehicle driven by claimant and a vehicle driven by Teresa Zuerlein, a Health Department employee. This claim was referred to the City's fleet carrier and was denied. Denial of this claim was approved by the City Council on March 5, 2001. Counsel for claimant filed a petition in the Lancaster County District Court on May 3, 2001. Litigation is **pending**.

**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**.

**Theodore Wilcox** filed a claim during the month of May, 2001, in the amount of \$100,000 for alleged injury incurred when he allegedly fell in a hole after exiting a StarTran bus. 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 17, 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 incurred as the result of 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. 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**.

**Leta Thompson** filed a claim during the month of January, 2002, in the amount of \$15,000 for alleged injury incurred as the result of falling on a sidewalk. This claim was reviewed by this office and denial was approved by the City Council on February 25, 2002. Counsel for claimant filed a petition in the Lancaster County District Court on June 20, 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**.

**Mohamed A. El-Tabech** filed a claim in an unspecified amount alleging that Lincoln Police violated his rights under the "Vienna Convention on Consular Relations Treaty" and that said violation has caused claimant the loss of his freedom. Claimant stated in his claim that he was arrested by Lincoln Police on June 24, 1984, convicted in the Lancaster County District Court of first degree murder, and sentenced to life imprisonment. This claim was reviewed by this office and denial of this claim was approved by the City Council on June 17, 2002. Mohamed A. El-Tabech filed a petition in the Lancaster County District Court on July 22, 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**.

**Dirk Allgood** filed a claim during the month of August, 2001, in an unspecified amount for injury allegedly incurred when claimant tripped on an alleged defect in a pedestrian passageway underneath the BNSF railroad track line located on 1st Street between "G" and "H". This claim was reviewed by this office and denial of this claim was approved by the City Council on October 1, 2001. Counsel for Dirk Allgood filed a petition in the Lancaster County District Court on September 30, 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**.

Respectfully submitted,

James D. Faimon  
Assistant City Attorney

JDF/skb  
c: Risk Management