

GROVELAND COMMUNITY SERVICES DISTRICT**ORDINANCE NO. 03A-10****ORDINANCE OF THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT REGULATING THE FILING OF CLAIMS AGAINST THE DISTRICT WHICH ARE EXEMPT FROM THE GOVERNMENT CLAIMS ACT (Government Code Section 810-996.6)**

Be it ordained by the Board of Directors of the GROVELAND COMMUNITY SERVICES DISTRICT as follows:

PURPOSE AND POLICY

The purpose of these policies is to establish uniform procedures for the filing of claims against the District which are not governed by the Government Claims Act (Gov. Code § 810–996.6); hereinafter the “Act.” The Act and Section 106 of the District’s Operational Policy Manual establish uniform procedures for the filing of claims against the District for money or damages, whether in contract or tort. The purpose of this Ordinance is to require that all claims filed with the District for nonmonetary relief, refunds of taxes, assessments or fees and charges levied by the District, or any other action not covered by the Act as specified in Section 2.0 of this Ordinance, comply with the claims presentation requirements specified in the Act, this Claims Ordinance, and the District’s Operational Policy Manual, Section 106 “Claims Against the District,” (the “Operational Policies”) which are incorporated herein by this reference.

In general, the Act, this Ordinance and the District’s operational policies require that a legal action against the District may not be commenced or maintained in a court of law unless a written claim has first been timely presented to the Board of Directors of the District and rejected in whole or in part. Compliance with the procedures specified in the Act and in this Ordinance is mandatory in order for the claimant to commence and maintain a judicial action against the District for any of the causes of action described in Section 2.0 of this Ordinance. The purpose of the provisions of this Ordinance is to give the District an opportunity to settle justifiable claims against the District before legal action is brought. In addition, the provisions of this Ordinance permit the District to conduct an early investigation of the facts on which a claim is based, thereby maximizing the ability of the District to defend itself against unjust claims and to correct conditions or practices which may give rise to a claim.

SECTION 1.0*DEFINITIONS*

The definitions contained in this section govern the construction of this Ordinance.

1.1 “Board” means the Board of Directors of the Groveland Community Services District.

1.2 “District” means the Groveland Community Services District.

1.3 “Date of Accrual of Cause of Action”

For the purpose of computing the time limits for filing claims prescribed in this Ordinance, the date of the accrual of a cause of action to which a claim relates is the date upon which the cause of action would be deemed to have accrued within the meaning of the applicable statute of limitations, if there were no requirement that the claim be presented to and enacted upon by the District before an action could be commenced against the District on such claim. The date upon which a cause of action for indemnity

accrues shall be the date upon which a defendant is served with a complaint giving rise to the defendant's claim of indemnity against the District.

SECTION 2.0

GENERAL PROVISIONS

2.1 Required Presentation of Specific Claims against District; Exceptions:

All claims against the District specified below shall be presented in accordance with the procedures specified in Section 3.0 of this Ordinance as follows:

- A. Any claim against the District seeking relief other than money or damages, such as a request for an injunction to stop continuing District activity or a mandatory injunction seeking a court order compelling the District to perform specified actions;
- B. Petitions for issuance of a writ of mandate by a court compelling the District and its employees to perform a mandatory statutory duty, such as compliance with CEQA requirements in approving public projects;
- C. Actions which seek declaratory relief or the court's declaration of the relative rights and obligations of parties contracting with the District, including the District;
- D. Actions alleging employment discrimination by the District or its employees, including harassment and sexual harassment claims; and actions by employees against the District for back pay, or benefits;
- E. All claims against the District with respect to actions claiming violations of federal law;
- F. Claims under the Revenue and Taxation Code or other statute prescribing procedures for the refund, rebate, exemption, cancellation, amendment, modification, or adjustment of any special tax, assessment, fee, charge, rate or any portion thereof, or of any penalties, costs, or other charges related thereto;
- G. Claims in connection with the filing of a Notice of Lien, Statement of Claim, or Stop Notice under any law relating to the liens of contractors, laborers or suppliers;
- H. Claims by employees of the District for fees, salaries, wages, mileage or other expenses and allowances;
- I. Claims for money or benefits under any public retirement or pension system of which the District is a member;
- J. Claims for principal or interest upon any bonds, notes, warrants, or other evidences of indebtedness including Certificates of Participation, lease financing agreements, and installment sale agreements;
- K. Claims that relate to a special assessment constituting a specific lien against the property assessed and that are payable from the proceeds of the assessment;
- L. Claims against the District filed by the state or by another local public entity.

2.2 Exceptions from Claims Filing Requirement

The following claims are exempt from the claims presentation requirements of this Ordinance.

- A. Claims for the recovery of wages, penalties or forfeitures pursuant to the Prevailing Wage Law at California Labor Code Section 1720 et seq.;
- B. Claims for which Workers Compensation is authorized as the exclusive remedy pursuant to Labor Code Section 3200 et seq.

2.3 Prohibited Claims

- A. Pursuant to the authority of California Constitution Article XIII Section 32, this Claims Ordinance does not permit the filing of, and the District does not recognize any liability for the filing of class action claims against the District under the Revenue and Taxation Code or other statute seeking refunds, rebates, exemptions, cancellations, modifications, or adjustment of any special tax, assessment, fee, charge or penalty charged or levied by the District.

Claims of individuals for such refunds, rebates, exemptions or adjustments shall be filed pursuant to the provisions of this Ordinance.

SECTION 3.0

PRESENTATION AND CONSIDERATION OF CLAIMS

3.1 Preparation of Claim Form

A claim shall be presented by the claimant or by a person acting on his or her behalf and shall show all of the following:

- (a) The name and address of the claimant;
- (b) The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted;
- (c) A general description of the obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim;
- (d) The name or names of the District employee or employees responsible for the circumstances causing the alleged damage to the claimant.

The claim shall be signed by the claimant or the person acting on the claimant's behalf. Reference is made to Appendix 100-C of the District's Operational Policy Manual specifying the required contents of the Claim Form and providing a suggested form of Claim Form for filing by potential claimants.

3.2 Time Limits for Presentation of Claim

All claims specified in Section 2.1 A-L of this Ordinance must be filed within six (6) months after accrual of the cause of action.

3.3 Method of Presentation of Claim

The claimant may present the claim or an amendment to the claim by either delivering the document to the Board Secretary of the District at the District's office or mailing it to the Board Secretary at the address of the District's principal office. A mailed claim will be deemed filed effective on the date that a properly stamped and addressed envelope containing the claim is deposited in the mail. A delivered claim will be deemed filed effective on the date of delivery.

3.4 Consideration of Claim by District

Upon presentation of the claim to the District in accordance with the procedures set forth herein, District staff will take one or more of the following actions with respect to consideration of the claim:

- A. Notice of Insufficiency of the Claim

Within twenty (20) days after the claim has been presented, the District shall give the claimant written notice of any substantial defects or omissions of the content of the claim that prevent the claim from complying with the requirements of this Ordinance.

B. Investigation of Claim

The General Manager shall authorize an investigation to be conducted regarding the facts and circumstances surrounding the claim as to potential District liability for the damages specified in the claim, as well as nature, extent and amount of damage claimed by the claimant. In those circumstances in which the claim requests that the District take specific action, the investigation shall include an evaluation of such requested action on District operations. This investigation may be conducted under the auspices of or with the cooperation of the District's insurance coverage provider and District Legal Counsel.

3.5 Board Action on Claim

The Board of Directors of the District is authorized, within 45 days after the claim has been submitted to the District, to take any of the following actions:

- (a) Reject the claim entirely;
- (b) Allow the claim in full;
- (c) Allow the claim in part and reject the balance of the claim;
- (d) Compromise the claim or settle the claim if the liability or amount due is disputed;
- (e) Take no action, thus permitting the claim to be denied by operation of law pursuant to Section 912.4(c) of the Act.

3.6 Notice of Board Action on Claim

Upon final action by the Board on any claim, or on any Application for Leave to Present a Late Claim, written notice of the Board's action shall be mailed to the claimant at the address specified in the Claim Form. Giving of such notice limits the statute of limitations applicable to any judicial action which the claimant may file in the event of a rejected claim to six months after the date of the written Notice of Rejection of the Claim from the District to the claimant.

3.7 Notice and Return of Late Claim

When a claim that is required under the provisions of this Ordinance to be presented six months after accrual of the cause of action is presented late, the Board Secretary shall give notice to the claimant that the claim was not timely filed and that the claim is being returned without further action. This notice shall be sent within forty-five days after receipt of the claim and this notice shall advise the claimant that claimant's only recourse is to apply without delay for leave to present a late claim to the Board for consideration. Said notice shall also advise the claimant of the procedure for filing an Application for Leave to File a Late Claim pursuant to the provisions of this Ordinance and Sections 911.2 through 911.8 of the Act.

3.8 Summary of Late Claim Procedure

The late claim procedure is comprised of the following steps:

- A. The claimant must file an Application for Leave to File a Late Claim with the District. The application must be presented within a reasonable time not to exceed one year after accrual of the cause of action, and shall state the reasons for the delay in presenting the claim.
- B. The Board of Directors of District has forty-five days within which to grant or deny the Application for Leave to File a Late Claim. The claimant and the Board may mutually agree to extend this period of time during which the Board is required to act on the application so long as such agreement is made before the expiration of the 45-day period. Failure of the Board to take any action within forty-five days operates as a denial of the application. If the Board approves the

application, the Board of Directors will agendize consideration of rejection or acceptance of the claim in full or in part at a subsequent regular meeting of the Board.

- C. The Board shall grant the Application for Leave to File a Late Claim if it finds that: (1) the failure to present the claim was due to the mistake, inadvertence, surprise or excusable neglect of the claimant and (2) that

the District was not prejudiced in its defense of the claim by the failure to present the claim within the 6-month time requirement.

- D. If the Board denies the Application for Leave to File a Late Claim, the claimant has six months in which to file a petition with the court for an order excusing claimant from complying with these claims presentation requirements.

3.9 Method of Notice regarding Action on Claim

All communications between the District and the claimant after the date the claim is filed with the District shall be by first class mail, postage prepaid, mailed to the address of the claimant as specified in the Claim Form.

SECTION 4.0

COMMENCEMENT OF LEGAL ACTION AGAINST DISTRICT

4.1 Legal Action against District Prohibited in Absence of Presentation of Claim and Board Action Thereon

No lawsuit for money or damages or other relief as specified in Section 2.1 A-L of this Ordinance may be brought against the District until a written claim therefor has been presented to the District in accordance with the provisions of this Ordinance and has been acted upon by the Board, or has been deemed to have been rejected by the Board in accordance with the provisions of this Ordinance.

4.2 Effect of Claimant's Acceptance of Settlement on Right to Maintain Suit

When a claim is allowed in full, and/or the claimant accepts the amount or remedy allowed by the Board, no suit may be maintained by the claimant on any part of the cause of action to which the claim relates.

If the claim is allowed by the Board in part and the claimant accepts the amount or remedy offered by the Board, no suit may be maintained by the claimant on that part of the cause of action which is represented by that portion of the claim upon which the parties agree to a remedy or resolution.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the GROVELAND COMMUNITY SERVICES DISTRICT, County of Tuolumne, State of California, this _____ day of _____, 2010, by the following vote:

AYES:
NOES:
ABSENT: