



BOARD MEETING AGENDA SUBMITTAL

MEETING DATE:

ITEM SUBMITTED BY:

SUBMITTAL PREPARED BY:

AGENDA ITEM:

RECOMMENDED ACTION

BACKGROUND

ATTACHMENTS

FINANCIAL IMPACTS

RESOLUTION -18

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE GROVELAND
COMMUNITY SERVICES DISTRICT RESCINDING THE EXISTING CLAIMS POLICY
APPROVING A NEW CLAIMS POLICY**

WHEREAS, the Groveland Community Services District (herein referred to as District) is a local government agency formed and operating in accordance with Section §61000 et seq. of the California Government Code; and

WHEREAS, the District Board of Directors on October 11, 2010 adopted and Operating Policies and Procedures Manual which contained a policy and various procedural documents related to the filing and processing of claims against the District; and

WHEREAS, the Board of Directors also on October 11, 2010 adopted Claims Ordinance 03A-10; and

WHEREAS, the Board of Directors desires to update its policies including the Claims policy.

**NOW THEREFORE BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF THE
GROVELAND COMMUNITY SERVICES DISTRICT DOES HEREBY RESCIND EFFECTIVE
IMMEDIATELY THE FOLLOWING LISTED POLICIES:**

1. Operating Policies and Procedures Manual (OPPM) Sections 106.1 through 106.13.
2. OPPM Appendix 100-B, Claims Ordinance 03A-10 in its entirety
3. OPPM Appendix 100-C and 100-C-A, Instructions for Filing a Claim and Claim Form in their entirety
4. OPPM Appendix 100-D, Form Letters for Insurance Claims Items D1A-D5 inclusive, in their entirety

BE IT FURTHER RESOLVED THAT the revised claims policy Sections 6.01 through 6.11 inclusive, included herein, is hereby adopted and effective immediately.

THE FOLLOWING LANGUAGE IS TO BE ADDED IN ITS ENTIRETY

106 CLAIMS AGAINST THE DISTRICT

106.1 PURPOSE

The Groveland Community Services District (District) is a political subdivision of the State of California and thus subject to the Government Claims Act located in Government Code Sections 810 et. Seq. This policy provides the procedures for the District to follow from when an accident occurs to receipt of a claim and through the District's reply.

106.2 WHEN AN ACCIDENT OR INCIDENT OCCURS

When an accident or incident occurs, employees should:

1. Stay calm and assist any injured or upset individuals;
2. Contact emergency personnel if appropriate (do not transport injured parties in a District

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- or personal vehicle);
3. Collect information by taking photographs, writing down observations, the names of involved parties, license plate numbers, witness information, police report numbers, and so on;
 4. Only discuss details of the accident/incident with his/her supervisor, the police, the District's insurance provider and District Legal Counsel.

At no time are employees to assign or admit any responsibility or liability for any actions or on behalf of the District. Employees may not make promises to anyone, except that the situation will be investigated by the District. Statements NOT to make include:

- “It was my/our fault”.
- “I knew this was going to happen”.
- “The District will take care of everything”.

It is appropriate to express concern and sympathy, but not to the extent it comes across as accepting blame.

Statements that are acceptable include

- “I am sorry you were hurt/injured/lost [whatever it is]/ or you feel that way”.
- “What can I do to help you?”
- “Is there someone we can call for you?”

106.3 INQUIRIES REGARDING HOW TO FILE A CLAIM

During or immediately following an accident or incident, employees may be approached regarding the possibility of filing a claim against the District. These informational inquiries can be done in person, by phone, by letter or email, or by a third party. However, all submissions of a claim must be made in writing. Employees should respond that there are two ways to make a claim, if someone believes the District is responsible for their injury or loss.

106.4 HOW TO FILE A CLAIM (one of the two following methods must be followed):

1. The person wishing to submit a claim (“Claimant”) can send a letter addressed to the District that includes the following:
 - Name and address of claimant
 - Date, place and circumstances of the occurrence or action which caused damage, injury, or loss
 - General description of the indebtedness, obligation, injury, damage, or loss incurred, so far as it may be known at the time of the presentation of the claim
 - Name(s) of the employee(s) or witnesses involved with or having knowledge of the accident/incident, if known
 - The amount claimed, as of the date of the presentation of the claim, including an estimate of any future amount, including a statement about the basis of the computation of the amount claimed
 - Signed and dated by the person making the claim, or another person, on their behalf

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2. Claimant may submit a claim using a completed District Claim Form (attached). NOTE: Form may also be used by District Employees for accidents or injuries.

106.5 PROCESSING A SUBMITTED WRITTEN CLAIM

When accepting a claim letter or form, employees are not to: comment on or evaluate the information provided; agree to or promise anything (except that the District will investigate their claim and they will be notified); or speculate on the possible outcome. The employee accepting the claim letter or form shall write the day's date, their own name, and submit it to the General Manager's office the same day.

Once a claim letter or form is received, and depending on the situation, the District may respond to the claimant with a letter stating that the District has received the claim and that the District is investigating it.

106.6 GATHERING INFORMATION

Claims will be investigated by assigned District staff, in conjunction with the District's Risk Administrator, the General Manager, and/or the District's Legal Counsel. Information to be collected may include, but is not limited to: Accident/Incident Reports; photographs; observations; District records and reports; police reports; and, written statements from witnesses and other relevant parties.

106.7 FORWARDING POTENTIAL CLAIM INFORMATION

Assigned staff will forward any accident or incident information to the District's insurance provider and the District's Legal Counsel. This should be done as soon as possible.

106.8 DETERMINING THE COURSE OF ACTION

The General Manager, in consultation with the District's insurance provider and/or the District's Legal Counsel, may determine the course of action, on claims of \$50,000 or less. For claims over \$50,000, the Board of Directors, in consultation with the General Manager, the District's Legal Counsel, and the District's insurance provider, may determine the course of action during a closed session Board Meeting.

After the initial investigation of a claim, the claim may be:

1. Accepted, by the General Manager if the claim is \$50,000 or less or by the Board of Directors for claims of more than \$50,000
2. Deemed denied by operation of law after 45 days
3. Denied by the General Manager if the claim is \$50,000 or less or by the Board of Directors for claims greater than \$50,000
4. Submitted to the District's insurance provider or Legal Counsel for further discussions and resolution of the matter with the claimant

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106.9 NOTIFYING THE CLAIMANT

The claimant, or a party representing the claimant, will be notified in writing by the General Manager if a claim is denied or “deemed denied”, via the U.S. Postal Service. If a claim is accepted, the District’s insurance provider or their Third Party Administrator will contact the claimant and negotiate a settlement.

106.10 THIRD PARTY REPRESENTATION OF THE CLAIMANT

All Claimants who are represented by a third-party (e.g. and attorney) must provide an authorization letter indicating that the third party is authorized to represent the claimant and that the third-party is authorized to act on behalf of claimant and receive information related to the claim. No information should be provided to any third party without an authorization letter from the claimant.

106.11 TIME FOR FILING CLAIMS

CLAIMS FOR DEATH, INJURY TO PERSON OR TO PERSONAL PROPERTY MUST BE FILED NOT LATER THAN 6 MONTHS AFTER THE OCCURRENCE. (GOVERNMENT CODE SECTION 911.2)

ALL OTHER CLAIMS FOR DAMAGES MUST BE FILED NOT LATER THAN ONE YEAR AFTER THE OCCURRENCE. (GOVERNMENT CODE SECTION 911.2)

If a claim is determined to have been filed after the deadline to file a claim, the General Manager shall contact promptly District Legal Counsel for instructions for how to respond to the Claimant.

WHEREFORE, this Resolution is passed and adopted by the Board of Directors of the Groveland Community Services District on December 11, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Jennifer Flores, Secretary

Robert Swan, President - Board of Directors

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CERTIFICATE OF SECRETARY

I, Jennifer Flores, the duly appointed and acting Secretary of the Board of Directors of the Groveland Community Services District, do hereby declare that the foregoing Resolution was duly passed and adopted at a Regular Meeting of the Board of Directors of the Groveland Community Services District, duly called and held on December 11, 2018.

DATED: _____

THE FOLLOWING LANGUAGE IS TO BE ~~DELETED~~ IN ITS ENTIRETY

106 CLAIMS AGAINST THE DISTRICT

106.1 Purpose

The purpose of these policies is to establish uniform procedures for the filing of claims against the District for money or damages in accordance with the requirements of the Government Claims Act (Gov. Code § 810-996.6 hereinafter the “Act”). In general, the Act and these policies require that a legal action for money or damages against the District may not be 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 these policies is mandatory in order for the claimant to maintain a judicial action against the District for monetary damages. The purpose of these policies is to give the District an opportunity to settle justifiable claims before legal action is brought. Second, these policies permit the District to make an early investigation of facts, on which the claim is based, thereby enabling the District to defend itself against unjust claims and to correct the conditions or practices which gave rise to the claim.

106.2 Types of Claims Subject to Claims Presentation Requirements

A. Claims Against the District for Money or Damages Required by the Act

The Act requires that all claims against the District for money or damages comply with the claims presentation requirements specified in the Act and summarized in these policies. A claim for money or damages against the District may include a claim of property damage to real property, property damage to personal property, personal injury damages which include any form of injury to a person including physical injury or injury to reputation or character, or a claim of contractual damages. Examples of claims which may be filed against the District requesting money or damages from the District are as follows:

1. Tort Claims

- a. Claims of negligence by the District or its employees resulting in personal injury or property damage;
- b. Claims of nuisance resulting in personal injury or property damages;
- c. Breach of statutory duties;
- d. A claim alleging intentional wrongful conduct by District employees in the course of their employment causing personal injury or property damage including but not limited to fraud, false arrest, assault and battery, or discrimination.

2. Contract Claims

These claims allege breach of an oral or written contract by District resulting in monetary damages to the other party to the contract.

B. Claims Exempt from the Act but Required to Comply with Claims Presentation Requirements

There are various types of claims which may be filed against the District which do not involve claims for money or damages against the District which, although exempt from the Act, are still required to comply with the claims presentation procedures and requirements specified in these policies and the District's Claims Ordinance (*See Appendix 100-B*). The purpose of the Claims Ordinance is to require that all claims filed with the District comply with the claims presentation requirements specified in these policies in order to accomplish the purposes of these policies. Examples of the types of claims which may be brought against the District which must comply with the claims presentation requirements specified herein pursuant to the authority of the District's Claims Ordinance are the following types of claims:

1. Any claim 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;
2. Petition for issuance of a writ of mandate by a court compelling the District and its employees to perform a mandatory duty, such as compliance with CEQA requirements in approving public projects;
3. Actions which seek declaratory relief or a court's declaration of the relative rights and obligations of contracting parties including the District;
4. Actions alleging employment discrimination by the District or its employees including sexual harassment claims, and actions by employees against the District for back pay or benefits;
5. Actions claiming violation of federal law;
6. Claims against the District for refund of special taxes, assessments, or fees and charges submitted by individual claimants. The District's Claims Ordinance does not permit the filing of class action claims against the District for refunds of special taxes, assessments, or fees and charges.

106.3 Preparation of Claim

Reference is made to Appendix 100-C (Instructions for Filing a Claim) of these policies, Instructions for Filing a Claim, which specify the required contents of the Claim Form (Appendix 100-C, Exhibit 1) and provide a suggested form of Claim Form for filing by potential claimants.

106.4 Time Limits for Presentation of Claim

Claims for money or damages related to causes of action for death, injury to persons, or injury to personal property must be filed within six (6) months after the accrual of the cause of action. Claims for money or damages relating to any other cause of action such as allegations of damage to real property and breach of contract must be filed within one (1) year after accrual of the cause of action.

Claims which do not involve claims for money or damages against the District as specified in Section 106.2.B, 1-6 must be filed within six (6) months after the accrual of such cause of action.

106.5 Method of Presentation of Claim

The claimant may present the claim or an amendment to a claim or an application for leave to file a late 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.

106.6 Consideration of Claim by District

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

A. Notice of Insufficiency of Claim

Within twenty (20) days after a claim has been presented, the District shall give the claimant written notice of any substantial defects or omissions in the content of the claim that prevent the claim from complying with the requirements of this policy specified above. A form of Notice of Insufficiency is attached hereto as Appendix 100-D (Forms Letters for Claims), Exhibits D-1A and D-1B.

B. Investigation of Claim

The General Manager shall authorize an investigation to be conducted regarding the facts and circumstances surrounding the claim both as to potential District liability for the losses specified in the claim as well as the nature, extent and amount of losses claimed. If the claim requests action by the District other than compensation for money or damages, the investigation shall include an evaluation of the claimant's requested action on District operations. This investigation then may be conducted under the auspices of or with the cooperation of the District's insurance coverage provider and District Legal Counsel.

106.7 Board Action on Claim

The Board of Directors of the District is authorized, within a period of forty-five (45) days after the claim has been presented to the District, to take any of the following actions: (1) reject the claim entirely; (2) allow the claim in full; (3) allow the claim in part and reject the balance of the claim; (4) compromise the claim or settle the claim if the liability or amount due is disputed; (5) take no action, thus permitting the claim to be denied by operation of law pursuant to Government Code Section 912.4(c).

The District's insurance coverage provider recommends that if the Board of Directors of District disputes any aspect of alleged District liability for the claim, or disputes in part the amount of money or damages alleged in the claim or the specific District action requested in the claim, that the Board of Directors of District reject the claim in its entirety and forward it to the insurance coverage provider for additional investigation and adjustment of the claim.

106.8 Notice of Action on Claim

Upon final action by the Board of Directors on any claim, written notice of the Board's action on the claim shall be mailed to the claimant at the address specified in the Claim Form in the form provided in Government Code Section 913 and as specified in Appendix 100-D—Form Letters for Claims to these policies. The giving of such notice is important because it limits the statute of limitations applicable to any judicial action which the claimant may desire to file in the event of a rejected claim to six (6) months after the date of the written notice of rejection of claim from the District.

106.9 Reconsideration of Rejected Claims

The District wishes to provide for the utmost flexibility in negotiation and settlement of claims against the District. Even after a claim has been rejected by Board action, the Board will grant reconsideration of rejected claims if reconsideration is requested before a legal action on the claim has begun. As an alternative to reconsideration of rejected claim, the Board of Directors may act to agree to extend the time to consider a claim beyond the customary 45-day period.

106.10 Notice and Return of Late Claim

When a claim that is required under these policies to be presented six (6) months after accrual of the cause of action is presented late, or when a claim is required under these policies to be presented within either six (6) months after the accrual of the cause of action, or one year 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 (45) days after receipt of the claim. The form of notice is specified by Government Code Section 911.3(a) and is set forth in Appendix 100-D (Form Letters for Claims, Exhibits D-3, D-4 and D-5) to these policies. The notice advises the claimant that the claimant's only recourse is to apply without delay for leave to present a late claim to the Board of Directors for consideration.

106.11 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 the accrual of the cause of action. A form of Application for Leave to File a Late Claim is attached to these policies as Appendix 100-D (Form Letters for Claims, Exhibits D-3).
- B. The Board of Directors of District has forty-five (45) days in which to grant or deny the Application for Leave to File a Late Claim. Failure of the Board to take any action within forty-five (45) days operates as a denial of the application. If the Board approves the Application to File a Late Claim, the Board of Directors will agendize consideration of rejection or acceptance of the claim either in whole or in part at a subsequent regular meeting of the Board of Directors.

- C. If the Board of Directors denies the Application for Leave to File a Late Claim, the claimant has six (6) months in which to file a petition with the court for an order excusing claimant from complying with these claims presentation requirements.

106.12 Method of Notice Regarding Action on Claim

All communications between the District and the claimant after the date a 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. In certain circumstances the District may use Certified Mail-Return Receipt Requested to obtain evidentiary support for receipt of mailed documents from the District.

106.13 Property Damage Claims Not Exceeding \$2,000

In the course of the District's operations in providing water, wastewater, parks, recreation and fire service, damage to land and improvements occasionally occurs due to the proximity of the District's facilities to private property. When District employees are aware that property has been damaged in the course of their work, restorative measures are to be taken to return the property as close to its original condition as possible.

When a property owner files a Claims Form with the District alleging District liability for property damage in an amount not to exceed Two Thousand Dollars (\$2,000.00), which is the District's deductible on its property damage insurance policy, the District will conduct an investigation of the circumstances surrounding the property damage claim.

Investigations shall be done in a timely fashion and documented with a written report, including photographs and/or interviews, when appropriate. Interviews of employees or other witnesses may be recorded and subsequently transcribed, or witnesses or employees may be asked to give written statements of the circumstances surrounding the Claim. A copy of the investigative report shall be submitted to the General Manager.

If the investigation report finds that the property damage alleged in the Claim Form is due to negligent actions by the District or its employees, the investigation shall also address the issues of whether the alleged property damage can be repaired by the District for the sum of less than Two Thousand Dollars (\$2,000.00).

If the investigation report reveals that the alleged property damage can be repaired by the District for a sum of less than Two Thousand Dollars (\$2,000.00), the General Manager may direct that a Work Order be prepared to repair the damages subject to all of the following conditions:

- A. Property owner agrees that the proposed repairs are appropriate and adequate;
- B. Property owner agrees to allow District personnel access to their property to perform the repair work;
- C. District personnel have the necessary tools, equipment, and expertise to perform the necessary work;

- D. Repair work can be accomplished within a reasonable amount of time; and,
- E. Cost of material for the repairs will not exceed \$2,000.

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: