

RESOLUTION NO. 037

A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE CRESTLINE SANITATION DISTRICT
ESTABLISHING REGULATIONS FOR THE
PRESENTATION OF CLAIMS AGAINST THE DISTRICT

WHEREAS, the Crestline Sanitation District ("the District") is a local public entity within the meaning of Government Code Section 900.4;

WHEREAS, all claims for money or damages against local public entities such as the District are governed by the California Tort Claims Act, Government Code Section 900 et seq. ("the Act");

WHEREAS, Government Code Section 905 lists fifteen categories of claims that are exempt from the general requirement under the Act that a party with a cause of action for money or damages against the District must first present a written claim directly with the District, which must then be denied or rejected before the claimant may file a lawsuit;

WHEREAS, Government Code Section 935 nevertheless specifically empowers the District to establish its own policies and procedures for the presentation of those claims against it which are excepted by Government Code Section 905, so long as the procedures established are similar to, and not more restrictive than, those set forth in the Act with respect to claims not excepted by Government Code Section 905;

WHEREAS, Government Code Section 910.4 requires claimants to use a form provided by the District specifying the information to be contained in a claim; and

WHEREAS, Government Code Section 910.4 further provides that the District may return any claim which is not presented using the form adopted by the District's Board of Directors.

NOW, THEREFORE, BE IT RESOLVED by the District's Board of Directors that a standard form for claims against the District be hereby adopted and that, pursuant to the authorization granted by Government Code Section 935, the following procedures be adopted with respect to claims excepted by Government Code Section 905:

Section 1. Presentment of Claims - Prerequisite for Bringing Suit. There shall be presented in accordance with this Resolution, and as a prerequisite to filing suit against the District, all claims for money or damages not governed and controlled by Part 3 (commencing with Section 900) Division 3.6 of Title 1 of the California Government Code, and which are more specifically listed as exceptions in Section 905 of Chapter 1, Part 3, provided that the claims covered by this section are not governed by any other statutes or regulations expressly relating thereto.

Section 2. Claims Presented.

- (a) Those claims required by this Resolution shall be presented to the District's Board of Directors on a standard form, which shall be provided by the District to claimants on request, and in accordance with and in the manner provided in Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the California Government Code as contained in Article 1 of Chapter 2 entitled "Presentation and Consideration of Claims," and Article 2 of Chapter 2 entitled "Manner of Presentation and of Giving Notice."
- (b) Any claims received by the District which are not presented on the prescribed form shall be returned to the claimant along with a copy of the standard form and an explanation that the claim must be submitted on the approved form in order to be accepted for consideration.

Section 3. Suits Prohibited Until Written Claim Acted Upon. No suit for money or damages may be brought against the District on a cause of action for which a claim is required to be presented in accordance with this Resolution until the claim has been acted upon by the District's Board of Directors or has been deemed rejected pursuant to the applicable provisions of the Act.

Section 4. Six Months Statute of Limitations - Exception.

- (a) Except as provided in subdivision (b), any suit brought against the District for which a claim is required to be presented in accordance with this Resolution must be commenced within six (6) months after the date the claim is acted upon or deemed rejected by the District's Board of Directors.
- (b) If a claimant is unable to commence a suit on a cause of action described in subdivision (a) within the time prescribed in that subdivision because he or she has been sentenced to imprisonment in a state prison, such suit must be commenced within six (6) months after the date that the civil right to commence such action is restored to such person. A claimant sentenced to imprisonment in a state prison may not commence such suit unless he or she presented a claim in accordance with this Resolution within the time prescribed therein.

Section 5. Suit Prohibited Where Full Payment or Compromise Effected. Where a claim that is required to be presented to the District in accordance with this Resolution is so presented and action thereon is taken by the District's Board of Directors:

- (a) If the claim is allowed in full and the claimant accepts the amount allowed, no suit may be maintained on any part of the cause of action to which the claim relates.
- (b) If the claim is allowed in part and the claimant accepts the amount allowed, no suit may be maintained on any portion of the cause of action where, pursuant to a requirement of the District's Board of Directors to such effect, the claimant has accepted the amount allowed in settlement of the entire claim.

Section 6. Authorization to Delegate the Power to Compromise Any Pending Action. The District's Board of Directors may compromise any claim or pending action against the District, or may delegate such authority to its attorney or to the District's General Manager.

BE IT FURTHER RESOLVED by the District's Board of Directors that the District's General Manager is hereby authorized to create and amend in a manner consistent with the Act a standard Claim Form for distribution to potential claimants upon their request for their use in presenting to the District's Board of Directors possible claims against the District.

BE IT FURTHER RESOLVED by the District's Board of Directors that this Resolution shall take effect immediately upon its adoption.

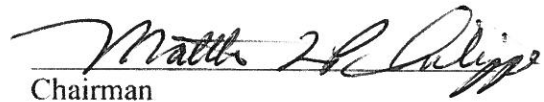
ADOPTED this 12th day of November, 2015.

AYES:

NOES:

ABSTAIN:

ABSENT:


Chairman

ATTEST:


Secretary

BRUNICK, McELHANEY & KENNEDY

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November 9, 2015

TO: Board of Directors
CRESTLINE SANITATION DISTRICT

FROM: Steven M. Kennedy, General Counsel

RE: Claims Against the District

As a "local public entity" within the meaning of Government Code Section 900.4, all claims for money or damages against the District are governed by the California Tort Claims Act, Government Code Section 900 et seq. ("the Act"). The Act generally provides that a party with a cause of action for money or damages against the District must first present a written claim directly with the District, which must then be denied or rejected before the claimant may file a lawsuit. The following material contains certain recommendations concerning the manner in which the District should process any such claim that is filed with the District.

A. Preparation of Claim

The essential contents of the claim are prescribed by Government Code Sections 910 and 910.2. They include: (1) the names and addresses of the claimant and the person to whom notices are to be sent; (2) a statement of facts supporting the claim; (3) a description of the injury and the amount claimed, if it totals less than \$10,000.00, as of the time of presentation; (4) the name of the public employee who caused the injury, if known; and (5) the signature of the claimant or representative.

If the District fails to give written notice of any defects as to these requirements within twenty days after the claim is presented, insufficiency of the claim to satisfy the statutory requirements is waived and cannot be asserted as a defense. Government Code Sections 910.8 – 911. If notice is given, the claimant has an opportunity to remedy the defect by amending the claim. Government Code Section 910.6.

The addresses of the claimant and of the person to whom notices are to be sent are of particular importance. Failure to include at least one absolves the District of the duty to send a notice of defect and precludes claimant's reliance on a waiver of defects. Government Code Section 911. In the absence of both addresses, the District need not give notice of rejection, thereby making possible claimant's inadvertent miscalculation of the last date for commencement of an action on the rejected claim. Government Code Sections 913, 915.4.

The name of the public employee who caused the injury or damages should be inserted if known. Government Code Section 910(e). Absent waiver of the defect, the failure to supply the name, if it is shown that claimant knew it, may constitute fatal noncompliance. When the claimant is asserting District liability as a result of an independent contractor's tort, it appears to be essential that the name of the contractor be given, although Section 910 specifically requires only that the names of employees be supplied. See Government Code Section 815.4.

Also, the claim should specify the amount claimed as damages. Section 910 requires inclusion of the estimated amount of any prospective injury, damage, or loss, as far as known, together with the basis of computation of the amount claimed, if the damages total less than \$10,000.00. Prior case law, which does not seem to be substantially changed by Section 910, held that mistakes in the amount of damages sought or in computation would not affect the validity or effectiveness of the claim. See Gogo v. Los Angeles Flood Control District, 45 Cal. App. 2d 334, 114 P.2d 65 (1941).

Finally, a claim may be prepared, signed and presented by a third person acting on the claimant's behalf. Government Code Sections 910, 910.2.

B. Presentation of Claim

Claims based on causes of action for death, personal injury, injury to personal property, or injury to growing crops must be presented not later than six months after the accrual of the cause of action. A claim relating to any other cause of action must be presented not later than one year after the accrual of the cause of action. Government Code Section 911.2(a).

Presentation to the District of claims, amendments to claims, and applications for leave to file late claims, consists of either delivering the document to the clerk, secretary, or auditor of the public entity, or mailing it to one of these people or to the District's Board of Directors. Government Code Section 915(a). The procedure for mailing claims is substantially the same as for mailing notices and pleadings under the Code of Civil Procedure, with presentation by mail deemed effective on the date of deposit in the mail. See Government Code Section 915.2. If the claim is delivered to the proper official of the District, presentation takes place when the claim is delivered. Government Code Section 915(a)(1), (b)(1). If delivered or mailed to the wrong address but ultimately received by the correct recipient, presentation occurs on actual receipt. Government Code Section 915(d).

C. Contents of Claim Form

The Board must provide forms specifying the information to be contained in claims against the District. Government Code Section 910.4. Attached for the Board's consideration please find a standard Claim Form contained in the Property/Liability Claims Manual prepared by the Special District Risk Management Authority.

A person presenting a claim against the District must use the District's claim form in order that his or her claim is deemed in conformity with the law. A claim may be returned to the person if it was not presented using the District's form. Any claim returned to a person may be resubmitted using the appropriate form. Government Code Section 910.4.

D. Consideration of Claims

Government Code Section 905 lists fifteen categories of claims that are exempt from the general requirement under the Act that a party with a cause of action for money or damages against the District must first present a written claim directly with the District, which must then be denied or rejected before the claimant may file a lawsuit. These exceptions expressly include tax claims, claims by public employees for wages, pension claims, claims for principal or interest upon bonds, and claims by other public entities.

Nevertheless, Government Code Section 935 specifically empowers the District to establish its own policies, procedures, and regulations for the presentation of those claims against it which are excepted by Government Code Section 905, so long as the procedures established are similar to, and not more restrictive than, those set forth in the Act with respect to claims not excepted by Government Code Section 905.

Therefore, it is suggested that the District adopt its own claims procedures with respect to claims excepted by Government Code Section 905. This would allow the District to assert the claims-presentation requirement as a prerequisite to the filing of any action that would be otherwise exempt therefrom under the Act. In this regard, enclosed herewith is a proposed resolution for consideration by the Board which, if adopted, would establish the District's own claims procedures as authorized by law.

Enclosures

CLAIM FORM

NAME OF PUBLIC ENTITY:	
CLAIMANT'S NAME:	ADDRESS:
SSN:	PHONE:
The post office address to which the person presenting the claim desires notices to be sent:	
The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted:	
A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim:	
The name or names of the public employee or employees causing the injury, damage, or loss, if known:	
The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed:	
If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case.	
SIGNATURES	
SIGNATURE OF CLAIMANT:	DATE:
SIGNATURE OF CLAIMANT REPRESENTATIVE:	DATE:
DATE RECEIVED BY ENTITY:	