

POLICY TITLE: Property Damage Claims Against The District

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POLICY NUMBER: 1040

The purpose of this ~~p~~Policy is to provide direction ~~to District staff for~~regarding the processing and resolving (if possible) ~~of account adjustment requests and~~ property damage claims ~~made~~ against the District. ~~This Policy does not apply to claims for personal injury or wrongful death, which claims shall not be investigated by District employees or members of the Board of Directors, and shall immediately be forwarded to the District's joint powers authority for handling insurance company for handling.~~

~~The District desires to ensure that its operations are conducted in a manner which minimizes risk, protects District resources, and promotes the health, safety and welfare of the District's employees and its Board of Directors, as well as members of the public. All claims against the District shall be presented to the District and acted upon by the District in accordance with the Government Claims Act (Cal. Gov. Code §§ 810 et seq.), the Board Policies, and the District's insurance coverage. Inherent in this pPolicy is the recognition that every adjustment request or claim will be unique, and that guidelines cannot be written to accommodate every case. Therefore, District staff and its Directors must use discretion and good sense in handling when addressing each claim.~~

~~1040.1 Section 1. Property (Land and Improvements) Damage Claims~~

~~In the course of the District's operations — [list several examples of routine district operations or services] — damage to land and improvements thereon occasionally occurs due to the proximity of the District's facilities to the 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.~~

~~WhenIf a property owner informs a District employee or member of the Board of Directors of about a damage to their claim allegedly caused by the District, property (by telephone or in person), the employee receiving the claim will document in writing the time and date, and a description of the stated circumstances and allegations. Employees should respond to questions, be cordial and respectful, but refrain from commenting on liability questions. As soon as possible after information about the damage has been received, itsuch information shall be given forwarded to the appropriate division manager [replace position title with appropriate position title for your district]. The division manager, General Manager, or his/her designee, as soon as possible, who shall investigate the property owner's allegations. District employees may respond to general questions regarding this Policy, and should be cordial and respectful when communicating with the property owner, but do not have authority to answer any questions regarding liability or responsibility relating to the claim.~~

~~If the owner of damaged property informs a member of the Board of Directors, the information will be given to the General Manager. Directors should shall not independently investigate claims or make any representations or promises to the property owner or any third party regarding the District's response to a claim or any liability or responsibility the District may have in relation to a damage claim, or make any representations to the property owner, but may go with staff to observe. If it is determined by the District that a claimant's property has been damaged as a result of the District's operations, restorative measures shall be taken by the District to return the property to the condition in which it existed prior to the damage, or as close thereto as possible.~~

Section 1. Claims for Damage to Land and/or Improvements

At the direction of the General Manager, or his/her designee, an investigation into a damage claim to land and/or improvements thereon shall be performed in a timely fashion and documented with a written report, including photographs and/or interviews, when as appropriate. A copy of the investigation report shall be submitted to the General Manager, or his/her designee, as soon as possible after the investigation is completed. Within a reasonable amount of time, the General Manager, or his/her designee, shall review the damage claim submitted by the property owner, together with the written investigation report and proposed work order prepared by District staff, including the estimated cost to complete the repair work.

Cost of Repairs: \$500 or Less

~~If the investigating staff person is convinced that the damage was caused by District personnel, equipment, or infrastructure, he/she shall prepare a work order to have the damage repaired, subject to the following conditions:~~

~~If the cost of repairs, including materials, is estimated to be five hundred dollars (\$500) or less, the General Manager, or his/her designee, may authorize the repair work to be completed subject to the following conditions: General Manager approves the work order;~~

~~(a) General Manager, or his/her designee, determines the District is responsible for the property damage;~~

~~(b) General Manager, or his/her designee, determines the proposed work order is appropriate;~~

~~(a)(c) Property owner agrees in writing that the proposed repairs are appropriate and adequate to restore the property to the condition in which it existed prior to the damage;~~

~~(b)(d) Property owner agrees in writing to allow District personnel access to their property to perform the repair work;~~

~~(c)(e) District personnel have the necessary tools, equipment, skills, and expertise to perform the necessary repair work; and~~

~~(d) Repair work can be accomplished within a reasonable amount of time; and,~~

~~(f)~~

~~Cost of material for the repairs will not exceed five hundred dollars (\$500).~~

Cost of Repairs: \$500 to \$1,500

~~If the cost of repairs, including materials, for repairs is stated by claimant or estimated by staff to exceed be in the range of five hundred dollars (\$500) to one thousand five hundred dollars (\$1,500), the property owner shall submit the damage claim to the District in writing pursuant to Section 3 of this Policy. Thereafter, the General Manager, or his/her designee, may authorize the repair work to be completed subject to the following conditions: the owner will be asked to submit their claim in writing on a District claim form.~~

~~(a) General Manager, or his/her designee, determines the District is responsible for the property damage;~~

~~(b) General Manager, or his/her designee, determines the proposed work order is appropriate;~~

~~(c) Property owner agrees in writing that the repairs are adequate to restore the property to the condition in which it existed prior to the damage;~~

~~(d) Property owner agrees in writing to allow District personnel access to their property to perform the repair work;~~

- (e) District personnel have the necessary tools, equipment, skills, and expertise to perform the repair work;
and
- (f) Repair work can be accomplished within a reasonable amount of time.

Following the completion of the repair work, The General Manager shall review the damage claim and the proposed repair work within a reasonable amount of time. If he/she determines that the damage is the District's responsibility and that the proposed repair work is appropriate, he/she may authorize the work if the cost of material for the repairs will not exceed one thousand five hundred dollars (\$1,500) A report shall be submitted to the Claims Committee [standing board committee assigned to review claims] Board of this nature] Directors describing the damage claim, including and a description of the manner in which it was resolved. The claimant shall be notified of any action by the Committee regarding their claim.

Cost of Repairs: Exceeds \$1,500

If the cost of repairs, including materials, is estimated to exceed one thousand five hundred dollars (\$1,500), the property owner shall submit the damage claim to the District in writing pursuant to Section 3 of this Policy. Thereafter, the damage

If the cost of material for repairs is stated by claimant or estimated to exceed one thousand five hundred dollars (\$1,500), the claim will shall be submitted to the Board of Directors for consideration.

The Board of Directors shall review the damage claim and receive input from District staff and legal counsel in a closed session meeting of the Board as permitted by the Ralph M. Brown Act (Cal. Gov. Code §§ 54950, et seq.) [qualifies as "anticipated litigation" under the Brown Act]. After reviewing the damage claim, the Board may authorize the work if the cost of material for the repairs will not exceed three thousand dollars (\$3,000) or may make a recommendation to the Board of Directors. A report shall be submitted to the Board describing the damage claim, including a description of the manner in which it was resolved, or a recommendation for Board action. The claimant shall be notified of any action by the Board of Directors regarding their claim. If the cost of material for repairs is stated by claimant or estimated to exceed three thousand dollars (\$3,000), the claim will be submitted to the Board of Directors for its consideration. The Board will consider the claim during a closed session ["anticipated litigation"] of a regular or special meeting. Action to accept or reject the claim may be taken in open or closed session. The claimant shall be notified in writing of the Board's action regarding their claim pursuant to Section 3 of this Policy. Notification that a claim has been rejected shall be accompanied by proof of service in written form to the claimant.

Cost of Repairs: Exceeds District's Insurance-DeductibleThe Board will not consider a claim of an amount in excess of the insurance deductible, including the cost of investigation, without prior written approval of the District's insurance company.

A damage

Claims in excess of the District's insurance deductible shall be forwarded to the joint powers authority for the District insurance company, and the claimant shall be advised of this action.

Claims for personal injury/wrongful death shall not be investigated by District staff or directors but shall be immediately forwarded to the District's insurance company.

~~1040.2~~ **Section 2. Property Claims for Damage to (Vehicles and Unsecured Property) Damage Claims**

~~All claims of damage to vehicles or other unsecured property shall be submitted to the General Manager. He/she Within a reasonable amount of time after receiving a claim for damage to a vehicle or other unsecured property, tThe General Manager, or his/her designee, shall review the damage claim, together with and the requested restitution requested by the claimant.~~

Cost of Repairs: \$1,500 or Less

If the cost of repairs or reimbursement of expenses is estimated to be one thousand five hundred dollars (\$1,500) or less, the General Manager, or his/her designee, may authorize the repair work to be completed or reimbursement of expenses to be made subject to the following conditions:

- (a) General Manager, or his/her designee, determines the District is responsible for the property damage;
- (b) General Manager, or his/her designee, determines the requested restitution is appropriate; and
- (c) Property owner agrees in writing that the repairs or reimbursement of expenses is appropriate and adequate as full restitution for the damage claim.

~~If He/she The General Manager determines that the damage is the District's responsibility, He/she The General Manager may authorize repairs or reimbursement of expenses to an amount not to exceed one thousand five hundred dollars (\$1,500).~~

~~Following completion of the repair work or reimbursement of expenses, a~~ report shall be submitted to the ~~Claims Committee describing~~ Board of Directors describing the damage claim, ~~including and~~ a description of the manner in which it was resolved.

Cost of Repairs: Exceeds \$1,500

If the cost of repairs or reimbursement of expenses is estimated to exceed one thousand five hundred dollars (\$1,500), the property owner shall submit the damage claim to the District in writing pursuant to Section 3 of this Policy. Thereafter, the damage claim shall be submitted to the Board of Directors for consideration.

The Board of Directors shall review the damage claim and receive input from District staff and legal counsel in a closed session meeting of the Board as permitted by the Ralph M. Brown Act (Cal. Gov. Code §§ 54950, et seq.). After reviewing the damage claim, the Board may accept or reject the claim. The claimant shall be notified in writing of the Board's action regarding the claim pursuant to Section 3 of this Policy.

Cost of Repairs: Exceeds District's Insurance Deductible

A damage claim in excess of the District's insurance deductible shall be forwarded to the joint powers authority for the District insurance company, and the claimant shall be advised of this action.

~~The claim will be processed as described above if the cost of material for repairs is estimated to exceed the applicable thresholds~~ **\$1,500.**

1040.3 Section 3. _____ Property Damage Claims on District Form must be in writing. Format and Submission of Claim, Response by District

Except for a claim for property damage to land and/or improvements thereon estimated to cost less than five hundred dollars (\$500), all property damage claims must be submitted ~~in writing on a~~ to the District in writing and be signed by the claimant, claim form. ~~This will ensure that a claim is valid and protect important rights of the District.~~

~~If an~~An individual does not wish to file a claim on the District form, he/she may present the~~their~~claim by letter if it and shall conform to Sections 910 and Section 910.2 of the Government Claims Act, of the California Government Code.

Section 910 of the California Government Code specifies that a claim ~~needs to~~must show all of the following:

- (a) The name and post office address of the claimant.
- (b) The post office address to which the person presenting the claim desires notices to be sent.
- (c) The date, place, and other circumstances of the occurrence or transaction which gave rise to the claim asserted.
- (d) A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known as the time of presentation of the claim.
- (e) The name or names of the public employee or employees causing the injury, damage, or loss, if known; and
- (f) 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.

Section 910.2 of the California Government Code ~~specifies~~provides the following:

The claim shall be signed by the claimant or by some person on his behalf. Claims against local public entities for supplies, materials, equipment or services need not be signed by the claimant or on his behalf if presented on a billhead or invoice regularly used in the conduct of the business of the claimant.

~~If the filed letter/claim does not meet the requirements of the California Government Code Section 910 and Section 910.2, then a letter shall be sent to the claimant informing them of this fact.~~

District staff shall not provide ~~no~~any assistance to ~~the~~the claimant in filling out the claim ~~form.~~.

~~Claimant must fill out the~~C-claims form in its entirety and shall be submitted to the District ~~it~~ via email to the General Manager, fax, emby mail to the District office, or pby personal delivery to the District office. Upon receipt, office District staff shall date-stamp the document demonstrating receipt of a claim document.

Following receipt of a claim, the District has forty-five (45) days in which to act on the claim; otherwise, the claim is deemed to have been automatically rejected by the District as a matter of law. A Notice of Rejection shall be sent to the claimant or his/her representative at the address specified in the claim, and shall state that the claimant has six (6) months from the date of the Notice of Rejection to file a lawsuit against the District.

(Cal. Gov § 911.8.) A Notice of Rejection shall be accompanied by proof of service.

If the a filed letter/claim does not meet conform to the requirements of the California Government Code Sections §910 and Section §910.2 of the Government Claims Act, then a Notice of Insufficiency shall be sent a letter shall be sent to the claimant or his/her representative at the address specified in the claim within twenty (20) days of receipt of the claim. The Notice of Insufficiency shall state with particularity the defects or omissions contained in the claim. The District may not take action on the claim for a period of at least fifteen (15) days from the date of the Notice of Insufficiency informing them of this fact. ;

~~1025.4 Account Adjustment Requests (Appropriate for Utility-Type Districts) The General Manager or the Finance Division Manager [Business Manager, Chief Financial Officer, Treasurer or other appropriate position title], in his/her absence, is authorized to adjust a customer's water service [sewer, garbage, electricity, etc.] account when their bill reflects usage that is significantly greater than normal, due to accidental loss of water through broken pipes or when faucets are turned on in the owner's absence, etc. [or other type of abnormal account cost], subject to the following conditions:~~

- ~~a) The customer requests the account adjustment in writing;~~
- ~~b) A similar request has not been made within the past 12 months; and~~
- ~~c) The account shows no record of being delinquent for more than 60 days during the past 24 months.~~

Revised, Approved and Adopted ~~September 24, 2024~~ October 21, 2024
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