

RESOLUTION NO. 2022-6

A Resolution of the Pierce County Flood Control Zone District Board of Supervisors Authorizing the Use of Digital and Electronic Signature Technology; Adopting an Electronic Signature and Digital Signature Policy; and Approving and Ratifying the Use of Electronic Signatures During a Declared Emergency.

Whereas, during the 2020 legislative session the Washington state legislature adopted the Uniform Electronics Transactions Act, ("ESSB 6028"), effective June 11, 2020; and

Whereas, ESSB 6028 repealed and replaced Chapter 19.360 RCW, which authorized governmental agencies to utilize electronic signatures in the conduct of governmental affairs and other transactions where their use has been authorized by the legislative body; and

Whereas, ESSB 6028, which is now codified at Chapter 1.80 RCW, continues to authorize the governmental agencies to utilize electronic signatures and allows governmental agencies to determine whether, and the extent to which, the agency will send and accept electronic signatures in the conduct of its business; and

Whereas, the use of electronic signature technologies can benefit the Pierce County Flood Control Zone District ("District") by decreasing the District's reliance on paper transactions and physical documents, lessening administrative demands, improving efficiency, leveraging the District's investments in digital technology, and saving time and reducing costs associated with conducting District business; and

Whereas, the value of electronic signatures is heightened and apparent during a declared state of emergency such as the current COVID-19 pandemic; and

Whereas, RCW 1.80.160 authorizes Districts to determine whether, and the extent to which, governmental agencies will create and retain electronic records and convert written records to electronic records; and

Whereas, RCW 1.80.170 authorizes governmental agencies to determine whether, and the extent to which, they will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures; and

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2 **Whereas**, the Board of Supervisors desires to authorize the use and receipt of
3 electronic signatures; adopt policies for the implementation of this authorization to
4 provide reasonable assurances for the integrity, authenticity, and nonrepudiation of
5 electronic documents when electronic signatures are used; and to approve and ratify
6 the use of electronic signatures both before and during the emergency declared by
7 Governor Inslee on February 29, 2020; **Now Therefore**,

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9 **BE IT RESOLVED by the Board of Supervisors of the Pierce County Flood**
10 **Control Zone District :**

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12 Section 1. The foregoing recitals are adopted as the Board of Supervisors'
13 findings of fact.

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15 Section 2. The Board of Supervisors finds it to be in the public interest to allow
16 the use of electronic signatures for District business to the fullest extent allowed by law.
17 An electronic signature may be used with the same force and effect as a signature
18 affixed by hand, subject to the limitations in the District's policy and under state and
19 federal law. The Board of Supervisors authorizes the Supervisors, Executive Director,
20 and any other District employee or official who has been granted authority to sign
21 certain records on behalf of the District either by nature of their position in relation to the
22 record or by direct authorization from the Board of Supervisors Operating Rules, to affix
23 electronic signatures to electronic records or accept such electronic signatures.

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25 Section 3. The Board of Supervisors adopts the Pierce County Flood Control
26 Zone District Electronic and Digital Signature Policy, which is attached as Exhibit A and
27 incorporated by this reference.

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29 Section 4. The Executive Director is authorized to adopt any necessary
30 administrative processes and enter into contracts (within existing purchasing authority)
31 necessary to implement the use of electronic signatures by the district consistent with
32 this resolution, Exhibit A, and state and local law, including, but not limited to, Chapter
33 1.80 RCW, the Uniform Electronic Transactions Act, as presently enacted or hereafter
34 amended.

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36 Section 5. If any section, paragraph, sentence, clause, or phrase of this
37 resolution, or its application to any person or situation, be declared unconstitutional or
38 otherwise invalid for any reason, or should any portion of this resolution be pre-empted
39 by state or federal law or regulation, such decision or preemption shall not affect the
40 validity of the remaining portions of this resolution or its application to other persons or
41 situation. The Board of Supervisors hereby declares that it would have adopted this
42 resolution and each section, subsection, sentence, clauses, phrase, or portion thereof,
43 irrespective of the fact that any one or more sections, subsections, sentences, clauses,
44 phrases, or portions be declared invalid or unconstitutional.

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2 Section 6. Any act, including the use and acceptance of electronic signatures,
3 consistent with the authority and prior to the effective date of this resolution is hereby
4 ratified and affirmed. The Board of Supervisors further specifically approves and ratifies
5 the use of electronic signatures by the District for the time period between the
6 Governor's declaration of emergency on February 29, 2020 and the effective date of
7 this resolution.

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9 Section 7. This resolution will take effect immediately upon passage by the
10 Board of Supervisors.

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13 ADOPTED this 12th day of October, 2022.

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15 ATTEST:

PIERCE COUNTY COUNCIL
Pierce County, Washington

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20 **Audrey Persons**
21 Clerk of the Board

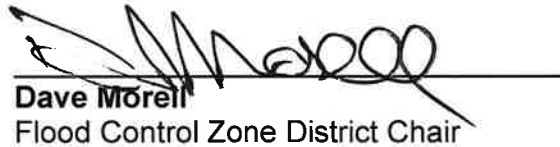
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Dave Morell
Flood Control Zone District Chair

Exhibit A
Electronic and Digital Signature Policy

PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT

TITLE: Electronic Signature Policy		POLICY:
EFFECTIVE DATE:	SUPERSEDES: N/A	PAGES: 5
SIGNER:		SIGNER:

I. APPLICABLE TO: This policy applies to authorized District officials and employees when using facsimile, electronic and digital signatures to conduct business on behalf of the District. This policy further applies to all non-District electronic signatures received by the District.

II. POLICY STATEMENT: An electronic signature policy will be written clearly and published for the purpose of providing an authentic and efficient procedural process for the use of electronic signatures.

III. PURPOSE: This policy provides guidelines for the use of electronic signatures and will determine the scope of the District's use of the electronic signature DocuSign or any replacement platforms.

IV. REFERENCES:

1. Chapter 1.80 RCW – Uniform Electronic Transactions Act
2. Chapter 9.38 RCW – False Representations
3. Chapter 42.45 RCW – Revised Uniform Law on Notarial Acts
4. 15 U.S.C Chapter 96 – Electronic Signatures in Global and National Commerce Act
5. Chapter 208-30 WAC – Notaries Public

V. Official and Employee Responsibilities

All District officials, representatives, and employees who utilize electronic signatures in the conduct of their duties shall have reviewed these policies to ensure that, to the best of their ability, the guidelines herein are followed.

VI. Definitions

1. "Designee" means a District official or employee who has been designated by the Board of Directors to sign District records using an electronic signature.
2. "Electronic record" means a contract, agreement, policy, or other record created, generated, sent, communicated, received, or stored by electronic means.
3. "Instrument of payment" means a check, draft, warrant or order for the payment, delivery, or transfer of funds.

4. “Digital signature” means a type of electronic signature that is a transformation of a message using an asymmetric cryptosystem such that a person who has the initial message and the signer’s public key can accurately determine whether the:

- a. Transformation was created using the private key that corresponds to the signer’s public key; and
- b. Initial message has been altered since the transformation was made.

5. “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.

6. “Facsimile signature” means a reproduction of a wet signature by engraving, imprinting, stamping or other means of the manual signature of a Designee.

7. “Wet signature” means a signature created when a person physically marks a document with the intent to sign the record.

8. “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, except as otherwise defined for the purpose of state or local agency record retention, preservation, or disclosure.

9. “Software Solution” means the District’s adopted electronic signature platform.

VII. Policy

1. The District encourages electronic transactions and the use of electronic signatures and recognizes electronic signatures as legally binding and equivalent in force and effect as a wet signature.

2. With the exception of documents related to conveyances of real property or that must be filed of record with an auditor’s office, the District authorizes originally signed documents (*i.e.* documents with wet signatures) to be transmitted by facsimile or via PDF e-mail, which shall be deemed valid execution of the document for its intended purposes.

3. The District authorizes the use of the Adobe Sign electronic platform, DocuSign electronic platform or any alternative or future replacement of such platform in compliance with this Policy, to affix electronic signatures to District records. Other forms of electronic signatures are acceptable, provided that the electronic signatures comply with applicable statutes as appropriate, including, but not limited to the Electronic Signatures in Global and National Commerce Act and the Washington Uniform Electronic Transactions Act, as existing or amended.

4. The Board of Supervisors, and all District employees and officials are authorized to use the Adobe Sign electronic signature platform or the DocuSign electronic platform or any alternative or future replacement of such platform to affix electronic signatures to District records as provided in this policy.

5. Electronic signatures may be used on District records requiring execution by a third party.

6. Electronic signatures cannot be applied using another official or employee’s name.

7. An electronic signature is an acceptable substitute for a wet signature on records requiring the signature of any record whenever the use of a wet signature is authorized or required, except as provided herein.
8. If an electronic signature is used for interstate transaction or for document required by the US Federal Government, the electronic signature shall comply with the requirement of the Electronic Signatures in Global and Electronic Commerce Act.
9. This policy in no way affects the District's ability to conduct a transaction using a physical medium and shall not be construed as a prohibition on the use of wet signatures.
10. In the event that the law requires that a document be notarized, acknowledged, verified, or made under oath, this requirement is satisfied if the electronic signature is of the person authorized to notarize, acknowledge, verify, or administer the oath, together with the other information required by other applicable law, is attached or logically associated with the signature or record.
11. The District may accept documents that have been notarized electronically provided that the electronic notarization complied with WAC 308-30 and RCW 42.45.

VIII. Technical Standards

1. At a minimum, any approved use of an electronic or digital signature must comply with the following ("technical standards"):
 - a. Provide for security, authentication, record integrity, record retention, and nonrepudiation of the electronic communication;
 - b. Verify the signer is who they represent themselves to be because the signer has had to prove their identity to a certificate authority to obtain the digital signature;
 - c. Confirm the signature was applied to the document and not copied from another document because the signature file is cryptographically bound to the document;
 - d. Ensure the document was not altered after it was signed; and
 - e. Provide for validation of incoming electronic signatures.
2. The Executive Director may modify technical standards for electronically transmitted signatures and manual facsimile signatures.
3. The Executive Director may modify the chosen software solution for electronic and digital signatures.