

SUBMITTAL TO THE FLOOD CONTROL AND
WATER CONSERVATION DISTRICT
BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM: 11.2
(ID # 13718)

MEETING DATE:
Tuesday, December 15, 2020

FROM : FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approve the Addition of District Policy A-12
Authorization for the Use of Facsimile and Digital Signatures, All Districts. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the addition of District Policy No. A-12 Authorization for the Use of Facsimile and Digital Signatures to the District Policy Manual.

ACTION:

A handwritten signature in blue ink, appearing to read "J. Uhley".

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG

11/30/2020

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Spiegel, seconded by Supervisor Jeffries and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: December 15, 2020
xc: Flood

Kecia R. Harper
Clerk of the Board
By: Deputy

**SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD
OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: N/A			Budget Adjustment: N/A	
			For Fiscal Year: N/A	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

On March 10, 2020 (Agenda Item 3.4), the Board of Supervisors approved the amendment of County Policy No. A-8 to include the use of digital signatures for execution of certain agreements and other documents. Likewise, the Riverside County Flood Control and Water Conservation District (District) recognizes that there are new technologies available to improve efficiency in the processing of agreements and other documents. Due to available technology, communications, agreements and other documents are frequently composed and executed within an electronic system. This policy will provide procedures and guidelines to the District for using facsimile or digital signatures.

ATTACHMENTS:

1. Attachment A – Policy No. A-12

BB:blm
P8/235147


Scott Bruckner 12/7/2020


Gregory V. Priamos, Director County Counsel 12/1/2020



P O L I C Y

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

NUMBER: A-12

SUBJECT: Authorization for the Use of Facsimile and Digital Signatures

POLICY:

It is the Policy of the Riverside County Flood Control and Water Conservation District ("District") that authorization for the use facsimile and digital signatures follows the Board of Supervisors Policy No. A-8, *Authorization of Facsimile and Digital Signatures*, which establishes the following procedures for the use of digital signatures:

I. USE OF FACSIMILE SIGNATURE

The use of a facsimile signature of the Chairperson of the District is authorized for use on all copies of resolutions, orders, ordinances, letters, contracts, minutes and records of this Board, upon which the Chairperson has been authorized, empowered or instructed to sign by order or resolution of the Board, or by ordinance or statute. The Chairperson may delegate the affixing of his/her facsimile signature or digital signature to the Clerk of the Board of Supervisors or his/her duly qualified deputies, by executing a document approved as to form by the County Counsel reciting the delegation and setting forth what shall be considered his/her signature.

II. DIGITAL OR ELECTRONIC SIGNATURES

1. DEFINITIONS

- A. **Electronic signature** means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record. The Uniform Electronic Transaction Act (UETA) authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. (Cal. Civ. Code §1633.1-1633.17)
- B. **Digital signature** means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

2. DIGITAL SIGNATURES

The Uniform Electronic Transaction Act (UETA) authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency,

when both parties agree to its use. (Cal. Civ. Code Section 1633.1 – 1633.17). The electronic signature must be supported by evidence that the signature is the act of the intended person. An agreement executed with an electronic signature has the same legal enforceability as a wet signature, subject to documents that are exempt.

A digital signature is a type of electronic signature with strict security requirements that may be used to execute certain written communications and agreements with the District if it satisfies the requirements found in Cal. Gov. Code § 16.5, et. seq. and

Title 2, division 7 Chapter 10 of the California Code of Regulations. (2 CCR §22000-22005)

The signatures must be:

1. Unique to the person using it;
2. Capable of verification;
3. Under the sole control of the person using it; and
4. Must be linked to the data in such a way that if the data is changed the signature will be invalidated.

III. PROCEDURES FOR USE OF ELECTRONIC OR DIGITAL SIGNATURES

1. **System Approval**: The system used for the creation of the electronic signature must be approved by the County of Riverside Technology Standards Oversight Committee (TSOC) and in accordance with state law.
2. **Express Agreement**: When the parties to an agreement desire to use electronic signatures for executing the agreement, a term shall be included in the agreement to memorialize the use of electronic signatures for the agreement. Absent such terms in an agreement, the agreement must have a wet signature.
3. **Submission for Approval and Execution**: Once the electronic agreement is complete and has been digitally signed by the duly authorized representative of the other parties, it may be submitted for execution by the Board of Supervisors or the individual who has the delegated authority to bind the District for that contract type.
4. **Retention**: The executed electronic agreement must be maintained pursuant to the Board Policy No. A-43 or statute within a District approved secure retention process. The secure method of retention of the final agreement must lock the document, preventing any changes to the final executed agreement.

IV. CHANGE OR ERROR IN ELECTRONIC RECORD

If a change is needed or an error is being corrected within the electronic record of the fully executed agreement, those actions will comply with the requirements of Cal. Civ. Code § 1633.10 or will be addressed through a contract amendment.

V. EXEMPTIONS

Electronic signatures may not be used in all situations. Documents that may not be completed using electronic signature include, but are not limited to:

1. Laws governing the creation and execution of wills, codicils, or testamentary trusts;
2. Certain transactions governed by the Uniform Commercial Code; laws requiring specifically that identifiable text or disclosures in a record or portion of a record be separately signed, including initialed, from the record; and

3. Certain transactions governed by the Business and Professions Code. (Cal. Civ. Code § 1633.3)

A list of documents that may not be signed with an electronic or digital signature pursuant to statute is incorporated herein and Attachment I

ATTACHMENT:

Attachment I – List of Excluded Documents

**ATTACHMENT I
TO DISTRICT POLICY A-12**

LIST OF EXCLUDED DOCUMENTS

1. Civil Code
 - a. Creation and execution of wills, codicils, or testamentary trusts (Civil Code § 1633.3(b)(1).)
 - b. Documentation required for the foreclosure of a mortgage or deed of trust (Civil Code, §§ 2924b, 2924c, 2924f, 2924i, 2924j, 2924.3 and 2937.)
 - c. When a law requires that specifically identifiable text or disclosures must be signed or initialed separately. (Civil Code § 1633.3(b)(4).)
 - d. Requests to obtain medical information (Civil Code § 56.11.)
 - e. Genetic test results (Civil Code § 56.17.)
 - f. Notices related to the Mobile home Residency Law (Civil Code § 798.14.)
 - g. Notice of Blanket Encumbrance on Real Property (Civil Code § 1133.)
 - h. Statement of Defects in a transfer of real property (Civil Code § 1134.)
 - i. Cancellation or Rescission of a home solicitation contract or offer (Civil Code §§ 1689.6, 1689.7, 1689.13.)
 - j. Home Equity Sales Contracts (Civil Code § 1695.)
 - k. Debit or credit obligations (Civil Code § 1720.)
 - l. Consumer Credit Reporting Agencies documents (Civil Code §§ 1785.15, 1789.14, 1789.16, or 1793.23.)
 - m. Retail Installment Contracts (Civil Code § 1801 et seq.)
 - n. Notices for sales from non-payment of judgement or unclaimed property (Civil Code §§ 1861.24, 1862.5.)
 - o. Loans (Civil Code §§ 1917.712, 1917.713.)
 - p. Rental applications with credit reports and notices (Civil Code §§ 1950.6, 1983.)
 - q. Liens on Vehicles (Civil Code § 3017.5.)
 - r. Common Interest Developments (Civil Code § 4000.)
 - s. Commercial and Industrial Common Interest Developments (Civil Code § 6500.)
2. Uniform Commercial Code: Documents described in Division 1, 3, 4, 5, 8, 9 and 11 of the Uniform Commercial Code.
 - a. Transactions subject to the General Provisions, Division 1 of the UCC commencing with § 1101
 - b. Negotiable Instruments subject to Division 3 of the UCC commencing with § 3101.
 - c. Bank Deposits and Collections subject to Division 4 of the UCC commencing with § 4101.
 - d. Letters of Credit subject to Division 5 of the UCC commencing with § 5101.
 - e. Investment Securities subject to Division 8 of the UCC commencing with § 8101.

 - f. Secured Transactions subject to Division 9 of the UCC commencing with § 9101.
 - g. Funds Transfers subject to Division 11 of the UCC commencing with § 11101.
3. Telephone solicitation (Business and Professions Code §17511.5.)
4. Financial Code
 - a. Certain Provisions of Premium Finance Agreements/right to cancel (Financial Code § 18608 (b).)
 - b. Liens on moto vehicles and disposition of repossessed vehicles (Financial Code §22328.)

5. Health Care Service Plan documents (Health and Safety Code §§ 1358.15, 1365, 1368.01, 1368.1, 1371, 18035.5.)
6. Individual and group disability policies (Insurance Code §786.)
7. Termination of utility service for nonpayment. (Public Utilities Code §§ 779.1, 10009.1, 10010.1, 12823.1, 16482.1.)
8. Brokering agreements for manufacturers, transporters and dealers of vehicles (Vehicle Code §11738.)
9. Any notice that is required to be sent when obtaining possession of Real Property (Code of Civil Procedure §1162.)

REVISION HISTORY: November 2020