

Port of Skamania County

Resolution No. 15-2020

A RESOLUTION of the Port of Skamania County authorizing electronic and digital signatures

WHEREAS, in RCW Ch. 19.360 the legislature has authorized the use of electronic signatures by Washington agencies; and

WHEREAS, in March 2020, through Engrossed Substitute Senate Bill 6028 (“ESSB 6028”), the Washington State Legislature repealed Chapter 19.360 RCW and adopted the Uniform Electronic Transactions Act, which is intended to facilitate use of electronic transactions consistent with other applicable law, and to bring consistency to reasonable practices concerning electronic transactions and with the continued expansion of those practices; and

WHEREAS, ESSB 6028 took effect on June 1, 2020; and

WHEREAS, ESSB 6028 defines an “electronic signature” as “an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record”; and

WHEREAS, ESSB 6028 defines an “electronic record” as “a record created, generated, sent, communicated, received, or stored by electronic means”; and

WHEREAS, ESSB 6028 provides that “[a] record or signature may not be denied legal effect or enforceability solely because it is in electronic form; a contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation; if a law requires a record to be in writing, an electronic record satisfies the law; and if a law requires a signature, an electronic signature satisfies the law”; and

WHEREAS, the method and process for electronic submissions and the use of electronic signatures must be established by ordinance, resolution, policy, or rule; and

WHEREAS, to promote social distancing during the COVID-19 pandemic, and to increase the effectiveness and efficiency of the Port of Skamania County’s business processes, the Port desires to leverage technology solutions which are in compliance with the Uniform Electronic Transactions Act to apply authenticated electronic signatures to legally enforceable electronic records as allowed by ESSB 6028.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE PORT OF SKAMANIA COUNTY, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1 . The foregoing recitals are incorporated and fully made a part of this Resolution.

Section 2. The Board of Commissioners finds it to be in the public interest to allow the use of electronic records and electronic signatures for Port business to the fullest extent allowed by law.

Section 3. The Board of Commissioners hereby adopts the Electronic and Digital Signature Policy attached hereto as Exhibit "A".

Section 4. This resolution and policy shall take effect immediately

PASSED by the Council of the Port of Skamania County on the ____ day of _____, **2020**.

Port of Skamania County

**Executive Director
Pat Albaugh**

ATTEST:

Finance Director/Port Clerk

APPROVED AS TO FORM:

Port Attorney

DRAFT

EXHIBIT A

Port of Skamania County Electronic Signatures Policy

TITLE: Electronic and Digital Signature Policy

EFFECTIVE DATE: _____, 2020

APPROVED BY: Port Commission per Resolution _____

ATTORNEY REVIEW: Completed by Kenneth B. Woodrich of Kenneth B Woodrich PC _____, 2020

State law has codified the authority to execute documents remotely. Streamlining processes that require wet signatures and replacing them with electronic signatures, when practicable, is consistent with the intent of State law to promote electronic transactions and remove barriers that might prevent the use of electronic transactions by governmental entities. By transitioning to a policy of executing documents remotely, the Port will reduce its reliance on paper-based transactions and will further improve information security and sharing. Further, such transition will facilitate more efficient approval of and access to documents and reduce costs and environmental impact.

PURPOSE: The intent of this policy is to establish a policy to allow for the acceptance and submission of electronic and digital signatures.

SCOPE: All Authorized Signers for the Port of Skamania County.

REFERENCES: ESSB 6028 codified at 19.360

DEFINITIONS: Authorized Signer: The Port Commissioners, the Port Executive Director, Port General Counsel, Mayor, Mayor Pro Tem, Department Directors, and their designees, and any other Port employee or elected official who has been granted authority to sign certain records on behalf of the Port either by the nature of their position in relation to the record or by direct authorization from Port Commission or Duvall Municipal Code.

Digital Signature: One type of electronic signature that contains a digital certificate, issued by a licensed certificate authority, behind the signature and offers authentication when sending a "signed" electronic document.

Electronic Record: A record created, generated, sent, communicated, received, or stored by electronic means

Electronic Signature: An electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

Facsimile Signature: A reproduction of a hand written signature that has been saved electronically or by engraving, imprinting or stamping.

Wet Signature: A standard pen-to-paper signature.

POLICY:

1. Pursuant to Resolution 15-2020, the Port authorizes electronic transactions and the use of electronic, digital, or facsimile signatures in accordance with this Policy
2. A Port document that is required by law to be signed in non-electronic media may not be electronically or digitally signed.
3. An electronic, digital or facsimile 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 require, except as provided herein.
4. If an electronic or digital signature is used for interstate transactions or for documents required by the US Federal government, the signature shall comply with the requirements of the Electronic Signatures in Global and Electronic Commerce Act.
5. A document signed electronically, digitally or via facsimile shall be deemed the equivalent of an original signed document if the individual or entity signing the document has complied with the provisions of this Policy.
6. This Policy in no way affects the Port's ability to conduct a transaction using a physical medium and shall not be construed as a prohibition on the use of wet signatures.

PROCEDURE:

- A. Authorization for Use of Electronic Transactions and Electronic, Digital, and Facsimile Signatures
 1. Authorized Signers are authorized to sign records using a facsimile signature or via an electronic signature platform to affix electronic or digital signatures to Port records as provided in this Policy.
 2. Authorized Signers may affix electronic, digital, or facsimile signatures to the following records: Minutes of all Port Commission meetings, retreats, and workshops, Resolutions and Ordinances adopted by the Port Commission, Accounts Payable records (including but not limited to invoices, vouchers, and expenditure approvals), and any and all Contracts and Agreements to which the Port is a party.
 3. Electronic, digital or facsimile signatures may be used on Port records requiring execution by a third party.
- B. Security of Electronic Transactions and Electronic, Digital, and Facsimile Signatures
 - a) A valid digital signature that is issued by a certificate authority provides the following protections:
 - i) Verifies the Authorized Signer is who they represent themselves to be because the person had to prove their identity to a certificate authority to obtain the digital signature.
 - ii) Confirms the signature was applied to the document and not copied from another document because the signature file is cryptographically bound to the document.
 - iii) Ensures the document was not altered after it was signed.
 - b) The private key used to create a digital signature is the personal property of the subscriber and is

exempt from public inspection and copying under Chapter 42.56 RCW.

- 2) Authorized Signers may sign Port documents digitally if such an option is available, providing the following:
 - i) The digital certificate utilized by the Authorized Signer in connection with the digital signature is obtained from a certification authority in compliance with state law;
 - ii) The digital certificate is not expired when the Authorized Signer signs the document digitally;
 - iii) The Authorized Signer does not provide information to the certification authority they know to be untrue; and
 - iv) The digital signature contains the following information:
 - (1) A hand-written representation of the Authorized Signer's signature;
 - (2) A typed representation of the Authorized Signer's name and title; and
 - (3) The date and time of the signature.
 - 3) Electronic or digital signatures cannot be applied using Authorized Signer's name. Records signed by an Authorized Signer shall use their own electronic or digital signature.
 - 4) Authorization to use or accept facsimile signatures shall be limited to instances where the authenticity of the signatures is deemed reliable and secure. In order to accept a facsimile signature in lieu of a wet signature, the authenticity of the facsimile signature must be verified by the receiving party. Such means of verification may include:
 - i) The receipt of a faxed signature from a facsimile number verified as belonging to or traceable to the party that did so sign and transmit the document.
 - ii) The receipt of an emailed signature from an email address verified as belonging to the party that did so sign and transmit the document.
 - 5) Information that is necessary to verify the authenticity of a facsimile signature should be retained and transmitted to the Port Clerk with the document. This retained information may include but it is not limited to an electronic file with metadata saved from an email to which a facsimile signature was attached or a fax coversheet verifying who sent the record.
- C. Transmission and Storage of Electronic Transactions and Signatures
1. Electronically or digitally signed electronic records shall be stored in such a way as to ensure their preservation, disposition, integrity, security, confidentiality, and auditability.
 2. Electronic records shall only be transmitted via secure services including, but not limited to, email, drop box, and cloud-based digital signature platforms.