

RESOLUTION 2021 857

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING BENTON COUNTY ELECTRONIC SIGNATURE POLICY AUTHORIZING THE USE OF ELECTRONIC SIGNATURES AND ELECTRONIC SIGNED RECORDS

WHEREAS, through Chapter 19.360 RCW and Engrossed Substitute Senate Bill 6028, allows government agencies to create policies that determine the actions of sending and accepting electronic records including the use of electronic signatures; and

WHEREAS, conducting County business electronically improves citizen access to records and services while increasing participation in ongoing government affairs; and

WHEREAS, electronic signature technologies will decrease the County's use of physical records while creating opportunities for efficiencies and cost savings through electronic transactions; and

WHEREAS, a Benton County Electronic Signature Policy that establishes the use of electronic signature and electronic record guidelines and internal controls has been approved to form by the Prosecuting Attorney's Civil Division; **NOW THEREFORE**,

BE IT RESOLVED by the Board of Benton County Commissioners that the attached Benton County Electronic Signature Policy authorizing the use of electronic signatures and electronic signed records is hereby adopted.

Dated this 30th day of November, 2021 JEROME DELVIN - ABSENT

Chairman of the Board
[Signature]

Member
[Signature]

Member

Attest: *[Signature: Maribel Flores]*
Alt. Clerk of the Board

Constituting the Board of County Commissioners
of Benton County, Washington

BENTON COUNTY ELECTRONIC SIGNATURE POLICY

Approved November 30, 2021
Effective November 30, 2021

Contents

1.0 GENERAL.....	2
1.1 Purpose.....	2
1.2 Definitions	2
1.3 Policy	3
1.4 Information Technology Department to Approve Digital Signature Platforms.	5

1.0 GENERAL

1.1 Purpose

The purpose of this policy is to: a) comply with ESSB 6028 (2020) Section 18 which states, in relevant part: "each governmental agency of this state shall determine whether, and the extent to which, a governmental agency will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, and process, electronic records and electronic signatures"; and to b) promote efficiency, save resources, and provide parameters on the use of electronic signatures in contractual and other transactions involving Benton County.

This policy codifies how the County will designate transactions that are eligible for electronic signature, what types of electronic signatures will be acceptable, and how electronic signatures will be recognized by the County. This policy also requires that the County establish security procedures pertaining to the use of electronic signature pursuant to existing, amended, and future Information Technology Policies.

1.2 Definitions

Electronic Signature – 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 record. *As defined in ESSB 6028 (2020) Section 2(10).*

Digital Signature – An cryptographically (mathematical technique) which generates a public and private key using algorithms that secures signed documents and verifies the authentication of the electronically signed record.

Electronically Signed Record – A record that is created and signed using an Electronic Signature. *As defined in ESSB 6028 (2020) Section 2(9).*

Electronic Transaction – A business transaction or transaction involving governmental affairs in which both parties consent to signing documents using Electronic Signatures, and in which one or more documents integral to the transaction are in fact executed using an Electronic Signature.

Authentication – The assurance, using a security protocol appropriate for the purpose, that a given Electronic Signature is that of a person purporting to sign the record or conduct the Electronic Transaction so as to allow it to be properly attributed pursuant to ESSB 6028 (2020) Section 9.

Optional Signature Transaction – a transaction for which there is no legal requirement of a valid written or electronic signature, but for which a valid written or Electronic Signature may be nevertheless desirable not to bind a party but to either signify the importance of a transaction or the demonstrate its validity. Examples of an Optional Signature Transaction include, but are not limited to, internal memos, or letters from one office to another.

Required Signature Transaction – a transaction governed by law or regulation that requires the inclusion of a valid written or electronic signature before it is considered legally effective. Examples include, but are not limited to, contracts, offers, financial instruments, payment vouchers, official authorizations required by county policies, and state or federal legal instruments.

1.3 Policy

1.3.1 Benton County Departments and Elected Officials May Use and Accept Electronic Signatures and Electronically Signed Records (“Electronic Transactions”). Unless otherwise specified by law or County policy, the County recognizes that an Electronic Signature or Electronically Signed Record has the same force and effect as that of a signature affixed by hand, pursuant to ESSB 6028 (2020) Section 7. Therefore, it is the determination of the Board of County Commissioners that Benton County elected offices and departments may: send and accept Electronically Signed Records and Electronic Signatures to and from other persons and otherwise create, generate, communicate, store, and process Electronically Signed Records and Electronic Signatures in the course of conducting official County business. These types of instruments and documents authorized include, but is not limited to:

- a. Board Resolutions
- b. Professional services agreements
- c. Service agreements
- d. Construction and capital improvement agreements
- e. Procurement agreements
- f. Bid packets
- g. Payment vouchers
- h. Expense approvals
- i. Payroll approvals
- j. Applications by members of the public for licenses and permits
- k. Human Resources related documents

1.3.2 Judicial Officers exempt. Judicial Officers are exempt from this policy to the extent that Article IV, Section 6 of the Constitution of the State of Washington, court rules and or the decisions or rule of Supreme Court of the State of Washington conflicts with any provision of this policy. The Superior Court for Benton and Franklin Counties will promulgate a Local Court Rule addressing court-required filing or signature. For procurement of goods and services and other external interactions with County Departments and Officials, this policy shall apply.

1.3.3 Authorization Applicable to Optional Signature Transactions as well as Required Signature Transactions. The authorization, contained in Section 1 of this policy, applies to both Optional Signature Transactions and Required Signature Transactions.

1.3.4 Use, and Acceptance of, Electronic Signatures and Electronically Signed Records is Optional. The use, and acceptance of, Electronic Signatures and Electronically Signed Records (i.e. Electronic Transactions) is optional and is not mandated by this policy. Each independently elected office of Benton County, and department reporting to the County Administrator, shall be free to determine whether or not they will use and accept Electronic Transactions and if so, the extent to which they will so use and accept. Departments reporting to the County

Administrator shall abide by the County Administrator's direction and policies regarding the use and acceptance of Electronic Transactions.

- 1.3.5 Signature Authority Unaffected.** The adoption of this Electronic Signature Policy does not affect otherwise applicable laws and County policies regarding signature authority for County employees as to documents, instruments, and transactions. To the same extent as County employees are prohibited from physically signing or executing documents, instruments or transactions for which they have no signature authority, County employees would be similarly prohibited from Electronically Signing the same documents, instruments, or transactions.
- 1.3.6 Retention of Electronically Signed Records Required.** As required by Chapter 42.56, RCW, and clarified in ESSB 6028 (2020) Section 12(a), Electronically Signed Records must be retained, for a period of time specified by the applicable retention schedule, in a form that (a) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and (b) remains accessible for later reference. Information Technology recommends each department create an internal records retention procedure that specifically reflects retention values of the electronically signed documents.
- 1.3.7 Mutual Agreement by Parties Required for Contracts.** In any transaction of official County business that is of the type that (a) is approved pursuant to this policy; (b) is of the type that the applicable elected office or County department has approved the use of Electronic Signatures or Electronically Signed Records; and (c) is a contract with one or more parties other than County elected offices or departments, the consent of the other party or parties to the contract anticipated to use Electronic Signatures or Electronically Signed Records must be obtained before the contract is fully executed by way of Electronic Signatures or Electronically Signed Records. Elected offices or County departments may not rely on this policy to mandate the use of Electronic Records or Electronically Signed Records in a contract over the objections of any other party to the transaction. Notwithstanding the preceding, nothing in this policy prevents elected offices or County departments from requiring the electronic submission of applications, documents, or other materials to the County (including, but not limited to, responses to RFPs, or RFQs, employment applications, or permit applications) as allowed by law or County policy.
- 1.3.8 Authorized Electronic Signature Processes Adopted.** In conjunction with the Benton County Information Technology Department, and pursuant to Resolution 2020-928 and ESSB 6028 (2020) 18(2), the Board hereby adopts policies regarding

- 1.3.8.1** The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes.
- 1.3.8.2** In transactions where an Electronic Signature is required or desired, the type of Electronic Signature required, the manner and format in which the Electronic Signature must be affixed to the Electronic Record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process.
- 1.3.8.3** Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records.
- 1.3.8.4** Pursuant to Section 1.4 of this Policy, the authorized electronic signature platform or platforms for use in transacting county business.

Specifically:

- 1.3.8.5** A valid electronic signature meets the standards of a "digital signature," which is created when the signer uses their private signing key to create a unique mark (called a "signed hash") on an electronic document. The recipient of the document employs the signer's public key to validate the authenticity of the attached private key and to verify that the document was not altered after signing. Digital signatures are often used within the context of a Public Key Infrastructure (PKI), in which a trusted third party known as a Certification Authority (CA) binds individuals to private keys and issues and manages certificates.
- 1.3.8.6** IT may approve a hybrid solution which includes improved signature capture techniques combined with Click Wrap, PINs, and password approaches. These solutions can enhance such signatures by recording the entire transaction process, which is then bound to the signed document using hashing and SSL (Secure Socket Layer) encryption techniques to achieve document integrity and non-reputability.

1.4 Information Technology Department to Approve Digital Signature Platforms. Any Digital Signature Platform used by a County Department or Elected Office for County business or using the County network must be approved by the County's Information Technology Department and thereafter shall be an "Authorized Electronic Signature Platform". At a minimum, the Authorized Electronic Signature Platform must meet the following criteria:

- 1.4.1** It must provide the ability for all parties to an Electronic Transaction to signify the consent to using Electronic Signatures to execute the

documents necessary for the transaction in compliance with Section 5 of this Policy;

- 1.4.2** It must allow for Electronically Signed Records to be retained in compliance with Section 4 of this Policy;
- 1.4.3** It must provide a sufficient audit trail and security features, using current industry-standard technology, so as to permit the County to easily conduct reviews and audits as to the Authentication of an Electronically Signed Transaction or Electronic Signature;

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Treasurer

This policy is hereby approved and accepted by the undersigned Benton County Elected Officials.

Approved as to form:

DocuSigned by:
Eric Andrews
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Benton County Deputy Prosecuting Attorney