

	<h2>Orange County Sanitation District</h2>	Section Number: X.X
		Effective Date: 04/22/2020
		Supersedes:
SUBJECT: Electronic Signatures		Approved by: General Manager

1. PURPOSE

- 1.1 The purpose of this policy is to establish guidelines for use by OCSD staff in when and how electronic signatures may be used, including the documents and transactions approved for electronic signature use and how the documents and transactions are to be processed.

2. ORGANIZATIONAL UNITS AFFECTED

- 2.1 This policy pertains to all employees who develop, approve, or handle Sanitation District contracts, documents, and forms.

3. DEFINITIONS

- 3.1 Electronic record is “a record created, generated, sent, communicated, received, or stored by electronic means”, as defined by California’s Uniform Electronic Transactions Act (“UETA”) (Cal. Civil Code § Section 1633.1 et seq.). An electronic record generally contains information or a data file that was created and stored in digitized form through the use of computers, machines, and software applications. The format of an electronic record does not change the fact that it is a record subject to applicable public records laws, but its electronic form and its dependence on machines for creation and reference do change the way these records must be stored and managed.
- 3.2 Electronic signature. As defined by both the federal Electronic Signatures in Global and National Commerce Act and the UETA, an electronic signature is “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”. It is the electronic equivalent of a handwritten, wet, or manual signature on paper, and therefore must have certain characteristics for evidentiary purposes.
- 3.3 Electronically signed record is a record, file, or document that has been electronically signed by means of an electronic signature and that is related to the conduct of the Sanitation District’s official business.

4. POLICY

4.1 General Rules for Electronic Signatures

- 4.1.1 Compliance with Policy. This Policy applies to all OCSD departments and governs all uses of electronic signatures and electronically signed records or documents related to the conduct of OCSD's official business. Sanitation District staff will only accept electronic signatures that comply with the requirements of this Policy.
- 4.1.2 General Authorization. In any document accepted by the Sanitation District in which a signature is required or used, the General Manager may authorize the use of an electronic signature, so long as it complies with the requirements of this Policy.
- 4.1.3 Use Optional. Pursuant to California law, the use of electronic signatures by individuals or entities that wish to conduct business with the Sanitation District remains optional. This Policy neither limits the right or option to conduct the transaction on paper or in non-electronic form, nor the right to have documents provided or made available on paper.
- 4.1.4 Consent Required. All parties that wish to use electronic signatures shall agree to follow this Policy, shall provide written or electronic consent as to the use of electronic signatures, and shall agree to indemnify the Sanitation District against any liability associated with transmitting an electronic signature or an electronically signed record by electronic transmission. Consent may be kept on file with the Sanitation District prior to the sending party transmitting any records or signatures electronically or may be included in the electronic document as evidence that the signer has accepted this Policy.
- 4.1.5 Characteristics of a Valid Electronic Signature. The use of an electronic signature shall be valid and shall have the same force and effect as the use of a handwritten, wet, or manual signature if:
 - 4.1.5.1 The signature is capable of verification (through the electronic document's metadata);
 - 4.1.5.2 The signature is under the sole control of the person using it; and
 - 4.1.5.3 The signature is linked to the data contained in the electronically signed record in such a manner that it is readily ascertainable if the data is changed after the signature is applied.
- 4.1.6 Signature Required by Sanitation District Policy, State, or Federal Law.
 - 4.1.6.1 Where a Sanitation District policy requires that any electronic document, photo, record, or other related item have the signature of a responsible person, that requirement is met when the item has associated with it an electronic signature meeting the requirements of this Policy.

- 4.1.6.2 Where California or federal law requires that any electronic document, photo, record, or other related item have the signature of a responsible person, that requirement is met when the item has associated with it an electronic signature meeting the requirements of this Policy and using a signature method which complies with California law or federal law.
- 4.1.7 Acceptable Technologies. The General Manager, with the recommendation of the General Counsel and Clerk of the Board, shall determine acceptable electronic signature technologies and vendors under this Policy, and consistent with industry best practices, to ensure that security and integrity of electronic records, electronic data, and electronic signatures. The General Manager, with the recommendation of the General Counsel and Clerk of the Board shall further determine the records or documents for which the Sanitation District will accept electronic signatures.
- 4.1.8 Notaries. This Policy shall comport with California Civil Code Section 1633.11(a) which states, "If a law requires that a signature be notarized, the requirement is satisfied with respect to an electronic signature if an electronic record includes, in addition to the electronic signature to be notarized, the electronic signature of a notary public together with all other information required to be included in a notarization by other applicable law".
- 4.1.9 Penalty of Perjury. This Policy shall comport with California Civil Code Section 1633.11(b) which states, "In a transaction, if a law requires that a statement be signed under penalty of perjury, the requirement is satisfied with respect to an electronic signature, if an electronic record includes, in addition to the electronic signature, all of the information as to which the declaration pertains together with a declaration under penalty of perjury by the person who submits the electronic signature that the information is true and correct".
- 4.1.10 Further Acts. Nothing in this Policy shall prevent the Sanitation District from adopting additional guidelines or taking further actions to implement this Policy or to add other permissible forms of electronic signatures to this Policy.
- 4.1.11 Revocation of Technology. In the event that is determined that an approved electronic signature method or technology is no longer trustworthy or secure, the General Manager shall revoke the approval of such electronic signature method. If there is continued significance for electronic signatures that employed the revoked method, the General Manager will take steps to ensure that any valid records signed with the revoked method are signed again either with a handwritten, wet signature or with an approved electronic signature method.

4.2 Intake Process; Validation Process

- 4.2.1 Initial Evaluation. Sanitation District staff shall determine which section(s) of this Policy apply to any electronic signature or electronically signed record.
- 4.2.2 Obtain Consent. Sanitation District staff shall require all sending parties to provide a written consent agreeing to this Policy. This consent may be kept

on file with the Sanitation District prior to the sending party transmitting any records or signatures electronically or may be included in the electronic document as evidence that the signer has accepted this Policy.

- 4.2.3 Identify the Sending Party. Sanitation District staff shall develop rules and standard operating procedures to identify the sending party's identity, address, and contact information to accompany an electronic signature, record, document, or transmission.
- 4.2.4 Multiple Parties. Sanitation District staff shall determine whether multiple signatures are required and, if so, each signature shall independently comply with the requirements of this Policy.
- 4.2.5 Notary Requirements. Sanitation District staff shall determine if any submitted document requires a notary signature. If a notary signature is required, the notary's signature, if sent electronically, must all comply with this Policy.

4.3 Electronically Transmitted Documents; Confirmation Process

- 4.3.1 Initial Evaluation. Sanitation District staff shall determine whether a particular document needs to be authenticated for recording purposes and whether confirmation of that document needs to be provided.
- 4.3.2 Characteristics of Trustworthiness. Reliability, authenticity, integrity, and usability are characteristics of trustworthy records from a records management perspective. Transactions that are critical to OCSD's business may require greater assurances that they are reliable, authentic, maintain integrity, and are usable than other transactions of less critical importance.
 - 4.3.2.1 Reliability. A reliable record contains content that can be trusted as a full and accurate representation of the transactions, activities, or facts to which it attests, and can be depended upon in the course of subsequent transactions or activities.
 - 4.3.2.2 Authenticity. An authentic record is one that is proven to be what it purports to be and which has been created or sent by the person who purports to have created or sent it.
 - 4.3.2.3 Integrity. The integrity of a record refers to the record's completeness and total lack of unauthorized alterations.
 - 4.3.2.4 Usability. A usable record is one which can be located, retrieved, presented, interpreted, and utilized for its intended purpose or objective.
- 4.3.3 Confirmation of Receipt. From the initial signature of a document to the completion of all required signatures (execution), the document shall be accessible to all signatories to see its status in the workflow. Upon final execution of a contract document, all parties to the contract (as designated by the Contracts Administrator who initiates the signature workflow) will be

notified electronically and such notification will be recorded as part of the document's metadata.

- 4.3.4 Confirmation of Filing. The Sanitation District must also dispatch to the sending party an electronic confirmation that the record or document has been filed and, if applicable, added to the existing record on file.
- 4.3.5 Filer Responsible for Verification. In the absence of OCSD's confirmations of receipt and filing, there shall be no presumption that the Sanitation District received and filed the electronically submitted record or document. The sending party is responsible for verifying that the Sanitation District received and filed a document and for obtaining confirmations of receipt and filing.
- 4.3.6 Notice of Rejection of Document for Filing. If OCSD staff do not file a record or document because it does not comply with applicable filing requirements or because the required filing fee has not been paid, the Sanitation District must promptly notify the sending party of the rejection of the record or document for filing.
- 4.3.7 Documents Filed After Close of Business. Records or documents transmitted electronically after the close of the Sanitation District's business hours shall be deemed to have been filed on the next business day.
- 4.3.8 Delayed Delivery. If a technical problem with OCSD's software or electronic filing system prevents the Sanitation District from accepting an electronic submission during its regular filing hours on a particular Sanitation District business day, and the sending party can demonstrate that he or she attempted to electronically file the document on that particular Sanitation District business day, then OCSD shall deem the document to be filed on that day.

4.4 Sanctions

Any individual or party that makes inappropriate, illegal, or fraudulent use of electronic signatures or electronic records in violation of this Policy is subject to sanctions up to and including dismissal, suspension, and criminal prosecution as specified in published Sanitation District policies and/or state or federal law, whether or not they are directly referenced in this Policy. All inappropriate, illegal, or fraudulent uses of any electronic means of transmission shall be prosecuted to the fullest extent of the law, including the recovery of attorneys' fees and administrative costs.

5. REFERENCES/RELATED LINKS

[MyOCSD
Glossary](#)

6. EXHIBITS / ATTACHMENTS

None