

RESOLUTION NO. 2020-149

RESOLUTION OF THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT AUTHORIZING ELECTRONIC SIGNATURES FOR FILM OFFICE APPLICATIONS AND PERMITS

On Tuesday July 14, 2020, on motion of Supervisor Lovingood, and duly seconded by Supervisor Gonzales and carried, the following Resolution is adopted by the Board of Supervisors of the San Bernardino County Flood Control District, County of San Bernardino, State of California.

WHEREAS, the San Bernardino County Film Office (Film Office) oversees filming within the County and, to that end, facilitates the processing of applications and permits by and between international, national, and local film companies and the County of San Bernardino (County) as well as the San Bernardino County Flood Control District (SDCFCD); and

WHEREAS, because of the international scope of filming operations in the County, the processing of Film Office applications and permits through the use of electronic or facsimile signatures would significantly expedite the processing of film applications and permits thereby facilitating and promoting commercial filming in the County; and

WHEREAS, in 1999, California adopted a version of the Uniform Electronic Transactions Act in Civil Code sections 1633.1-1633.17, giving electronic signatures the same legal effect as manual or "wet" signatures; and

WHEREAS, in 2000, the United States Congress passed the Electronic Signatures in Global and National Commerce Act (E-SIGN Act), mandating the same treatment of electronic signatures of electronic signatures and manual signatures in interstate or foreign commerce (15 U.S.C. 7001); and

WHEREAS, to that end, the California Secretary of State has adopted regulations governing the use of digital signatures by public agencies, such as SBCFCD; and

WHEREAS, it is necessary and in the best interests of SBCFCD, and the Film Office to expeditiously process Film Office applications and permits to encourage and support filming within the County; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the San Bernardino County Flood Control District as follows:

1. The above recitals constitute findings of the Board and are incorporated herein.
2. Applicable Law. This Resolution and the definitions and requirements set forth herein are based on 15 U.S.C. §§ 7001, *et seq.*, California Civil Code section 1633.1 *et seq.*, California Government Code section 16.5, and Title 2 of the California Code of Regulations section 22000 *et seq.* To the extent that the laws governing the use of electronic and/or facsimile signatures are amended and/or conflict with this Resolution, the Federal and State laws and regulations shall govern. This Resolution shall be interpreted and applied in a manner that is consistent with applicable Federal and State laws and regulations.

3. Definitions.

a. Digital Signature. As defined in subdivision (d) of Section 16.5 of the Government Code, a type of Electronic Signature which serves as 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.

b. Electronic Signature or eSignature. An Electronic Signature (or eSignature) is defined as a signature entered into a computer by an authorized person with the intent to show authorship or to sign a record for approval, acceptance, or certification. Electronic Signatures can be created through various means, and often a document with an eSignature does not have a corresponding hardcopy "original" version, the electronic file with the signature is the "original" of the document. The creation of eSignatures can be as simple as pasting a scanned image of a signature into a document or can be as robust as affixing an eSignature which includes certain security protections in order to prevent any future changes to the electronically-signed document. Facsimile Signatures, as defined herein, constitute eSignatures. A Digital Signature is also a type of eSignature.

c. Facsimile Signature. A signature that is copied or scanned from a document bearing an authorized original signature. Under California law, a document bearing a Facsimile Signature is equivalent to the original copy in most situations unless an original signature is required by law. A Facsimile Signature can be created when an original wet-signed document is copied on a copy machine, when it is scanned, or when it is transmitted via a facsimile (fax) machine.

4. eSignature Requirements.

a. SBCFCD may use eSignatures for Film Office applications and permits, which shall have the same force and effect as the use of a "wet" or manual signature if all the following criteria are met:

1. The eSignature is unique to the person using it.
2. The eSignature is capable of verification.
3. The eSignature is under the sole control of the person using it.
 - a) Email notifications requesting eSignatures must not be forwarded.
 - b) These requirements prohibit the use of proxy signatures.
4. The eSignature is linked to the data in such a manner that if the data is changed after the eSignature is affixed, the eSignature is invalidated.
5. Conforms to regulations adopted by the California Secretary of State, including that Digital Signatures can be verified using Public Key Infrastructure (PKI) or Signature Dynamics Technologies.

b. Prior to accepting a Digital Signature, the Film Office shall ensure that the level of security used to identify the signer of a document and transmit the signature is sufficient for the transaction being conducted. If a certificate is a required component of a Digital Signature transaction, the Film Office shall ensure that the certificate format

used by the signer is sufficient for the security and interoperability needs of the Film Office.

5. Procedures for Use of eSignatures.

a. In order for filming applicants to utilize eSignatures, Film Office applications and permits, including permits required for filming from SBCFCD shall include the following provision, unless otherwise modified and approved by County Counsel:

This permit application and/or permit may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same permit application and/or permit. The parties shall be entitled to sign and transmit an electronic signature of this permit application and/or permit (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed permit application and/or permit upon request.

6. Retention. Any permit applications and permits executed by eSignature pursuant to this Resolution, must be maintained pursuant to the applicable County Retention of Records Policy (10-01), or statute within a County approved secure retention process.

PASSED AND ADOPTED by the Board of Supervisors of the San Bernardino County Flood Control District by the following vote:

AYES: SUPERVISORS/DIRECTORS: Robert A. Lovingood, Janice Rutherford,
Curt Hagman, Josie Gonzales

NOES: SUPERVISORS/DIRECTORS: None

ABSENT: SUPERVISORS/DIRECTORS: Dawn Rowe

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STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, **LYNNA MONELL**, Clerk of the Board of Supervisors of the San Bernardino County Flood Control District, State of California, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of Tuesday July 14, 2020. #64 LA

LYNNA MONELL
Clerk of the Board

By _____
Deputy