

# ***Electronic Signature Use Policy***

## **I. Purpose**

To enable the City of Commerce to use and accept approved electronic signatures, in lieu of written signatures, that comply with the requirements of California Government Code section 16.5, the UTEA, the ESIGN Act, and other applicable laws and regulations.

## **II. Assignment of Responsibility**

The City Manager and City Clerk, in consultant with the City Attorney.

## **III. Elements for an Electronic Signature**

The use of electronic signatures on legally binding documents has become increasingly prevalent, but has yet to find widespread adoption by public entities. Benefits of using electronic signatures include: reduction of paper generation; significant decrease in time and cost associated with transmitting, approving, and retaining physical documents; as well as creation of an audit trail of the modification, editing, and approval/signing of documents.

The United States Electronic Signatures in Global and National Commerce (ESIGN) Act, and the California Uniform Electronic Transaction Act (UETA) require the following four elements for an electronic signature to be recognized as valid under U.S. and State Law:

1. Intent to sign - Electronic signatures, like traditional, handwritten signatures, are valid only if each party intended to sign.
2. Consent to do business electronically - The parties to the transaction must consent to do business electronically. Electronic records may be used in transaction with consumers only when the consumer has:
  - Received UETA Consumer Consent Disclosures
  - Affirmatively agreed to use electronic records for the transaction
  - Has not withdrawn such consent
3. Association of signature with the record - In order to qualify as an electronic signature under the ESIGN Act and UETA, the system used to capture the transaction must keep an associated record that reflects the process by which the signature was created, or generate a textual or graphic statement (which is added to the signed record) proving that it was executed with an electronic signature.

4. Record retention - U.S. laws on electronic signatures and transactions require that electronic signature records be capable of retention and accurate reproduction for reference by all parties or persons entitled to retain the contact or record.

## **IV. Procedures**

The City Manager and City Clerk, in consultation with the City Attorney, shall have the authority to develop administrative policies and procedures to the extent necessary to implement the terms of this policy.

## **V. General Guidelines**

### ***Use and Acceptance of Electronic Signatures:***

The City of Commerce encourages the use and acceptance of electronic signatures in internal and external activities, documents, and transactions when it is operationally feasible, where technology permits, and when it is otherwise appropriate in the discretion of the City Manager, in accordance with provisions that follow.

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To the extent permitted by law, the City accepts electronic signatures as legally binding and equivalent to handwritten signatures to signify an agreement in accordance with applicable laws and regulations.

The parties to a transaction must agree to conduct the transaction by electronic means with the use of a City-approved signature method that complies with applicable laws and regulations, including the capability of all parties to retain the accurately reproduced document that was electronically signed for record purposes.

This policy does not supersede laws that specifically require a handwritten signature, nor does it limit the right or option of the City to conduct the transaction on paper or in non-electronic form.

### ***Prohibited Uses of Electronic Signatures:***

Use of electronic signatures is prohibited in the following situations:

- Transactions for which electronic signatures are not enforceable by law and/or transactions requiring a handwritten signature, such as transfers of real property.
- Transactions that require a person to sign in the presence of a notary public.

### ***Acceptable Electronic Signature Methods:***

The City Manager shall determine acceptable technologies and vendors that are consistent with industry best practices to ensure the security and integrity of the data and the signatures. The City Manager shall further determine the documents for which the City will accept electronic signatures.