



CITY OF COMMERCE AGENDA REPORT

Item No. _____

TO: Honorable Mayor and City Council Members

FROM: Lena Shumway, City Clerk

SUBJECT: **APPROVAL OF RESOLUTION ADOPTING A CITY OF COMMERCE POLICY AUTHORIZING THE USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES ON CITY DOCUMENTS**

MEETING DATE: September 17, 2019

RECOMMENDATION:

It is recommended that the City Council consider for approval a Resolution adopting a City of Commerce policy authorizing the use and acceptance of electronic signatures on City documents, while allowing the City to strike a balance between flexibility and the need for signature security and integrity.

BACKGROUND:

The use of electronic signatures on legally-binding documents has become increasingly prevalent. The benefits of electronic signatures are simple and numerous: they cut down on the paper, time, and cost associated with transmitting and approving physical documents, and they can offer an easily accessible audit trail of when documents were modified and when they were signed.

At a fundamental level, an electronic signature is any electronic symbol that represents an individual's acceptance or adoption of a statement or transaction. Thus, an electronic signature may be as simple as typing a name or checking a box. One common concern with electronic signatures is the ability to verify the identity of the person affixing the signature.

The proposed Resolution adopts a City of Commerce policy authorizing the use and acceptance of electronic signatures on City documents, while allowing the City to strike a balance between flexibility and the need for signature security and integrity. Specifically, this policy would establish that electronic signatures shall be effective on City documents so long as certain guidelines regarding the security and integrity of electronic signatures are met.

ANALYSIS:

The general legal framework for the use of electronic signatures on electronic records has been in place for over a decade. In 1999, California adopted a version of the Uniform Electronic Transactions Act (UETA), guaranteeing that electronic signatures would have the same legal effect as a “wet” or manual signature. (Civ. Code §§ 1633.1-1633.17.) In 2000, Congress passed the Electronic Signatures in Global and National Commerce Act (E-SIGN Act), mandated the same treatment of electronic signatures in interstate or foreign commerce. (15 U.S.C. 7001.)

In addition, in 1995, five years before the UETA and E-SIGN Act were adopted, the California Legislature passed a statute authorizing public entities to accept “digital signatures”¹ if and only if they comply with stringent verification procedures established by the Secretary of State. (Gov. Code § 16.5.) The Secretary of State adopted regulations in 1998 approving the use of digital signatures only if they could be verified using Public Key Cryptology (PKI) or Signature Dynamics technologies. (2 C.C.R. § 22003.) Government Code section 16.5 specified that the use of digital signatures shall be at the option of the parties involved in the transaction, and all parties must ensure that they are willing to use digital signatures.

Although Government Code section 16.5 and the California Secretary of State’s regulations set forth requirements for the use of “digital signatures,” they do not limit the manner in which the City may use or accept electronic signatures generally.

This policy would provide assurance that electronic signatures meeting certain security criteria would be effective on documents accepted by the City.

There are various digital signature platforms that offer a high degree of security and integrity. For example, several vendors offer cloud-based document and signature management systems featuring multi-factor identity verification (e.g. by email and phone), password protection, or some other form of identity and signature verification processes.

For example, staff has already identified classes of documents for which electronic signatures may provide flexibility and significant benefits for City staff and the public, such as construction permits, employment forms, and board and commission applications.

FISCAL IMPACT:

The cost of signature verification (related to 100-200 executed contracts) is \$300.00, which can be absorbed in the current budget.

ATTACHMENTS:

Resolution
Policy

Respectfully submitted:	Lena Shumway, City Clerk
Recommended by:	Edgar P. Cisneros, City Manager
	Lena Shumway, City Clerk
Approved as to Form:	Noel Tapia, City Attorney