

RESOLUTION NO. 10331

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIO, CALIFORNIA, APPROVING A PROGRAM FOR ACCEPTING ELECTRONIC OR DIGITAL SIGNATURE IN LIEU OF A WRITTEN "WET" SIGNATURE

WHEREAS, the use of electronic and digital signatures on legally binding documents has become increasingly prevalent; and

WHEREAS, the establishment of this policy will enable the City of Indio to use and accept approved electronic signatures and digital signatures in lieu of written signatures, that comply with the requirements of California Government Code section 16.5, the UETA, the E-SIGN Act and other applicable laws and regulations; and

WHEREAS, it is the intent of the City of Indio to encourage the use of electronic and digital signatures in certain internal and external documents when it is operationally feasible, where technology permits, when it is otherwise appropriate in the discretion of the City Manager, and where it is legally binding to do so in accordance with the provisions that follow:

1. To the extent permitted by law, the City accepts electronic and digital signatures as legally binding and equivalent to handwritten signatures to signify an agreement with applicable laws and regulations only on City contracts with a not to exceed amount as listed in the City's purchasing policy. The City reserves the right to amend or expand the pool of eligible documents or to cease the acceptance of electronic or digital signatures altogether at any time. City staff will continue to solicit requests from departments for additional categories of documents to be considered for approval under this policy.
2. The parties to a transaction must agree to conduct the transaction by electronic means with the use of a City-approved electronic signature method that complies with applicable laws and regulations, including the capability of all parties to retain and accurately reproduce the electronically signed document or record. The City Attorney's office shall draft appropriate language to be included in the contract template.
3. City shall from time to time update approved forms for electronic or digital signatures. Forms approved, but not limited to, are as follows:
 - a. Contracts for goods or services.
 - b. Contracts approved by resolution or minute order of the City Council.
 - c. Settlement agreement contracts approved by the City Council.
 - d. Contracts concerning the administrative business of the city, which the City Manager and his /her designee has control over pursuant to employment agreement, personnel resolution, or City municipal code or ordinance.

- e. As approved by City Council, letters / documents authorized by to be signed by the Mayor.
 - f. Routine personnel transactions.
 - g. Reimbursement forms.
 - h. Special Event Permit Applications.
 - i. Request for Public Records.
 - j. Other forms as approved by the City Manager or his/her designee.
4. 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 Use of Electronic or Digital Signatures.

Use of electronic or digital signatures is prohibited, but not limited to, 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.
- Permits requiring handwritten signature (such as property owners verifying approval of submittal of application)
- Claim Submittal Forms

WHEREAS, authorizing electronic and digital signatures will improve the efficiency of processes, increase employee productivity, simplify existing workflows, and reduce the City's Zero Waste; and

WHEREAS, the City desires to implement industry best practices using electronic records and electronic and digital signatures to effectively manage documents in accordance with California state law; and

WHEREAS, "Electronic record" and "Electronic signature" have the same meaning as in section 1633.2 of the California Civil Code, as may be amended; and

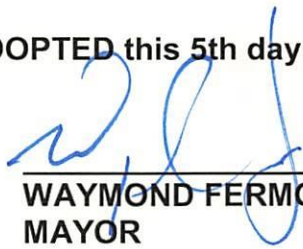
WHEREAS, "Digital signature" has the same meaning as in section 16.5 of the California Government Code, as may be amended; and

WHEREAS, the City desires to use electronic records, electronic signatures, and digital signatures to the fullest extent allowed by law.

NOW THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF INDIO AUTHORIZES AND APPROVES A PROGRAM FOR ELECTRONIC AND DIGITAL SIGNATURES AND USE OF ELECTRONIC RECORDS.

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PASSED, APPROVED AND ADOPTED this 5th day of October, 2022.



WAYMOND FERMON
MAYOR

ATTEST:



CYNTHIA HERNANDEZ, CMC
CITY CLERK



Approved

A handwritten signature in blue ink, appearing to read "David H. Montezuma", is written over a horizontal line.

Approved by City Council on 10/05/2022

SUBJECT: ELECTRONIC SIGNATURE USE POLICY

1. **PURPOSE:** The City of Indio Electronic Signature Use Policy shall be used to increase productivity and ensure convenient, timely and appropriate access to information by using electronic signature technology to collect and preserve signatures on documents quickly, securely, and efficiently.

This Policy establishes when electronic signature technology may replace a hand-written signature, with the goal of encouraging the use of paperless, electronic documents whenever appropriate and allowed by law. This Policy authorizes the City to accept an approved electronic signature, in lieu of a written signature, on a document in which a signature is required or used, which complies with the requirements of California Government Code Section 16.5 and this Policy.

While the use of electronic signatures is suggested and encouraged, this Policy does not require any Department to use electronic signatures; nor can the City mandate that any third party signing a document use electronic signature.

This Policy applies to documents requiring a signature of any person where the signature is intended to show authorship, approval, authorization, or certification, as allowed by law. It is the Policy of the City to encourage the use of electronic signatures in all internal and external activities, documents, and transactions where it is operationally feasible to do so, where existing technology permits, and where it is otherwise appropriate based on the Department's preferences. In such situations, affixing an electronic signature to the document in a manner consistent with this Policy shall satisfy the City's requirements for signing a document. As used in this Policy, the term "signature" includes using initials on a document instead of a signature.

Each Department Director has discretion to decide whether to permit the use of electronic signatures. Departments should work with the City Attorney to determine where applicable laws permit an electronic signature to be used. In addition, each Agency/Department that opts to use electronic signatures must adopt/amend their business practices to support the requirements of this Policy.

2. **INTRODUCTION:** In 1995, the California Legislature passed Government Code Section 16.5, authorizing public entities to accept digital signatures if they comply with stringent verification requirements.

In 1999, California adopted a version of the Uniform Electronic Transactions Act ("UETA")(California Civil Code Sections 1633.1 to 1633.17), providing that electronic signatures would have the same legal effect as a wet or manual signature.

Not every state enacted UETA and, therefore, in 2000, the Federal Government enacted the Electronic Signatures in Global and National Commerce Act (ESIGN). ESIGN mandated the same treatment of electronic signatures in interstate or foreign commerce. (15 USC§§ 7001 et seq.) The City of Indio (the "City") seeks to implement guidelines for the use and acceptance of electronic signatures as well as for the authentication, maintenance, and preservation of electronically signed records, electronic records, and other electronic information submitted to and accepted by the City. Use of electronic signatures will move the City another step closer to instantaneous communication with the public by further improving the manner and speed with which the City communicates and conducts business. While the use of electronic information will continue to evolve, the City has identified acceptable forms of secure electronic signatures and electronically signed records and has developed this Electronic Signature Use Policy (this "Policy") to encourage their use and acceptance.

3. ELECTRONIC SIGNATURE USE POLICY

A. Policy Statement. This Policy authorizes the use of electronic signatures on City documents while allowing the City to strike a balance between the flexibility desired in transactions and the need for signature security and integrity. Specifically, this Policy establishes that electronic signatures shall be valid and effective on City records and documents so long as certain guidelines regarding the security and integrity of electronic signatures are met; authorizes the City Manager (or designee) to determine the particular technologies or vendors that presumptively satisfy the guidelines; and authorizes the City Manager to determine the level of security required for various types of electronic records or documents. Staff should consult with the City Attorney to determine whether applicable laws permit an electronic signature to be used before proceeding if not addressed in the list of documents set forth below. This Policy is designed to supplement the City's current records management and retention policies.

B. Definitions.

1. An "electronic record" is defined by California's Uniform Electronic Transactions Act ("UETA") (Cal. Civil Code § 1633.1 et seq.) as "a record created, generated, sent, communicated, received, or stored by electronic means." 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 a 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.

2. An "electronic signature" is fundamentally a legal concept 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. An "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 City's official business.

C. General Rules for Electronic Signatures.

1. Compliance with Policy. This Electronic Signature Policy applies to all City Departments and governs all uses of electronic signatures and electronically signed records or documents related to the conduct of the City's official business. City staff will only accept electronic signatures that comply with the requirements of this Policy.
2. General Authorization. In any document accepted by the City in which a signature is required or used, the City Manager may authorize the use of an electronic signature, so long as it complies with the requirements of this Policy.
3. Use Optional. Pursuant to California law, the use of electronic signatures by individuals or entities that wish to conduct business with the City 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. 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 City against any liability associated with transmitting an electronic signature or an electronically signed record by electronic transmission. Consents may be kept on file with the City 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.
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:

- a. The signature is capable of verification (through the electronic document's metadata);
 - b. The signature is under the sole control of the person using it; and
 - c. 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.
6. Signature Required by City Policy; State or Federal Law.
- c. Where a City 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.
 - d. 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.
7. Acceptable Technologies. The City Manager, with the recommendation of the General Counsel 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 City Manager, with recommendation of the City Attorney and Director of Information Technology, shall further determine the records or documents for which the City will accept electronic signatures.
Comport
8. Penalty of Perjury. This Policy shall comport with California Civil Code section 16633.11(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.
9. Further Acts. Nothing in this Policy shall prevent the City from adopting additional guidelines or taking further actions to implement this Policy or to add other permissible forms of electronic signatures to this Policy.
10. Revocation of Technology. In the event that is determined that an approved electronic signature method or technology is no longer

trustworthy or secure, the City Manager shall revoke the approval of such electronic signature method. If there is continued significance for electronic signatures that employed the revoked method, the City 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.

D. Intake process; Validation Process.

1. Initial Evaluation. City staff shall determine which section(s) of this Policy apply to any electronic signature or electronically signed record.
2. Obtain Consent. City staff shall require all sending parties to provide a written consent agreeing to the City's Electronic Signature Use Policy. This consent may be kept on file with the City prior to the sending party transmitting any records or signatures electronically or may be included on the electronic document as evidence that the signed has accepted this Policy.
3. Identify the Sending Party. City 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. Multiple Parties. City staff shall determine whether multiple signatures are required, and if so, each signature shall independently comply with the requirements of this Policy.

E. Electronically Transmitted Documents; Confirmation Process.

1. Initial Evaluation. City staff shall determine whether a particular document needs to be authenticated for recording purposed and whether confirmation of that document needs to be provided.
2. Acceptable Forms. The following is a list of approved forms for electronic or digital signatures, but not limited to:
 - a. Contracts for goods and services.
 - b. Contracts approved by resolution or minute order of the City Council.
 - c. Settlement agreement contracts approved by the City Council.
 - d. Contracts concerning the administrative business of the City which the City Manager and his/her designee has control over pursuant to employment agreement, personnel resolution, or City municipal code or ordinance.

- e. As approved by City Council, letters/documents authorized by to be signed by the Mayor.
 - f. Routine personnel transactions.
 - g. Reimbursement forms.
 - h. Special Event Permit Applications.
 - i. Request for Public Records.
 - j. Other forms as approved by the City Manager or his/her designee.
3. Characteristics of Trustworthiness. Reliability, authenticity, integrity, and usability are characteristics of trustworthy records from a records management perspective. Transactions that are critical to the City's business may require greater assurances that they are reliable, authentic, maintain integrity, and are usable than other transactions of less critical importance.
- a. 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.
 - b. 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.
 - c. Integrity. The integrity of a record refers to the record's completeness and total lack of unauthorized alterations.
 - d. Usability. A usable record is one, which can be located, retrieved, presented, interpreted, and utilized for its intended purpose or objective.
4. Prohibited Use. Use of electronic or digital signatures is prohibited, but not limited, to the following situations:
- a. Transactions for which electronic signatures are not enforceable by law and/or transactions requiring a handwritten signature, such as transfers of real property.
 - b. Transactions that require a person to sign in the presence of a notary.

c. Permits requiring handwritten signature (such as property owners verifying approval of submittal of application)

d. Claim Submittal Forms

5. 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 Contract Administrator who initiates the signature workflow) will be notified electronically and such notification will be recorded as part of the document's metadata.
6. Confirmation of Filing. The City 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.
7. Filer Responsible for Verification. In the absence of the City's confirmations of receipt and filing, there shall be no presumption that the City received and filed the electronically submitted record or document. The sending party is responsible for verifying that the City received and filed a document and for obtaining confirmations of receipt and filing.
8. Notice of Rejection of Document for Filing. If City 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 City must promptly notify the sending party of the rejection of the record or document for filing.
9. Documents Filed After Close of Business. Records or documents transmitted electronically after the close of the City's business hours shall be deemed to have been filed on the next business day.
10. Delayed Delivery. If a technical problem with the City's software or electronic filing system prevents the City from accepting an electronic submission during its regular filing hours on a particular City business day, and the sending party can demonstrate that he or she attempted to electronically file the document on that particular City business then the City shall deem the document to be filed on that day.
11. Endorsement by City. The electronic signature of the City Clerk shall be considered endorsement by the City and shall be so indicated on the signature block of a document. This endorsement shall have the same force and effect as a manually affixed endorsement stamp with the signature and initials of the City Clerk.

F. Sanctions. Any individual or party that makes inappropriate, illegal, or fraudulent use, including the use of another person's digital signature or electronic approval, of electronic signatures or electronic records in violation of the City's Electronic Signature Use Policy is subject to sanctions up to and including dismissal, suspension, and criminal prosecution as specified in published City 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 is punishable through discipline, up to and including termination, and prosecuted to the fullest extent of the law, including the recovery of attorneys' fees and administrative costs.

CERTIFICATION

I, Sabdi Sanchez, City Clerk Administrator of the City of Indio, California, hereby certify that **Resolution No. 10331** was duly and regularly adopted at a meeting of the City Council held on the 5th day of October 2022 by the following vote, to wit:

Ayes: Holmes, Miller, Ramos Amith, Mayor Pro Tem Ortiz and Mayor Fermon

Noes: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Indio, California, this 5th day of October 2022.



SABDI SANCHEZ, CMC
City Clerk Administrator
City of Indio

