


Agenda Report Reviewed by:
City Manager: 

CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM

Meeting Date: May 19, 2020
To: Honorable Mayor and Honorable City Councilmembers
From: City Administration
Subject: Electronic and Digital Signatures for City Business
Recommendation : City Council Approval of Resolution for Electronic and Digital Signatures for City Business
Funding: Currently Budgeted: Yes No N/A
Net General Fund Cost:
Amount: \$1,000.00

Account Code 100-10-01-4212 authorized in City Approved Budget (if applicable) AK (verified by Administrative Services Department)

INTRODUCTION:

This item is to request that the City Council Approve the Attached Resolution for Electronic and Digital Signatures for City Business.

BACKGROUND:

In 2000, the Uniform Electronic Transaction Act (UETA) became effective in the State of California. This act authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. The State Legislature passed AB 2296 in 2016 to clarify that a digital signature may also be used to satisfy the requirements of an electronic signature under the UETA.

Electronic and digital signatures have been used widely in the private sector, such as real estate and mortgage transactions and have evolved to be commonly used in government sectors. Notably, they are also used by the court system where they allow for electronic filings of all documents, including briefs. The mainstream acceptance of signing documents electronically in place of manual, wet signatures has led to increased efficiencies and better customer service. As a result, a growing number of governmental agencies have also embraced the use of electronic and digital signatures.

The United States Electronic Signatures in Global and National Commerce (ESIGN) Act, and the California Uniform Electronic Transactions 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 transactions with consumers only when the consumer has:
 - a. Received UETA Consumer Consent Disclosures
 - b. Affirmatively agreed to use electronic records for the transaction
 - c. Has not withdrawn such consent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 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 contract or record.

DISCUSSION:

Over the past several years, the City has invested in, and continues to improve, citywide business processes. The City has implemented the use of online payments for utility billing, online submittal for business licenses, online employee portal, online employee payroll accounting and scanning of certain permits to the City for processing to name a few programs and procedures that allow for ease of City business.

Electronic and digital signatures are another avenue to continue ease of operations for the city and public alike. The State of California compliant digital signing application may be used for the digital signing of resolutions, ordinances, minutes, contracts and other City business related documents as appropriate and authorized by the City Manager or his/her designee. The use of digital signatures citywide will enable “digital to digital” processes increasing customer service, enhancing records management best practices and will reduce paper document creation and supports the City’s goal for zero waste.

Considering the recent “Stay at Home” orders from both the State and the County during this COVID-19 pandemic, there is a greater need to use technology to allow day-to-day business to continue, while staff and City officials are working remotely. Although the city has been researching use of online permits and electronic signatures for future implementation, COVID 19 provides an opportunity to propose this policy as a starting point for electronic and digital signatures for City related business. 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. The intent is to allow for the use of electronic and digital signatures to all appropriate areas of City business, including, but not limited to, the signing of legislative action records such as resolutions, ordinances, and minutes, contracts, or other official purposes as deemed appropriate by the City Manager or his/her designee. This policy does not supersede laws that specifically require a written signature. This resolution does not limit the right or option to conduct the transaction on paper or in non-electronic form and the right to have documents provided or made available on paper.

An example of such limited City business for electronic or digital signatures would be (but not limited to):

1. Contracts for goods or services as listed in the city’s purchasing policy.
2. Contracts approved by resolution or minute order of the City Council.
3. Settlement agreement contracts approved by the City Council.
4. 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.
5. As approved by City Council, letters / documents authorized by to signed by the Mayor.
6. Routine personnel transactions.
7. Reimbursement forms.
8. Special Event Permit Applications.
9. Request for Public Records.
10. Hydrant Meter Application
11. Banner Permit Application
12. On Call Consulting Services Application
13. Qualified Bidders List Application

Agenda Item Number 2

City staff have been researching use of an electronic signature platform. City Administration is proposing DocuSign, which is commonly used in the private sector for real estate transactions and contracts and/or Adobe Signature. Both programs are becoming widely used in Governmental Agencies for contracts and agreements. Governmental agencies are also using either a digital or electronic signature for a majority of routine governmental documents (such as those listed above). Use of electronic or digital signatures has been extremely successful in other private and public agencies and is a critical and urgent need especially now during COVID 19. In the “new norm” of COVID 19, it is critical to have documents executed in real time and not wait days for “wet signatures” from all parties, especially when letters of support or advocacy are needed as soon as possible. While the City Council and key City staff continue to telecommute for what may be a considerable length of time, the City strongly believes approval of this resolution will allow continued operations of the City such as if staff were in the office. In addition, those City documents that have been signed electronically are of a better quality since they remain digital throughout the signing process. The end-to-end digital process also allows documents to be available more quickly since they do not require the additional step of being scanned.

“The DocuSign Agreement Cloud for Government lets public servants focus more time on their mission, bringing together a comprehensive set of applications and integrations to modernize government agencies’ systems of agreement. DocuSign Agreement Cloud customers are empowered to digitally transform end-to-end processes for all agreements, including signing, approving, and managing complex documents. The result is government entities that are faster, simpler, smarter and greener.” DocuSign meets and exceeds some of the most stringent United States security standards.

Adobe E-Sign digital signature is cryptographically bound and secured with a tamper-evident seal and also meets or exceeds security standards.

This is another step to bringing the city into the modern technology and it is hoped that citizens will find it easier to do business with the City because they can sign forms and documents anytime, anywhere, and from any web-accessible device.

Concurrently, the Building Department and Planning Department are working to obtain an online permitting program for city permits. An electronic and digital signature policy would be beneficial to that system. City staff is also researching other key permits/forms/documents that do not require a “wet” signature that can be incorporated into approved documents.

PUBLIC COMMENT:

No public comments have been received as of the writing of this staff report.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to scheduled meeting date.

FISCAL IMPACT

There is no direct fiscal impact associated with the recommended action tonight as the costs can be absorbed in the current budget; however, the benefits of electronic signatures are simple and numerous: they reduce the paper, time and cost associated with transmitting and approving physical documents, and they can offer an easily accessible audit trail of the modification, editing, and approval or signature of documents.

RECOMMENDATION:

Staff recommends that the City Council Approve the Attached Resolution for Electronic and Digital Signatures for City Business.

Attachment:

Resolution

RESOLUTION NUMBER _____

A Resolution of the City Council of the City of Sebastopol Approving a Program for Approved 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 Sebastopol 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 ESIGN Act and other applicable laws and regulations; and

WHEREAS, this policy applies to the Mayor, or his/her designee, the City Manager or his/her designee, the Assistant City Manager/City Clerk, and governs all uses of electronic and digital signatures and electronic records used to conduct the official business of the City of Sebastopol; and

WHEREAS, it is the intent of the City of Sebastopol 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, or his/her designee, and Assistant City Manager/City Clerk, 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 as listed in the city's purchasing policy.
 - 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 signed by the Mayor.
 - f. Routine personnel transactions.
 - g. Reimbursement forms.
 - h. Special Event Permit Applications.
 - i. Request for Public Records.
 - j. Hydrant Meter Application
 - k. Banner Permit Application
 - l. On Call Consulting Services Application
 - m. Qualified Bidders List Application
 - n. 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 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.
- 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 Sebastopol authorizes and approves a program for electronic and digital signatures and use of electronic records.

IN COUNCIL DULY PASSED, APPROVED, and ADOPTED this 19th day of May 2020.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by the City of Sebastopol City Council by the following vote:

VOTE:

Ayes:

Noes:

Abstain:

Absent:

APPROVED: _____
Mayor Patrick Slayter

ATTEST: _____
Mary C. Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____
Larry McLaughlin, City Manager/City Attorney