

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, ADOPTING AN ELECTRONIC SIGNATURE POLICY.

WHEREAS, the City of Burleson, Texas (“City”), is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council recognizes that electronic signatures are becoming a routine way of conducting business and that formal rules for governing the use of electronic signatures are necessary; and

WHEREAS, Texas Government Code, Section 2054.060 requires that “a digital signature may be used to authenticate a written electronic communication sent to a local government if it complies with rules adopted by the governing body of the local government”; and

WHEREAS, the City Council wishes to establish an administrative policy and procedure for signing documents and records that promotes paperless processing, reduces the reliance and cost of paper transactions, and allows quicker access to documents.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, THAT:

Section 1.

The City Council of the City of Burleson formally adopts an Electronic Signature Policy as shown on Exhibit “A” which is attached hereto and incorporated herein for all purposes.

Section 2.

This resolution shall take effect immediately from and after its passage.

PASSED, APPROVED, AND SO RESOLVED by the City Council of the City of Burleson, Texas, on the _____ day of _____, 20____.

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO LEGAL FORM:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney

EXHIBIT A

ELECTRONIC SIGNATURES POLICY

1. APPLICABILITY

The City of Burleson, Texas (the “City”) adopts this Electronic Signature Policy to allow the use of electronic signatures as a means of signing and executing (i) City contracts that are equal to or less than \$50,000.00 in value, (ii) City contracts and closing documents involving the purchase or sale of real estate that have been approved by the City Council, (iii) City contracts formed as a result of the City’s solicitation of bids and proposals, and (iv) all contracts approved by the City Council of the City of Burleson (collectively “Authorized Contracts”). This policy does not authorize the use of electronic signatures for internal City documents such as ordinances, resolutions, minutes, and the like, or City contracts that are not Authorized Contracts.

2. AUTHORIZATION

The City Council authorizes the use and acceptance of electronic signatures for Authorized Contracts, in accordance with the following guidelines, the City’s Purchasing Policy, and the Texas Uniform Electronic Transactions Act, Tex. Bus. & Com. Code Ann. Section 322 et seq. (the “TUETA”).

3. POLICY

Where policies, laws, regulations, and rules require a signature, that requirement is met if the document contains an electronic signature. An electronic signature is an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. TUETA § 322.002(8). Each party to a transaction must agree to conduct the transaction electronically in order for the electronic transaction to be valid. Consent may be implied from the context and surrounding circumstances. If a law prohibits a transaction from occurring electronically, the transaction must occur in the manner otherwise allowed by law. If a law requires an electronic signature to contain specific elements, the electronic signature must contain the elements specified by law. The manner and circumstances in which electronic signatures are acceptable is enumerated in the TUETA.

The City Manager’s Office shall work with the City’s IT Department and the City Secretary’s Office to ensure the following:

- (i) The electronic records and signatures must be maintained in a manner that efficiently and reliably preserves and protects the information over time so that it may be used for recognized governmental and legal purposes.
- (ii) Both the record and the signature must be capable of long-term preservation in a format that will be supported for a duration consistent with adopted retention schedules. After documents are signed electronically, a signed version of the documents should be stored on a file storage system owned by the City so they can

- be preserved as needed.
- (iii) Any contracts signed electronically should be forwarded to the City Secretary's Office in order to preserve them for the appropriate retention period.
 - (iv) The technology must ensure that the signatory cannot reasonably deny signing or sending a document.
 - (v) The electronic signature technology must be reasonably compatible with relevant software applications.

Electronic signatures shall not be used and shall have no binding authority or effect on City records where electronic signatures are prohibited by law or other City policies, or where a law prohibits a transaction from occurring electronically.

This policy shall not preclude the use of any other types of signatures, including without limitation, manual signatures or facsimile signatures.

This policy shall not limit, alter, modify, or otherwise affect any requirement imposed by law relating to (a) authority, obligations, or procedures required for facsimile signatures; (b) the proper procedures and authorization necessary to execute City records; (c) requirements to legally bind or obligate the City under any contract or agreement; and, (d) the legal effectiveness, validity, or enforceability of any City record, including any contractor agreement, signed electronically in violation of any such laws. All laws regarding signing City records shall apply to electronic signatures and electronic records, and all laws regarding signing, adopting, entering in, or executing contracts, agreements, purchase orders, statements of work, ordinances, leases, licenses, and any other document purporting to be legally binding upon or otherwise obligating the City.

In the event that any electronic signature is found by the City to have been used or applied to an Authorized Contract in violation of this policy or any other law, the electronic signature shall be null and void and the Authorized Contract using the unlawful, fraudulent, unauthorized or otherwise improper electronic signature shall also be (a) null and void, (b) discontinued, and (c) unenforceable against the City.

4. CONFLICT AND REPEAL

If the provisions of this policy conflict with any law, that law shall prevail.