

RESOLUTION NO. 2023-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA ADOPTING A POLICY REGARDING ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS

WHEREAS, the City of Coachella, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, in 1999, California adopted a version of the Uniform Electronic Transactions Act (UETA) in Civil Code sections 1633.1-1633.17, giving electronic signatures the same legal effect as manual or “wet” signatures; and

WHEREAS, in 1995, before the UETA, California passed Government Code section 16.5, authorizing public entities to accept “digital signatures” if they complied with stringent verification procedures that involve advanced technologies; and

WHEREAS, while Government Code section 16.5 and the Secretary of State’s regulations set requirements for the use of digital signatures, they do not govern or limit the City’s ability to use or accept electronic signatures as a municipal affair; and

WHEREAS, the use of electronic signatures on legally binding documents has become increasingly prevalent in the private sector but has not yet become widespread among public agencies; and

WHEREAS, the benefits of electronic signatures include, but are not limited to, reductions in the paper, time and costs associated with transmitting, approving and executing physical documents; and

WHEREAS, an electronic signature is an electronic symbol affixed to a document that represents an individual’s acceptance or adoption of a statement or transaction; and

WHEREAS, electronic signature technologies have developed to address concerns with verifying the identity of the person affixing his or her electronic signature; and

WHEREAS, the proposed Resolution would provide assurance that electronic signatures meeting certain security criteria would be effective on documents created or accepted by the City, notwithstanding the fact that they do not involve the advanced technologies required in the Secretary of State’s digital signature regulations; and

WHEREAS, the proposed Resolution would enable the City to use electronic signatures on electronic records provided the electronic signature is in accordance with the UETA; and

WHEREAS, the proposed Resolution would codify the City’s policy on electronic signatures and delegation of electronic signature authority, while enabling the City Manager to

adopt additional administrative policies and procedures to operationalize the use of electronic signatures; and

WHEREAS, the City Council finds that the use of electronic signatures will allow the City to collect and preserve signatures on documents quickly and securely, will improve efficiency while saving costs of transmitting documents, and will provide for better management of City records; and

WHEREAS, the City Council finds that the use of electronic signatures will reduce paper document creation will support the City’s goal of sustainability; and

WHEREAS, the City Council determines that the City should embrace the benefits of electronic signatures by codifying a City policy on electronic signatures and further defining the City’s use of electronic signatures in an Administrative Policy and accompanying Procedure; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. The City Council adopts the following policy which shall read as:

“ELECTRONIC SIGNATURES AND RECORDS.

- (1) The following definitions apply to this Policy:
 - (a) “Electronic record” has the same meaning as in Section 1633.2 of the California Civil Code.
 - (b) “Electronic signature” has the same meaning as in Section 1633.2 of the California Civil Code.
 - (c) “Digital signature” has the same meaning as in Section 16.5 of the California Government Code.
 - (d) “UETA” means the Uniform Electronic Transactions Act, commencing at Section 1633.1 of the California Civil Code.
- (2) In any transaction or communication with the City for which the parties have agreed to conduct the transaction or communication by electronic means, the following provisions apply:

- (a) When a record is required to be in writing, an electronic record satisfies that requirement, if it is in accordance with the UETA.
- (b) When a signature is required, the parties may agree that either:
 - i. An electronic signature satisfies that requirement, if it is in accordance with the UETA; or
 - ii. A digital signature satisfies that requirement, if it is in accordance with Section 16.5 of the California Government Code.
- (3) This Policy is intended to enable the City to use electronic records, electronic signatures, and digital signatures to the fullest extent allowed by law, and does not limit the City's ability to use electronic records, electronic signatures, or digital signatures in any way. All use of electronic records, electronic signatures, and digital signatures by the City shall be in accordance with City administrative policies and procedures, as may be designated and amended from time to time by the City Manager or his or her designee.
- (4) Any use of electronic records, electronic signatures, and digital signatures by the City that is not in accordance with this Policy and City administrative policies and procedures, or any unauthorized signing of any contract, record, or other document, shall render such contract, record, or other document invalid as not fully and properly executed by the City.
- (5) Authority to sign or execute contracts, records, or other documents via electronic signatures or digital signatures may be delegated by the City Manager or other City department heads to designated City staff members. The act of delegation of electronic signature authority by the City Manager or other City department head must be memorialized in writing, including, but not limited to, memorandum, City form, e-mail, or delegation process recorded within electronic signature software."

SECTION 3. CEQA. This Resolution is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Resolution is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

SECTION 4. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Resolution is based are located at the City Clerk's office located at 53990 Enterprise Way, Coachella, CA 92236. The custodian of these records is the City Clerk.

SECTION 5. Effective Date. This Resolution shall become effective immediately following its adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Coachella on this ____ day of _____, 2023, by the following vote, to wit.

AYES:

NOES:

ABSENT:

ABSTAIN:

Steven Hernandez, Mayor
City of Coachella

ATTEST:

Angela M. Zepeda, City Clerk
City of Coachella