

Council Policy Statement

Category:

Specific Subject: Electronic Signatures

PURPOSE:

To enable the City of Carlsbad 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 Government Code section 16.5. This policy does not supersede laws that specifically require a written signature. This policy 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.

BACKGROUND:

The use of electronic signatures on legally binding documents has become increasingly prevalent in the private sector but has yet to find widespread adoption by public entities. 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 the modification, editing, and approval / signature of documents.

This policy will authorize the use of electronic signatures on the City of Carlsbad documents while allowing the city to strike a balance between flexibility and the need for signature security and integrity.

POLICY:

1. To the fullest extent permitted by law, the City of Carlsbad accepts e-signatures as legally binding and equivalent to handwritten signatures to signify an agreement in accordance with California Government Code section 16.5.
2. This policy applies to all employees of the City of Carlsbad, and governs all uses of electronic signatures and electronic records used to conduct the official business of the City of Carlsbad. Such business may include, but not be limited to electronic communications, transactions, contracts, permits and other official purposes, both internal and external to the city.
3. Where a city policy requires that a record have the signature of an authorized person that requirement is met when the electronic record has associated with it an electronic signature using a city approved electronic signature method.
4. Where a city policy requires a written document, that requirement is met when an electronic record has associated with it an electronic signature using a city approved electronic signature method.

5. The City of Carlsbad's right or option to conduct a transaction on paper or in non-electronic form shall not affect the City of Carlsbad's right, option or obligation to have documents provided or made available in paper format.
6. Approved and automated processes for a City of Carlsbad transaction are automatically subject to the provisions of this policy.
7. Periodic reviews will be implemented for appropriateness and continued applicability of electronic signatures.
8. If the parties have agreed to conduct a transaction by electronic means, the parties are required to utilize the city's electronic signature system for approved, electronically signed documents and that all applicable security processes for authentication be followed.
9. Where a legal requirement, beyond city policy, requires a written document, that requirement is met when an electronic record has associated with it an electronic signature using an approved electronic signature method, which complies with California state law.
10. Appropriate procedures must be used to confirm that the person signing the record has the appropriate authority.
11. This policy applies only to transactions between parties, which have agreed to conduct transactions by electronic means with the use of the city's approved electronic signature method.
12. If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent or delivered, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.
13. This policy shall not apply to any transaction that requires a person's signature to be signed in the presence of a notary public.
14. The final approval of any electronic signature method will be by the City Manager and City Attorney, with the recommendation of the Information Technology Director. In determining whether to approve an electronic signature method, consideration will be given to the systems and procedures associated with using that electronic signature, and whether the use of the electronic signature is at least as reliable as the existing method being used.
15. In the event that it is determined that an approved electronic signature method is no longer trustworthy, the City Manager must revoke the approval of that electronic signature method. If there is continued significance for the electronic signatures, which used the revoked method, the City Manager will take steps to see that any valid records signed with the revoked electronic signature method are signed again either with a written signature or with an approved electronic signature method.