

## **RESOLUTION NO. 23-170**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, REPEALING RESOLUTION NO. 21-119 AND REQUIRING ONLY COMPLIANCE WITH APPLICABLE STATE AND FEDERAL LAW REGARDING NOTARIZATION OF ELECTRONIC AND DIGITAL SIGNATURES FOR CITY CONTRACTS**

**WHEREAS**, the legality of the use of electronic signatures is governed by federal and state law, including the U.S. Federal Electronic Signatures in Global and National Commerce Act (“E-SIGN”) (15 U.S.C. §§7001 et seq.), the Uniform Electronic Transactions Act (“UETA”) (California Civil Code §§1633.1 et seq.), California Government Code Section 16.5 (“Digital Signatures”), and California Secretary of State Digital Signature Regulations (2 C.C.R. §§22000-22005) (“Secretary of State Regulations”); and

**WHEREAS**, the term “electronic signature” is defined under the UETA (Civil Code § 1633.2) as “an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with intent to sign the electronic record”; and

**WHEREAS**, government agencies may use and accept all types of electronic signatures, including digital signatures, in accordance with the UETA; and

**WHEREAS**, under the UETA, electronic signatures on contracts are permitted in lieu of original signatures where the parties mutually agree to use and accept electronic signatures except where original signatures are required by law. For example, the creation of wills, codicils, testamentary trusts, and real estate conveyance instruments must contain original signatures; and

**WHEREAS**, for purposes of this Resolution, “facsimile signatures” shall be treated as being the same as an “electronic signature.” A “facsimile signature” means the reproduction by engraving, imprinting, stamping, or other means of an original signature, created, without limitation, when a document is copied on a copy machine, scanned, or when it is transmitted via a facsimile (fax) machine; and

**WHEREAS**, the term “digital signature” is defined under Government Code Section 16.5 as, “an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual or “wet” signature.” Under the UETA and Government Code Section 16.5, the term “digital signature” is a type of “electronic signature”; and

**WHEREAS**, pursuant to Government Code Section 16.5, government agencies may elect to use digital signatures and may accept a digital signature from another party, for any written communications with the City in which a signature is required or used. Government Code Section 16.5 provides criteria that, if complied with, will ensure the validity of a digital signature used by

a public entity in a written communication with another party. The California Secretary of State has also issued regulations regarding the use of digital signatures by public entities, set forth in Title 2, Division 7, Chapter 10 (Digital Signatures) of the California Code of Regulations; and

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

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

**WHEREAS**, by adoption of Resolution No. 21-119, the City Council authorized the use and acceptance of electronic signatures not otherwise qualifying as digital signatures, for the sole purpose of execution of City contracts, *provided* such signatures are duly acknowledged by certified notaries; and

**WHEREAS**, also by adoption of Resolution No. 21-119, the City Council authorized the use and acceptance of digital signatures for the sole purpose of execution of City contracts. As stated in Section 3 of Resolution No. 21-119: “Except as otherwise required by law, and provided that the contracting parties mutually agree to use and accept digital signatures, the use and acceptance of digital signatures for entering into and executing City contracts is hereby authorized, and the digital signature shall have the same force and effect as the use of a ‘wet’ or manual signature, and shall not require notarization if it meets [the criteria set forth in Government Code Section 16.5(a)]”; and

**WHEREAS**, the foregoing notarization requirements of Resolution No. 21-119 exceed the requirements of applicable state and federal law with respect to what electronic signatures on City contracts require notarization, and have proved infeasible for the City to implement. Accordingly, the City Council now sees fit to repeal such requirements, such that notarization of electronic signatures on City contracts shall only be required when required by applicable state or federal law; and

**WHEREAS**, to the extent the criteria set forth in Government Code Section 16.5(a) apply only to public entity signatures and Resolution No. 21-119 could be construed as going further than the requirements of state law by applying such requirements to vendor/consultant signatures in City contracts, the City Council hereby sees fit and intends to dispense with any such additional local requirement.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** The above recitals are true and correct and hereby incorporated by reference.

**SECTION 2.** Resolution No. 21-119 is hereby repealed in its entirety.

**SECTION 3.** Except as otherwise required by applicable law, the use and acceptance of electronic signatures not otherwise qualifying as digital signatures, for entering into and executing City contracts is hereby authorized, and the electronic signature shall have the same force and effect as the use of a “wet” or manual signature, provided that if required by applicable state or federal law, such signature shall be duly notarized, and further provided that the contracting parties mutually agree to use and accept electronic signatures.

**SECTION 4.** Except as otherwise required by applicable law, the use and acceptance of digital signatures for entering into and executing City contracts is hereby authorized, provided that the contracting parties mutually agree to use and accept digital signatures, and further provided that the digital signatures comply with applicable requirements of Government Code Section 16.5. If the City elects to use a digital signature, it shall have the same force and effect as the use of a “wet” or manual signature if it embodies all of the following attributes, as required by Government Code Section 16.5:

1. It is unique to the person using it;
2. It is capable of verification;
3. It is under the sole control of the person using it;
4. It is linked to data in such a manner that if the data are changed after the digital signature is affixed, the digital signature is invalidated; and
5. It conforms to the Secretary of State Regulations in that it is created by a technology that is acceptable for use by the State of California.

Except as otherwise required by applicable state or federal law, digital signatures used in accordance with the foregoing provisions of this Section 4 shall not require notary acknowledgment.

**SECTION 5.** The City Council declares that, should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

**SECTION 6.** The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

**SECTION 7.** This Resolution shall become effective immediately upon its adoption.

[signatures on the following page]

PASSED, APPROVED, and ADOPTED this 7th day of November, 2023.

APPROVED AS TO FORM:

CITY OF CARSON:

\_\_\_\_\_  
Sunny K. Soltani, City Attorney

\_\_\_\_\_  
Lula Davis-Holmes, Mayor

ATTEST:

\_\_\_\_\_  
Dr. Khaleah K. Bradshaw, City Clerk

STATE OF CALIFORNIA       )  
COUNTY OF LOS ANGELES   )  
ss. CITY OF CARSON         )

I, Dr. Khaleah K. Bradshaw, City Clerk of the City of Carson, California, hereby attest to and certify that the foregoing resolution, being Resolution No. 23-170, was adopted by the City of Carson City Council at its meeting held on November 7, 2023, by the following vote:

AYES:           COUNCIL MEMBERS:  
NOES:           COUNCIL MEMBERS:  
ABSTAIN:       COUNCIL MEMBERS:  
ABSENT:        COUNCIL MEMBERS:

\_\_\_\_\_  
Dr. Khaleah K. Bradshaw, City Clerk