

RESOLUTION NO. 21-119___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, AUTHORIZING THE USE OF DIGITAL SIGNATURES AND NOTARIZED ELECTRONIC 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, for purposes of this Resolution No, 21-119, “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 use of a digital signature in a communication between a governmental agency and another party. The California Secretary of State has also issued regulations regarding the use of digital signatures, 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, the City Council now sees fit to authorize the use and acceptance of electronic signatures not otherwise qualifying as digital signatures, for the sole purpose of execution of City of Carson (“City”) contracts, provided such signatures are duly acknowledged by certified notaries; and

WHEREAS, the City Council now also sees fit to authorize the use and acceptance of digital signatures for the sole purpose of execution of City contracts, without the need for such signatures to be duly acknowledged by certified notaries; and

WHEREAS, on March 17, 2020, by adoption of Resolution No. 20-053, the City Council declared the existence of a local emergency due to the onset of the worldwide COVID-19 pandemic; and

WHEREAS, between March 2020 and April 2020, the City’s Disaster Council approved waiver of notary requirements for all City contracts, approved suspension of the need for original signatures on contracts, and approved electronic signatures, at least until the local emergency is formally declared to have been lifted and Resolution No. 20-053 is rescinded by the City Council; and

WHEREAS, because the allowances under Resolution No. 20-053 are more permissive than the approvals to be provided under this Resolution No. 21-119, this Resolution No. 21-119 will go into effect immediately upon rescission of Resolution No. 20-053 provided that the local COVID-19 emergency declared under such Resolution will have been lifted; 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.

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. Except as otherwise required by 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 a party to a City contract desires to use an electronic signature that is not a digital signature, such signature shall be duly notarized and further provided that the contracting parties mutually agree to use and accept electronic signatures.

SECTION 3. 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 all of the following criteria as described in 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.

SECTION 4. 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 5. The Chief Deputy City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

SECTION 6. This Resolution shall become effective immediately upon passage and adoption of a Resolution duly adopted by the City Council that rescinds Resolution No. 20-053 provided that the local COVID-19 emergency declared under such Resolution will have been lifted.

[signatures on the following page]

PASSED, APPROVED, and ADOPTED this 7th day of September, 2021.

Lula Davis-Holmes, Mayor

ATTEST:

John W. Carroll, Sr., Chief Deputy City Clerk

APPROVED AS TO FORM:

Sunny K. Soltani, City Attorney

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

I, John W. Carroll, Sr., Chief Deputy City Clerk of the City of Carson, California hereby attest to and certify that the foregoing resolution, being Resolution No. 21-119 adopted by the Carson City Council at its meeting held on the 7th day of September, 2021, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

John W. Carroll, Sr., Chief Deputy City Clerk