



CONSENT CALENDAR

Agenda Item # 3

AGENDA REPORT SUMMARY

Meeting Date: July 14, 2020

Subject: Electronic Signature Policy

Prepared by: Andrew Tseng, Information Technology Manager

Reviewed by: Sharif Etman, Administrative Services Director

Approved by: Chris Jordan, City Manager

Attachment(s):

1. City of Los Altos Electronic Signature Policy

Initiated by:

Staff

Previous Council Consideration:

None

Fiscal Impact:

None – software already purchased

Policy Question(s) for Council Consideration:

- Does the Council wish to adopt a policy that will streamline the review and authorization of documents by utilizing electronic signature programs?

Summary:

- Since the COVID-19 emergency, City of Los Altos (The City) has implemented full or partial telework schedules for most of staff because of health and safety concerns. Due to this change, it has become a challenge for supervisors and departments to provide approvals in a timely manner using traditional “wet” signatures.
- The cost of the annual subscription of Adobe Sign and DocuSign can potentially offset or eliminate the document shipping cost by FedEx, UPS or other carriers.
- Having an electronic signature approval process in addition to our current processes will expedite and save additional resources for The City and our partners.
- DocuSign is listed by the State of California as one of the authorized digital signature certification authorities.

Staff Recommendation:

Adopt the Electronic Signature Policy to provide our City and our external partners with an alternative method to secure legally binding signatures and authorizations going forward.

Reviewed By:

City Manager

CJ

City Attorney

JH

Finance Director

SE



Subject: Electronic Signature Policy Memorandum

Purpose

To adopt the Electronic Signature Policy for staff to use Adobe Sign and DocuSign for document signing for internal and external parties, respectively.

Background

The City of Los Altos has been using traditional “wet” signatures for documents between The City and external parties. The process generally takes from days to weeks, and involves steps like printing, scanning and mailing. Adobe Sign was first introduced to City Staff with the purchase of Acrobat Adobe Professional software and has been used internally and accepted well. Therefore, the City is seeking additional methods to streamline its document signing process with external partners to improve productivity and save resources.

Discussion/Analysis

The Secretary of State maintains a list of approved certification authorities authorized to issue certificates for digitally signed communication with public entities in California. DocuSign, which is also approved by FedRAMP (Federal Risk and Authorization Management Program), is among the four approved authorities and has been commonly used for signing documents. Despite the State temporarily removing the requirement of using approved certification authorities from 4/22/2020 through 10/20/2020 due to emergency regulations, The City has still chosen DocuSign for their reputation of being a widely recognized authority.

Options

- 1) Adopt the Electronic Signature Policy

Advantages: Increased efficiency of document processing

Disadvantages: Learning curve time for signing parties

- 2) Disapprove the Electronic Signature Policy

Advantages: None

Disadvantages: All legal documents still require wet signatures

Recommendation

The staff recommends Option 1.



CITY OF LOS ALTOS ELECTRONIC SIGNATURE POLICY

PURPOSE

This Policy is to set forth the guidelines for the use of electronic signatures by the City of Los Altos (The City). This Policy establishes the requirements for the use of electronic signatures in lieu of manual or "wet" signatures. This Policy shall be used by City departments to increase productivity and ensure the convenient and timely access to City information by using electronic signature technology to collect and preserve documents quickly, securely, and efficiently. This Policy furthers the City's goal of efficient business practices by reducing the consumption and storage of papers and the maintenance and supply of copiers and printers. Affixing an electronic signature to a document in a manner consistent with this Policy shall satisfy the City's requirement for signing a document. As used in this Administrative Instruction, the term "signature" includes the use of initials on a document as one's signature.

Although the use of electronic signatures is suggested and encouraged when permitted, this Policy does not mandate the use of electronic signatures, nor can the City require that any third party signing a document use electronic signatures.

POLICY OVERVIEW

HISTORY AND LEGAL AUTHORITY

In 1995, the California Legislature passed Government Code Section 16.5, authorizing public entities to accept digital signatures if they comply with stringent verification requirements.

In 1999, California adopted a version of the Uniform Electronic Transactions Act ("UETA") (California Civil Code Sections 1633.1 to 1633.17), providing that electronic signatures would have the same legal effect as a wet or manual signature.

Not every state enacted UETA and, therefore, in 2000, the Federal Government enacted the Electronic Signatures in Global and National Commerce Act (ESIGN). ESIGN mandated the same treatment of electronic signatures in interstate or foreign commerce. (15 USC §§ 7001 *et seq.*)

In August 2016, Governor Brown signed AB 2296 to clarify that State and local agencies can use both electronic and digital signatures and that a digital signature is a subset of electronic signature in which Government Code Section 16.5 only applies when a public entity uses a

digital signature.

GENERAL TERMS AND CONDITIONS

DEPARTMENT DISCRETION

Each department within the City has discretion to decide whether to permit the use of electronic signatures. Departments should work with the City Attorney's Office to determine whether applicable laws permit an electronic signature to be used before proceeding if not addressed in the list of documents set forth below. Each department that opts to use digital signatures must adopt/amend their business practices to support the requirements of this Policy.

DEFINITIONS

“Digital Signature”, as defined by Government Code Section 16.5, is a type of electronic signature. Documents signed by hand and then faxed or sent as scanned attachments to an e-mail are considered electronic signatures for purposes of this Policy.

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Electronic Record" means a record created, generated, sent, communicated, received, or stored by electronic means.

"Electronic Signature," or "eSignature," means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

"Proxy Signatures" mean when Person A authorizes Person B to sign Person A's signature on their behalf. Proxy signatures are prohibited under this Policy.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

REQUIREMENTS OF ELECTRONIC SIGNATURES

The use of electronic signatures is permitted and shall have the same force and effect as the use of a "wet" or manual signature if all of the following criteria are met:

1. The digital signature or Initial must be generated in the signatory's own handwriting, generic signatures generated will not be accepted.
2. The electronic signature is capable of verification.
3. The electronic signature is under the sole control of the person using it.
 - a. These requirements prohibit the use of proxy signatures.
4. E-mail notifications requesting digital signatures must not be forwarded unless delegation has been assigned.
5. The digital signature is linked to the data in such a manner that it is readily ascertainable if the data is changed after the signature is applied.
6. All documents submitted for electronic signature must be in PDF format.

DOCUMENTS INVOLVING OTHER PARTIES

In the case of contracts or transactions which must be signed by outside parties, each party to the contract must agree in advance to the use of digital signature. No party to a contract or other document may be forced to accept a digital signature; they must be permitted to decide either way. Such consent may be withdrawn by the other party at any time such that future documents related to the withdrawn consent contract or transaction must be signed in hard-copy format.

When a document is digitally signed by all parties, the City, the outside party (if an outside party originates the agreement), or a third-party service provider facilitating the signatures on the document will notify the parties of the availability of and/or provide the parties with a copy of the digitally signed document in an electronic format that is capable of being retained and printed.

ELECTRONIC SIGNATURE POLICY

The City employ both Adobe Sign and DocuSign to attain electronic signatures. Adobe Sign is used for internal City operations and purposes only. Whereas, DocuSign has additional security features that allow the City to attain signatures for documents and purposes with external vendors not affiliated with the City. The below chart outlines the authorized electronic signature program for each scenario. Departments should work with the City Attorney's Office to determine whether applicable laws permit an electronic signature to be used before proceeding if the document is not listed below.

DOCUMENT TYPE	USE OF ELECTRONIC SIGNATURE	AUTHORIZED ESIGNATURE PROGRAM
Internal Memos (within the City)	Yes	Adobe Sign
External Memos	Yes	DocuSign
Council Memos (Council/ Board/Commission/Committee Agenda Materials Excluded)	Yes	DocuSign
Letters and other correspondence from Council Board, Commission	Yes	DocuSign
Commission Applications	Yes	DocuSign
HR Forms, PAFs, Personnel Forms, Navia, 457 plans, Etc. (Existing Employee)	Yes	Adobe Sign
HR Forms (Future or Former Employee)	Yes	DocuSign
Employee Performance Review	Yes	Adobe Sign
Contracts, Amendments, Agreements	Yes	DocuSign
MOU Signatures	Yes	DocuSign
Internal Financial Approvals: (Department AR, AP, PO, PR, Cal-Cards)	Yes	Adobe Sign
Certificates	Yes	DocuSign
Permits	Yes	DocuSign
Waivers (for city events, Recreation classes and camps)	Yes	DocuSign
Documents requiring notarization or City seal or are to be recorded with the County Recorder	No	
Bonds	No	
Documents requiring the Mayor's signature	No	
Council Resolutions	No	
City Council Approvals	No	

STORAGE AND ARCHIVING OF ELECTRONICALLY SIGNED DOCUMENTS

If a document exists only electronically, steps should be taken by each department to ensure that a fixed version of the final document and audit trail, which details the electronic signature process, are provided to, and stored in some manner with, the City Clerk's Office. All final electronic documents must be stored in a manner consistent with the City's document retention policies and any applicable laws.

DIGITAL SOLUTION PROVIDERS

The City Information Technology Division will be responsible to determine acceptable technologies and digital providers consistent with current State legal requirements and industry Best Practices to ensure the security and integrity of the date and the signature.

As of April 20, 2020, the City has started using Adobe Sign to provide digital signature capabilities for internal approvals for staff and employees.

The City entered into an agreement with DocuSign on May 18, 2020 for DocuSign to provide electronic signature capabilities and services to the City of Los Altos. DocuSign will be used for gathering external signatures and may be utilized further to provide digital signatures as permitted under this Policy if so determined by the City's Information Technology Department.

Chris Jordan, City Manager

Effective Date: July XX , 2020