

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: ERIC MCHENRY, CHIEF INFORMATION TECHNOLOGY OFFICER

SUBJECT: ORDINANCE ADDING CHAPTER 1-06 TO THE SANTA ROSA CITY CODE, AUTHORIZING THE USE OF ELECTRONIC RECORDS, AND ELECTRONIC AND DIGITAL SIGNATURES

AGENDA ACTION: ORDINANCE

RECOMMENDATION

It is recommended by the Information Technology Department and the City Manager's Office that the Council, by ordinance, add Chapter 1-06 to the Santa Rosa City Code, authorizing the use of Electronic Records, and Electronic and Digital Signatures.

EXECUTIVE SUMMARY

The Ordinance adding Chapter 1-06 to the Santa Rosa City Code relating to the use of electronic records and signatures in accordance with California state law is necessary before digital signatures can be used in the execution of City business.

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 in public agencies. There are many benefits to utilizing electronic signatures including cutting down on paper, time, and costs that are associated with transmitting and approving physical documents.

In 1995, the California legislature passed a statute authorizing public entities to accept "digital signatures" if and only if they comply with stringent verification procedures established by the Secretary of State. (Gov. Code Section 16.5.) In 1999, California adopted a version of the Uniform Electronic Transactions Act (UETA), guaranteeing that electronic signatures would have the same legal effect as a "wet" or manual signature. (Civ. Code Sections 1633.1-1633.17.) In 2016, AB 2296 was signed by Governor Brown to clarify how state government agencies can accept signatures electronically. This bill resolved issues around perceived discrepancies in the 1990's legislation, making it

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easier for agencies to use electronic signature technology. Now, because of AB 2296, California government agencies can transition to the use of electronic records with clear understanding of the law.

PRIOR CITY COUNCIL REVIEW

None.

ANALYSIS

It is necessary to update the City of Santa Rosa Code before implementation or use of digital signature solutions.

The use of digital signatures will enable efficiencies in citywide department processes and will provide a more effective interaction with the business community and other City partners. In addition, the use of digital signatures will reduce paper document creation by enabling digital to digital processes. Generally, there are two types of electronic means recognized by state law that the City can use to legally sign or execute documents: electronic signatures and digital signatures.

California's Uniform Electronic Transaction Act provides, "If a law requires a signature, an electronic signature satisfies the law."¹ "Electronic signature" is defined in the UETA as "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."² This is the simpler of the two types of electronic means to sign documents.

The other type of electronic means to sign documents is a digital signature. The California Government Code provides, "In any written communication with a public entity...in which a signature is required or used, any party to the communication may affix a signature by use of a digital signature that complies with the requirements of this section."³ The Government Code defines "digital signature" as "an electronic identifier, created by a computer, intended by the party using it to have the same force and effect as the use of a manual signature."⁴ A valid digital signature must also embody the following attributes:

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, the digital signature is invalidated.
5. It conforms to regulations adopted by the Secretary of State.

¹ Cal. Civ. Code Section 1633.7(d).

² Cal Civ. Code Section 1633.2(h).

³ Cal. Gov. Code Section 16.5(a).

⁴ Cal. Civ. Code Section 16.5(d).

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If a digital signature meets all those characteristics the Government Code provides, “the use of a digital signature shall have the same force and effect as the use of a manual signature.”⁵ Nevertheless, neither option is required nor must be accepted by the City in any transaction. The UETA specifies that “electronic signature provisions apply only to a transaction between parties each of which has agreed to conduct the transaction by electronic means.”⁶ Likewise, the Government Code states that the use of digital signatures is “at the option of the parties.”⁷

If the City elects to use digital signatures, the technology that creates the signature must be acceptable to use by the State of California. At this time, there are two acceptable technologies: (1) public key cryptography, and (2) signature dynamics. If public key cryptography is used to create the digital signatures, the signer must be capable of being issued a certificate to certify that he or she controls the key pair used to create the signature. Public entities may only accept certificates from Certification Authorities that appear on the Secretary of State’s Approved List of Certification Authorities.

Finally, when digital signatures are used, the City must also follow the following procedures: (1) prior to accepting a digital signature, the City must ensure that the level of security used to identify the signer of a document and to transmit the signature, are sufficient for the transaction being conducted, and (2) if a certificate is a required component of a digital signature transaction, the City must also ensure that the certificate format used by the signer is sufficient for the security and interoperability needs of the City.

Under the proposed ordinance, the City Manager has the authority to develop administrative policies and procedures to implement the ordinance.

FISCAL IMPACT

Approval of this action does not have a fiscal impact on the General Fund.

ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

⁵ Cal. Civ. Code Section 16.5(a).

⁶ Cal Civ. Code Section 1633.5(b).

⁷ Cal. Gov. Code Section 16.5(b).

NOTIFICATION

Not applicable

ATTACHMENTS

- Attachment 1 – Assembly Bill 2296
- Ordinance

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