

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Resolution No. 499 - Authorizing the Use and Acceptance of Electronic Signatures and Electronic Notarization and Directing the City Manager to Promulgate Administrative Policies and Procedures
DEPARTMENT:	City Attorney's Office
PRESENTED BY:	Julie Ainsworth-Taylor, Assistant City Attorney
ACTION:	<input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

The legal framework for the use of electronic signatures by the City of Shoreline has been in place since at least 2015 when the Legislature enacted Chapter 19.360 RCW, Electronic Signatures and Records, which authorized the use of electronic signatures where their use had been authorized by the legislative body. In 2020, the Legislature repealed RCW 19.360 in its entirety and adopted Chapter 1.80 RCW, the Uniform Electronic Transactions Act (UETA). The UETA continues to allow electronic signatures and allows cities to determine whether, and to what extent, they will accept, rely on, process, and otherwise use electronic records and electronic signatures.

Also in 2020, the Legislature amended Chapter 42.45 RCW, Revised Uniform Law on Notarial Acts, allowing notaries who have obtained an endorsement to notarize documents remotely subject to RCW 42.45 and standards adopted by the State, including WAC 308-30, the administrative regulations applicable to public notaries. Remote notarization involves an audio-videoconference (such as on the Zoom platform) with electronic signatures via special software. This statute aligns with the UETA because RCW 1.80.100 provides that if a law requires a signature or record to be notarized, acknowledged, or made under oath, the requirement can be satisfied with an electronic signature by a person authorized to perform those acts. While the City itself may not have notaries with the endorsement, the City should still acknowledge the use and acceptance of remote notarization for City business.

Authorizing the use and acceptance of electronic signatures and remote notarization will promote efficiency and conserve public resources by reducing the City's reliance on paper-based transactions; improve information security and sharing; allow faster approval of and access to documents; lessen administrative demands; and reduce environmental impacts and costs associated with handling physical documents. In addition, as was recently demonstrated, the use of electronic signatures and records was important in conducting City business due to the limitation of in-person interactions during COVID-19. Establishing proper electronic signature requirements and policies

will provide reasonable assurance of the integrity, authenticity, and nonrepudiation of electronic documents. Currently, the City's preferred platform for electronic signatures is DocuSign.

Proposed Resolution No. 499 (Attachment A) complies with the UETA's requirement for the City Council's determination to authorize the City to use and accept electronic signatures for City business. The proposed Resolution directs the City Manager to adopt administrative policies and procedures regarding electronic signatures and remote notarization in conformance with RCW 19.860 and RCW 42.45. Lastly, proposed Resolution No. 499 ratifies electronic signatures previously used or accepted by the City prior to the effective date of the Resolution as valid.

RESOURCE/FINANCIAL IMPACT:

Staff estimates that the initial set-up cost for DocuSign, the preferred electronic signature platform, is \$1,000 and the annual fee for 700 envelopes (a container that is sent to multiple recipients for signing) and support is \$7,174.60. DocuSign also provides remote notarization but at the current volume of the City, this would not be cost effective. However, remote notary services can be purchased from private agencies and larger law firms will generally be providing such services.

RECOMMENDATION

Staff recommends that City Council adopt Resolution No. 499 so as to authorize the use of electronic signatures and electronic notarization in the conduct of City of Shoreline business and direct the City Manager to promulgate policies and procedures for the same.

ATTACHMENTS:

Attachment A – Proposed Resolution No. 499

Approved By: City Manager **DT** City Attorney **MK**

RESOLUTION NO. 499

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, AUTHORIZING THE USE OF ELECTRONIC SIGNATURES AND REMOTE NOTARIZATION ON ELECTRONIC RECORDS IN THE CONDUCT OF CITY BUSINESS AND DIRECTING THE CITY MANAGER TO ADOPT ELECTRONIC SIGNATURE POLICIES AND PROCEDURES.

WHEREAS, Chapter 1.80 RCW, the Uniform Electronic Transactions Act (UETA) grants the City the ability to use electronic signatures for official public business, unless state or federal law requires a “wet signature,” and such electronic signatures must be given the same legal effect as a “wet signature;” and

WHEREAS, RCW 1.80.170 authorizes the City to determine whether, and the extent to which, the City will send and accept electronic signatures on electronic records to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures when the parties each agree that the transaction may be conducted by electronic means; and

WHEREAS, in 2020, the Legislature amended Chapter 42.45 RCW, the Uniform Law on Notarial Acts to permit notaries to perform remote notarial acts electronically consistent with the statute and Chapter 308-30 WAC; and

WHEREAS, RCW 1.80.100 provides that if a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if done by a person authorized to perform remote notarial acts consistent with the application laws; and

WHEREAS, using electronic records and electronic signature technology, including remote notarization, can benefit the City of Shoreline by decreasing the City’s reliance of paper transactions and physical documents, thereby providing a convenient, time-saving and secure way of signing documents, reduce the costs associated with conducting City business, and enhancing search capabilities; and

WHEREAS, using electronic records and electronic signature technology can benefit the citizens of Shoreline by improving and simplifying their access to, and ability to participate in, City business and governmental affairs; and

WHEREAS, the value of electronic signatures has been noticeable during the COVID-19 public health emergency, when City business was and continues to be largely conducted via remote technologies; and

WHEREAS, the City Council desires to formally authorize the use and acceptance of electronic records and electronic signatures, including remote notarization by an endorsed notary, in conducting City business;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, HEREBY RESOLVES:

Section 1. Recitals Incorporated. The foregoing recitals are incorporated and fully made part of this Resolution.

Section 2. Authorization and Recognition of Validity.

- A. The City Council hereby finds and determines that using electronic records, electronic signatures, and remote notarization is in the best interests of the City of Shoreline and its citizens and authorizes their use by any technology platform consistent with the intent of this Resolution and applicable law.
- B. The City Council authorizes any City employee or elected official who has been granted authority to sign documents on behalf of the City, to affix electronic signatures to conduct City business and further authorizes the City to accept electronic signatures from third parties, including remote notarizations.
- C. The City Council authorizes the use and acceptance of an electronic signature affirmed by remote notarization if the notarization complies with Chapter 42.45 RCW and implementing regulations, as amended.
- D. This Resolution in no way affects the City's ability to conduct a transaction using a physical medium and shall not be construed as a prohibition on the use of signatures affixed by hand.
- E. The City Council hereby recognizes that electronic signatures are valid, except as required otherwise by law, to the same extent a physical signature would be valid, if the electronic signature complies with all applicable state and/or federal laws as well as the administrative policies and/or procedures promulgated pursuant to Section 3 of this Resolution.

Section 3. Administrative Policy and Procedures. The City Manager is directed to approve and promulgate necessary administrative policies and/or procedures to implement the use of electronic records and electronic signatures consistent with this Resolution and in compliance with the provisions of Chapter 1.80 RCW and Chapter 42.45 RCW and implementing regulations set forth in the WAC, as amended from time to time. The policies and/or procedures shall take into account, after giving due consideration to security, the following:

- A. The types of documents that may be signed electronically. At a minimum, the Mayor or Deputy Mayor shall have the authority to utilize electronic signatures for ordinances, resolutions, and meeting minutes. The Chair or Vice-Chair of City Boards and Commissions shall have the authority to utilize electronic signatures for correspondence, reports, and meetings minutes. The policies/procedures should identify the type of contracts, agreements, property records, and other documents used for City business for which electronic signatures may be used.

- B. The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes.
- C. If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process.
- D. Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records.
- E. Compliance with statutory and regulatory standards for electronic record notarizations.
- F. Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

The City Manager shall have the authority to amend such policies and/or procedures based on changes in the law, rules, or business practices.

Section 4. Ratification. The use and acceptance of electronic signatures, including remote notarization, by the City of Shoreline prior to the effective date of this Resolution is hereby ratified and confirmed, provided such electronic signature is consistent with the intent of this Resolution and applicable laws.

Section 5. Severability. If any one or more sections, subsections, or sentences of this Resolution are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Resolution and the same shall remain in full force and effect.

Section 6. Effective Date of Resolution. This Resolution shall take effect and be in full force immediately upon passage by the City Council.

ADOPTED BY THE CITY COUNCIL ON OCTOBER 24, 2022.

Mayor Keith Scully

ATTEST:

Jessica Simulcik Smith, City Clerk