Orange County Sanitation District

Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

Agenda Report

File #: 2020-1040, **Version:** 1

FROM: James D. Herberg, General Manager
Originator: Lorenzo Tyner, Assistant General Manager

SUBJECT:

ELECTRONIC SIGNATURES POLICY

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION:

Adopt a policy for the use of electronic signatures.

BACKGROUND

The use of electronic signatures on legally binding documents has become increasingly prevalent but has yet to find widespread adoption by public entities. Benefits of using electronic signatures include: reduction of paper generation; significant decrease in time and costs associated with transmitting, approving, and retaining physical documents; and creation of an audit trail of the modification, editing, and approval/signing of documents.

RELEVANT STANDARDS

- California Government Code Section 16.5
- California Secretary of State Regulations
- California Uniform Electronic Transactions Act (UETA)

PROBLEM

The Orange County Sanitation District (Sanitation District) does not currently have a policy in place to establish guidelines for when and how electronic signatures may be used, including the documents and transactions approved for electronic signature use, and how the documents and transactions are to be processed.

PROPOSED SOLUTION

Approval of the attached Electronic Signatures Policy to provide guidance to staff and allow the Sanitation District to use and accept approved electronic signatures, in lieu of written signatures, that comply with the requirements of California Government Code Section 16.5, the UETA, the Electronic Signatures in Global and National Commerce Act (E-Sign Act), and other applicable laws and regulations.

TIMING CONCERNS

N/A

RAMIFICATIONS OF NOT TAKING ACTION

The establishment of a formal document establishing criteria, regulation, and guidance regarding electronic signatures will ensure consistency and a point of reference moving forward on this agency-wide initiative. The absence of a policy document could result in multiple and varying interpretations of legal regulations and best methods to implement electronic signing of Sanitation District documents.

PRIOR COMMITTEE/BOARD ACTIONS

N/A

ADDITIONAL INFORMATION

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 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 E-Sign Act. The E-Sign Act mandated the same treatment of electronic signatures in interstate or foreign commerce. (15 USC §§ 7001 et seq.)

In August 2016, Governor Brown signed AB2296 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.

CEQA

N/A

FINANCIAL CONSIDERATIONS

N/A

ATTACHMENT

The following attachment(s) may be viewed on-line at the OCSD website (www.ocsd.com) with the complete agenda package:

- Electronic Signatures Policy