



Berkeley Housing Authority

1947 Center St. 5th Fl. Berkeley, CA 94704
Telephone (510) 981 5470 Fax: (510) 981 5480

Office of the Executive Director

Item 6E
NEW BUSINESS
January 13, 2022

To: Honorable Chairperson and Members of the Housing Authority Commission
From: Rachel Gonzales-Levine, Acting Executive Director
Subject: Adoption of the BHA E-Signature Policy

Background

During the pandemic, BHA has been presented with opportunities to improve on efficiencies, both to keep the work of the agency continuing to move ahead, while maintaining safety precautions to protect the health of our clients, many of whom are elderly, and disabled (including a fair number of mom and pop landlords), as well as that of our staff.

Attached is an E-Signature policy which will be an additional tool to add to our operations in efficiently and safely processing required documents and paperwork coming from applicants, current program participants, and landlords.

Staff has already collaborated with the City of Berkeley's IT Unit and DocuSign, to ensure the simplest and most cost-effective way to allow required documents to be securely processed.

Ideally, someday, BHA hopes to become a "non-paper" agency and have all of our documents/files accessible electronically, so we can contribute to lessening our impact on the environment. This e-signature policy is a small step in that direction, until that goal can be realized.

Fiscal Impacts

The cost of DocuSign subscription is included in the annual cost allocated by the City of Berkeley IT Department.

Attachment:

1. Resolution
2. E-Signature Policy

BERKELEY HOUSING AUTHORITY
RESOLUTION NO. 22-___

ADOPTION OF THE BHA E-SIGNATURE POLICY

WHEREAS, since the beginning of the pandemic, BHA has sought ways to make operations more efficient and safer; and

WHEREAS, having an E-Signature Policy will contribute to those safety and efficiency measures by allowing paperwork to be signed and approved electronically; and

WHEREAS, staff has collaborated with the City of Berkeley IT Department and DocuSign to set up an account whereby documents needing signatures from clients, applicants, landlords, and staff, are able to be handled electronically with minimal cost to the agency;

NOW THEREFORE, BE IT RESOLVED that the E-Signature Policy, attached as Exhibit A, is approved.

The foregoing Resolution was adopted by the Board of the Berkeley Housing Authority on January 13, 2022 by the following vote:

Ayes:

Noes:

Absent:

Attest: _____
Rachel Gonzales-Levine, Secretary

EXHIBIT A

E-Signature POLICY

**BERKELEY HOUSING AUTHORITY
E-SIGNATURE POLICY**

ITEM 6E
ATT 2

A. Purpose

The Berkeley Housing Authority ("BHA") eSignature Policy ("Policy") shall be used by all BHA departments and affiliates (collectively, "Departments") to increase productivity and ensure convenient, timely and appropriate access to BHA information by using electronic signature technology to collect and preserve signatures on documents quickly, securely, and efficiently. In addition to increasing productivity and efficiency, this Policy will result in the reduction of the consumption and storage of paper documents and the maintenance and supply of printers.

This Policy establishes when electronic signature technology may replace a hand-written signature, with the goal of encouraging the use of paperless, electronic documents whenever appropriate and allowed by law. This Policy applies to all signatures used in processing various BHA documents and assumes the BHA signer has been given the authority to sign as determined by BHA Department business process.

While the use of electronic signatures is suggested and encouraged, this Policy does not require any BHA Department to use electronic signatures, nor can BHA mandate that any third party signing a document use electronic signature.

This Policy applies to BHA's acceptance of electronic signatures from parties outside of BHA and the use of electronic signatures on documents executed on behalf of BHA. This Policy does not increase the scope of authority of BHA's authorized signatories, but rather provides an alternative means to execute BHA-related documents. These are minimum standards. Depending upon the circumstances, BHA may require a higher level of signature verification (i.e. out-of-state signatory). Nothing in this policy prohibits an BHA official or employee, with the consent from BHA's Executive Director, from requiring a wet signature or higher form of secure electronic signature if he or she believes it is prudent or necessary.

B. Background/Discussion

Electronic Signature is the broad umbrella category under which all electronic signatures fall.

The legality and use of Electronic Signatures are governed by federal and state law. (See 15 U.S.C. §§ 7001, *et seq.* [U.S. Federal Electronic Signatures in Global and National Commerce Act]; California Government Code §16.5; California Civil Code §§ 1633.1, *et seq.*; and Title 2, Division 7, Chapter 10, §22001 *et seq.* of the California Code of Regulations)

C. Intended Goals for eSignature

- **Security and Legal Compliance:** The use of e-forms and e-signature provides a secure method of signing and transferring documents electronically. A document cannot be altered after the signer has completed the e-signature. Additionally, a history of any changes made to the document prior

to the signature is kept with the document and cannot be changed or deleted. When electronic signatures are used, hash values are attached to the document to verify the authenticity of a document during any transfer for added security.

- **Integration into business processes:** The eSignature process may fit into pre-existing business practices, provide automated processes, retrieve documents, use standard Application Program Interfaces (API), generate reminders and expiration settings, and allow multiple people to view a document and track its progress.
- **Simplified workflow:** E-signatures eliminate resource-intensive processes that require agencies, the public, and staff to manually sign documents. Features of the e-signature process include automation of simple forms, ability to track and review changes, vary the recipient roles, tag signatures, etc.
- **Cost benefits:** There is a potential cost-savings from not having to print, file, scan, and store paper copies. BHA will save also on certified mail, postage, printing, ink, envelopes, and paper.

D. Policy

This Policy applies to documents requiring a signature of any person where the signature is intended to show authorship, approval, authorization, or certification, as allowed by law. It is the Policy of BHA to encourage the use of electronic signatures in all internal and external activities, documents, and transactions where it is operationally feasible to do so, where existing technology permits, and where it is otherwise appropriate based on the Department's preferences. In such situations, affixing an electronic signature to the document in a manner consistent with this Policy shall satisfy BHA's requirements for signing a document. As used in this Policy, the term "signature" includes using initials on a document instead of a signature.

E. BHA Department Discretion

Each BHA Department has discretion to decide whether to permit the use of electronic signatures. Departments should work with BHA's General Counsel to determine where applicable laws permit an electronic signature to be used. In addition, each BHA Department that opts to use electronic signatures must adopt/amend their business practices to support the requirements of this Policy.

F. Criteria for BHA to Use in Accepting Digital Signatures

1. Prior to accepting a digital signature, BHA shall ensure that the level of security used to identify the signer of a document is sufficient for the transaction being conducted.
2. Prior to accepting a digital signature, BHA shall ensure that the level of security used to transmit the signature is sufficient for the transaction being conducted.
3. If a certificate is a required component of a digital signature transaction, BHA shall ensure that the certificate format used by the signer is sufficient for the security and interoperability needs of BHA.

G. Requirements of eSignature

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 the following criteria are met:

1. Parties intend and consent to sign electronically (electronic signatures are only valid and legally binding if both parties intend to sign and execute the agreement electronically).
2. The electronic signature is unique to the person using it.
3. The electronic signature is capable of verification.
4. The electronic signature is under the sole control of the person using it.
 - a) Email notifications requesting electronic signatures must not be forwarded.
 - b) These requirements prohibit the use of proxy signatures.
5. The electronic signature is linked to the data in such a manner that if the data is changed after the electronic signature is affixed, the electronic signature is invalidated.
6. The electronic signature conforms to regulations adopted by the California Secretary of State.

The use or acceptance of a digital signature is at the option of the parties to the transaction and nothing in the law or in this Policy requires a public entity to use or accept the substitution of a document containing a digital signature. A party that agrees to conduct a transaction electronically may refuse to conduct other transactions by electronic means.

H. Common Types of Documents

This Policy is intended to broadly permit the use of electronic signatures. Examples of common types of documents are listed in the following table, with notes on each type of document. BHA Departments should work with BHA's General Counsel to determine where applicable laws permit or prohibit an electronic signature to be used. Please note, HUD may not permit the use of electronic signatures for certain documents. California Civil Code Section 1633.3 also contains a list of transactions for which electronic signatures are prohibited. This chart shall be regularly maintained by the Information Technology Department and may amended from time to time by BHA's Executive Director in her discretion. It is not intended to be an exhaustive list, nor does it impose electronic signature as a requirement for any particular transaction.

Document Type Examples	Is Use of an Electronic Signature Acceptable?	Notes
Memos, Forms, Board Letters, and Other Correspondence	Yes	Electronic Signature Recommended.

Contracts, Residential Leases, and Purchase Orders	Yes	Electronic Signature Recommended.
Ground Leases, Master Leases, Promissory Notes, Loan Agreements, Purchase and Sale Agreements	No	Electronic Signature Not Recommended.
Certificates, Permits	Yes, if allowed by law	Departments should work with BHA General Counsel to determine where applicable laws permit an electronic signature to be used.
Documents Requiring Notarization	No	Electronic Signature Not Recommended.
Document Requiring the Board Chair's Signature	Yes	Electronic Signature Recommended.

I. Documents Involving Other Parties

In the case of contracts or transactions which must be signed by outside parties, each party to the agreement must agree in advance to the use of an electronic signature. No party to a contract or other document may be forced to accept an electronic 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 must be signed in hardcopy format.

When a document is electronically signed by all parties, BHA will provide a copy of the electronically-signed document to the other parties in an electronic format that is capable of being retained and printed by the other parties.

J. Setup & Use

To setup employees authorized to send out documents for e-Signature, BHA's authorized representative should contact City of Berkeley (COB) IT Department. All BHA users of electronic signature technology shall conform to the rules set forth in any BHA/COB telecommunications and/or information technology policies or written directives.

K. Storage and Archiving of Electronically-Signed Documents

If a document exists only electronically, steps should be taken by each BHA Department to ensure that a fixed version of the final document is stored in some manner. It is the responsibility of the BHA Department to store these final electronic documents in a manner consistent with any applicable BHA document retention policies and any applicable laws.

L. eSignature Solution Providers

The COB Information Technology Department and/or BHA Management will be responsible for determining acceptable technologies and e-Signature providers consistent with current state legal requirements and industry best practices to ensure the security and integrity of the data and the signature.

The COB Information Technology Department entered into an agreement with **DocuSign®** to provide electronic signature capabilities and services to the City of Berkeley. DocuSign® is on the *Approved List of Digital Signature Certification Authorities* certified by the California Secretary of State for use by public entities.

M. Conclusion

The use of e-Signature is intended to make BHA business practices more efficient. The process eliminates the need to print, file, and store paper copies of documents that can now be authenticated digitally and stored electronically.

N. Definitions

Application Program Interface (API) is a set of clearly defined methods of communication between various software components. API's allow applications to interact with each other, allowing integration of one system with another.

Digital Signature is a specific signature technology implementation of electronic signature that uses cryptography to provide additional proof of the identity of a signer and integrity of a document. This cryptography uses Public Key Infrastructure (PKI) technology to issue digital certificates. PKI technology is accepted by the California Secretary of State for digital signatures created by a public entity.

Electronic relates to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

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

Electronic Signature, or eSignature, means an electronic identifier, created by computer, attached or affixed to or logically associated with an electronic record, executed or adopted by a person with the intention of using it to have the same force and effect as the use of a manual signature.

Electronic Transaction is a transaction conducted or performed, in whole or in part, by electronic means or electronic records.

eSignature Product means a software or service that provides a means of affixing an Electronic Signature to an electronic record.

Hash Value is a unique numerical identifier that can be assigned to a file, a group of files, or a portion of a file, based on a standard mathematical algorithm applied to the characteristics of the data set. The numerical identifier is so distinctive that the chance that any two files will have the same hash value, no matter how similar they appear, is less than one in one billion. 'Hashing' is used to guarantee the authenticity of an original file.

HUD means the U.S. Department of Housing and Urban Development.

Permitted Transactions and Notices means electronic transactions and notices for

which the use of Electronic Signatures is not prohibited under applicable law.

Proxy Signatures are when Person-A authorizes Person-B to sign Person-A's signature on his/her behalf. (This is prohibited for eSignatures by this policy.)

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

Documents or forms are records.