

CITY OF TEMECULA ELECTRONIC SIGNATURE USE POLICY

1. PURPOSE

The purpose of this policy ("Policy") is to establish guidelines for the appropriate business use of electronic and digital signatures by the City's departments and employees, as well as to provide guidance regarding when an electronic or digital signature may replace a manual (wet) signature. It also intends to reduce the use of paper and allow the City to collect and preserve signatures on documents quickly, securely, and efficiently.

2. POLICY INTENT

California has adopted statutes regulating the use of electronic signatures including California Civil Code section 1633.1 *et seq.*, otherwise known as the "Uniform Electronic Transactions Act" ("UETA") and California Government Code section 16.5. This Policy is intended to comply entirely with all applicable laws and regulations including, without limitation, the aforementioned statutes, in current form or as amended. To the extent that any procedure or guideline contained herein conflicts with applicable law, all persons subject to this Policy are required and expected to comply with the requirements of the applicable law(s).

This Policy is meant to broadly adopt Title 2 California Code of Regulations, Sections 22000 – 22005, to permit and encourage the use of digital signatures Citywide including, but not limited to, all documents and transactions where it is legally permissible, operationally feasible to do so, existing technology permits, and is otherwise appropriate based on the department's needs. It applies to documents requiring a signature or initials of any person where the signature or initials are intended to show authorship, approval, or authorization as allowed by law. Affixing an electronic signature to any document in a manner consistent with this Policy shall satisfy the City's requirements for signing a document.

Throughout this Policy, the term "electronic signatures" is used to refer to both electronic signatures and digital signatures as defined below. Individual circumstances will dictate which type of signature is appropriate. This Policy is designed to allow for the use of whichever type of signature is most appropriate for the transaction. The use, or the City's acceptance, of an electronic signature is at the option of the City and the signer(s). Nothing in this Policy requires the City to use or permit the use of an electronic signature or accept the submission of a document containing an electronic signature.

3. DEFINITIONS

For purposes of this Policy, and unless the context expressly indicates otherwise:

- "Digitally signed communication" is a message that has been processed by an acceptable technology, pursuant to Title 2, California Code of Regulations Section 22003, in such a manner that ties the message to the signer.
- "Digital signature" means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature.
- "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.
- "Electronic signature" 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.
- "Message" means a digital representation of information intended to serve as a written communication provided to a public entity by a public entity or a private entity.
- "Person" means a human being or any organization capable of signing a document, either legally or as a matter of fact.
- "Public entity" means any public entity defined by California Government Code Section 811.2.

- “Signer” means the person who signs a digitally signed communication with the use of an acceptable technology to uniquely link the message with the person sending it.
- “Technology” means the computer hardware and/or software-based method or process used to create digital signatures.
- “Transaction” means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

4. DIGITAL SIGNATURES MUST BE CREATED BY AN ACCEPTABLE TECHNOLOGY

For a digital signature to be valid for use by a public entity, it must be created by a technology that is acceptable for use pursuant to Title 2, California Code of Regulations Section 22003. Government Code section 16.5 states a digital signature shall have the same force and effect as a manual signature if and only if:

- A. It is unique to the person using it;
- B. It is capable of verification;
- C. It is under the sole control of the person using it;
- D. It is linked to data in such a manner that if the data are changed, the digital signature is invalidated; and
- E. It conforms to Title 2, Division 7, Chapter 10 of the California Code of Regulations.

5. DOCUMENT TYPES

Civil Code Section 1633.3 contains a list of transactions for which electronic signatures are not acceptable. Additionally, the following documents require a manual signature:

- Documents that require notarization or are to be recorded with the County Recorder’s Office
- Documents required for real property transactions or that affect title to real property
- Bonds
- Promissory notes
- Any other document that the City Manager or his/her designee determines requires a manual signature

6. CRITERIA FOR PUBLIC ENTITIES TO USE IN ACCEPTING DIGITAL SIGNATURES.

Prior to accepting a digital signature, when it is initiated by another party, employees shall ensure that the level of security used to identify the signer of a document is sufficient for the transaction being conducted. Prior to accepting a digital signature, employees shall ensure that it is created by an acceptable technology pursuant to Section 22003.

Electronic signatures processed through the City’s approved signature service, as designated by the City Manager or his/her designee, meet the criteria for secure digital signatures. Staff shall limit electronic signatures to that service, unless otherwise directed by the City Manager or his/her designee.

7. 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 with the City Clerk’s Office or in the City’s approved records repository. All final electronic documents must be stored in a manner consistent with the City’s document retention policies and any applicable laws.