

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
ARROYO GRANDE ESTABLISHING AN ELECTRONIC  
SIGNATURE USE POLICY FOR SELECT CITY  
DOCUMENTS**

**WHEREAS**, electronic signatures have become increasingly common in public and private transactions, particularly during the COVID-19 pandemic, when much public and private business has been conducted remotely; and

**WHEREAS**, under California law, the use of electronic signatures is at the option of the parties, including public agencies, involved in a transaction; and

**WHEREAS**, the Uniform Electronic Transactions Act ("UETA" codified at Civ. Code § 1633.1 et seq.) generally governs the use of "electronic signatures" by parties to a transaction, and Government Code section 16.5 governs the specific use of "digital signatures" (a type of electronic signature) by and in transactions with public entities; and

**WHEREAS**, a digital signature is a digital code that uniquely identifies and authenticates the sender (and is subject to State regulations on approved technologies), and an electronic signature is broadly defined to include a typed name concluding an email, a digital image of a handwritten signature, and the click of an "I accept" button on an e-commerce site; and

**WHEREAS**, using appropriate electronic signature technology allows the City to collect and preserve signatures on documents quickly, securely, and efficiently, and also reduce use of paper, facilitate document retention, and generally contribute to a sound City-wide records management system; and

**WHEREAS**, electronic signatures vary in their level of security, user-friendliness, and verifiability, the conditions under which they are accepted for public records are a governmental affair for the City to determine and for which the City may set policy; and

**WHEREAS**, City staff has increasingly been asked to execute contracts electronically under the provisions of the UETA; and

**WHEREAS**, the City seeks to provide its residents, businesses, vendors, and contractors the opportunity to submit information or transact business with the City electronically to the greatest extent practicable.

**RESOLUTION NO.**

**PAGE 2**

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Arroyo Grande as follows:

1. The foregoing recitals set forth herein are true and correct.
2. The City Council hereby adopts the Policy for Electronic Signature Use (Policy), attached hereto as Exhibit A and incorporated herein by this reference. The City Manager or their designee, in consultation with the City Attorney, may subsequently amend the Policy and adopt additional guidelines, as necessary to implement the Policy's stated purpose.
3. This Resolution will become effective immediately upon adoption.

On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, and on the following roll call vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

the foregoing Resolution was passed and adopted this 24<sup>th</sup> day of January, 2023.

---

**CAREN RAY RUSSOM, MAYOR**

**ATTEST:**

---

**JESSICA MATSON, CITY CLERK**

**APPROVED AS TO CONTENT:**

---

**WHITNEY MCDONALD, CITY MANAGER**

**APPROVED AS TO FORM:**

---

**TIMOTHY J. CARMEL, CITY ATTORNEY**

**ELECTRONIC SIGNATURE USE POLICY**

**POLICY:**

The City of Arroyo Grande (“City”) seeks in this Electronic Signature Use Policy (“Policy”) to implement guidelines for the use and acceptance of electronic signatures used to conduct official business in the City. This Policy allows the use of electronic signature in lieu of manual signatures, when permitted by law, and establishes when an electronic signature may replace a manual signature.

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 and the guidelines and procedures included hereunder are intended to comply entirely with all applicable laws and regulations including, without limitation, the aforementioned statutes. To the extent any procedure, policy, or guideline contained herein conflicts with applicable law, City staff, officials, and agents and all other persons subject to this Policy are required and expected to comply with the requirements of the applicable law(s).

The City finds that:

- A. The use of electronic signature technology will allow the City to collect and preserve signatures on documents quickly, securely, and efficiently.
- B. The conditions under which the City will accept electronic signatures on City records or documents are a municipal affair for the City to determine and for which the City may set policy.
- C. The City has a vital interest in reducing the waste of paper, increasing the efficient use of public resources, and ensuring the security and authenticity of electronic records, including electronic signatures.
- D. This Policy seeks to mitigate the risks associated with conducting transactions, transmitting information, and maintaining public records that use electronic signatures.

**DEFINITIONS:**

- A. “Approved List of Digital Signature Certification Authorities” means the list of Certification Authorities approved by the California Secretary of State to issue certification for digital signature transactions involving public entities in California.
- B. “Certification Authority” means a person or entity that issues certification for a digital signature transaction.

## RESOLUTION NO.

## PAGE 5

- C. "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. A digital signature is a type of "electronic signature."
- D. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- E. "Electronic record" means an official public record or file, resolution, ordinance or other public document created, generated, sent, communicated, received, or stored by electronic means. An electronic record generally contains information or a data file that was created and stored in digitized form through the use of computers, machines, and software applications.
- F. "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. For purposes of this Policy, a digital signature is a type of electronic signature.
- G. "External document" means any document generated by or required to be signed by persons other than the City. Examples of external documents include contracts to which the City is a party that must be signed by a non-City party or applications completed by the members of the public and submitted to the City.
- H. "Internal document" means any document created by the City and for use exclusively by the City in which a signature is required or used.
- I. "Manual signature" means an original wet signature is applied to a document.
- J. "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

### **IMPLEMENTATION:**

- A. Compliance with Law, Policy. To the extent permitted by law and this Policy, the City accepts electronic signatures as legally binding.
- B. Use Optional. The use or acceptance of electronic signatures shall be at the option of the non-City signatories. Nothing in this Policy shall require the City to use or permit the use of electronic signatures.
- C. Consent. All parties that wish to use electronic signatures shall agree to follow this Policy, shall provide written or electronic consent as to the use of electronic signatures, and shall agree to indemnify the City against any liability associated with transmitting an electronic signature or an electronically signed record by electronic transmission.
- D. Signature Use. The City Manager or designee may require the use of manual, electronic, or digital signatures at his or her discretion.
- E. Internal City Business
  - a. The City requires various internal documents be approved by an employee, supervisor, department head, or other City staff and approvals for internal documents may be signified by electronic means as a replacement for a manual signature.
  - b. Internal documents that create or impose a legal or fiduciary duty may require a digital signature, as determined by the City Manager, or designee.

- c. The use of electronic records, electronic signatures, and digital signatures by the City for internal City business and internal documents shall be in accordance with administrative procedures as designated and amended from time to time by the City Manager or designee (see Exhibit A).
- F. External Documents and Transactions
  - a. If an electronic signature is used for an external document involving a transaction with the City which creates or imposes a legal duty, the City Manager may require a digital signature.
  - b. Design professionals, such as architects and engineers, wishing to use an electronic seal and signature may do so as allowed by State Business and Professions Code. Non-design professionals may sign plans via use of any valid electronic signature technology that complies with the requirements of this Policy including, but not limited to, a digital signature.
  - c. For any City business involving a non-City party, including without limitation external documents, the use and acceptance of electronic records, electronic signatures, and digital signature by the City shall be in accordance with administrative procedures as designated and amended from time to time by the City Manager or designee (see Exhibit A).
- G. Documents for which Electronic Signatures are Prohibited
  - a. Civil Code section 1633.3 contains a list of transactions for which electronic signatures are unavailable.
  - b. Signatures that must be made in the presence of a notary public.
  - c. Unless otherwise allowed documents that are recorded with the County of San Luis Obispo.
- H. Valid Electronic Signatures. When a signature is required, the parties may agree that an electronic signature satisfies the requirement if:
  - a. The signature is in accordance with the requirements of the UETA,
  - b. The signature is created using an electronic signature technology that has been approved by the City Manager, or designee, in accordance with the provisions of this Policy, and
  - c. The signature is in accordance with any and all other applicable laws and regulations.
- I. Valid Digital Signatures. Digital signatures used in compliance with this Policy shall have the same force and effect as the use of a manual signature provided that the digital signature has all of the following attributes:
  - 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 is changed, the digital signature is invalidated; and
  - e. It conforms to the regulations adopted by the California Secretary of State including, but not limited to, the acceptable technology requirements set forth under the California Code of Regulations, title 2, section 22003.

- f. The Certification Authority issuing the certification for the digital signature transaction must appear on the “Approved List of Digital Signature Certification Authorities” authorized by the California Secretary of State.
- g. Prior to accepting a digital signature, City staff shall ensure that the level of security used to identify the signer of a document is sufficient for the transaction being conducted, that the level of security used to transmit the signature is sufficient for the transaction being conducted, and that the certificate format used by the signer is sufficient for the security and interoperability needs of the City.
- J. Minimum Standards. These are minimum standards. Any transaction must be analyzed under the facts and circumstances existing at the time a transaction has been executed. Depending upon the circumstances, the City may require a higher level of signature verification (i.e., out-of-state signatory). Nothing in this Policy prohibits a City official or employee, with the consent from the City Manager, from requiring a wet signature or higher form of secure electronic signature if he or she believes it is prudent or necessary.
- K. Acceptable Electronic Signature Technologies. The City Manager or designee shall identify the level of security procedures required for particular documents. The City Manager or designee shall also identify vendors and technology to execute those security procedures using industry best standards.
- L. Further Acts. Nothing in this Policy shall prevent the City Manager or designee, from adopting additional guidelines or taking further actions to implement this Policy or to add other permissible forms of electronic signatures to this Policy.

Any person that makes inappropriate, illegal, or fraudulent use of electronic signatures, digital signatures, or electronic records in violation of this Policy or of any applicable law or regulation is subject to sanctions up to and including dismissal, suspension, and criminal prosecution as specified in published City policies, and state and federal law, regardless of whether such sanctions are directly referenced in this Policy. All inappropriate, illegal, or fraudulent uses of any electronic means of transmission shall be prosecuted to the fullest extent permitted by law, including the recovery of attorneys’ fees and administrative costs.

---

Whitney McDonald  
City Manager

**CITY OF ARROYO GRANDE  
Exhibit "A"**

**Administrative Procedures for Acceptance of External Documents and/or Transactions  
with Electronic Signatures**

**I. PURPOSE**

The purpose of these procedures is to document and implement the acceptance of external documents and/or transactions with electronic signatures in compliance with the City's Electronic Signature Use Policy.

**II. CLASSES OF DOCUMENTS PERMITTED BY THE CITY MANAGER FOR ELECTRONIC SIGNATURE**

The security requirements for electronic signatures range from simple to the more complex, depending upon the level of transaction. The following are the classes of documents permitted for electronic signature. It is not intended to be an exhaustive list, nor does it impose electronic signature as a requirement for any particular transaction.

- A. Contracts and Amendments
- B. Grant Documents
- C. Applications
- D. Personnel Documents
- E. Invoices and Purchase Orders
- F. Certificates and Permits, as allowed by law
- G. Correspondence