

Electronic Signatures**Section 1.7.11****PURPOSE AND SCOPE**

This policy establishes guidelines for acceptable technologies and procedures for the use of electronic signatures in City-related business and further supplements City Administrative Policy Section 1.7.5, *E-Government Policy*.

The City recognizes the need to increase efficiency, reduce waste, and provide members of the public with convenient access to City services. Advances in technology can assist the City in obtaining these goals while providing security for document management. This policy balances the need for efficient services against the risks of unauthorized activities by providing the approved electronic signature method and guidelines for certain documents and transactions.

This policy applies to the City's acceptance of electronic signatures from parties outside of the City and the use of electronic signatures on documents executed on behalf of the City. It does not increase the scope of authority of the City's authorized signatories, but rather provides an alternative means to execute City-related documents. These are minimum standards. 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. The City Manager may accept or authorize the acceptance of an electronic signature when, in his or her discretion, the circumstances surrounding the transaction address authentication and security concerns. This policy does not apply to electronic signatures accepted or utilized before the original effective date, and is intended to provide guidance for electronic signatures accepted thereafter. Any transaction must be analyzed under the facts and circumstances existing at the time a transaction has been executed.

AUTHORITY**San Jose Municipal Code, §1.21.010A**

The City may utilize or accept an electronic signature which meets the requirements and guidelines established by the City Manager.

DEFINITION OF ELECTRONIC SIGNATURES

An electronic signature is "any sound, symbol, or process attached to or associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record." [Civil Code §1633.2(h).] The City divides this broad scope of electronic signatures into categories of documents based upon the level of security needed both to ensure the proper person is conducting the transaction and that the technology for transmission of the signature is adequate.

POLICY**Requirements for Electronic Signatures**

City staff accepting electronic signatures shall document the facts and circumstances of the transaction, including the method for obtaining the signature, the party's agreement to use electronic

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signatures, the method of authenticating the person who signs, or other facts at the time of creation of the signature which establish the authenticity of the signature.

The requirements for electronic signatures include:

1. Intent to Sign

Electronic signatures, i.e., not traditional wet ink signatures, are only valid and legally binding if both parties intend to sign and execute the agreement electronically.

2. Consent of the Signing Party

The City will accept electronic signatures when the parties:

- consent to the transaction,
- consent that the transaction be completed electronically, and
- consent to receive disclosures electronically.

3. Documentation of Effect of Signature

The Information Technology Department will maintain the security procedure and audit trails for various electronic signature technologies.

Classes of Documents Permitted by the City Manager for E-Signature

The security requirements for electronic signatures range from simple to the more complex, depending upon the level of transaction. A chart of the documents that electronic signatures are approved for by the City Manager is available [here](#). This chart shall be regularly maintained by the Information Technology Department. It is not intended to be an exhaustive list, nor does it impose electronic signature as a requirement for any particular transaction.

The City may accept an electronic signature form, and utilize the electronic signature software for the execution of documents for any other public entity, regulatory body, or non-profit public benefit corporation which has adopted electronic signature protocols acceptable to the City. Further, the City may accept any signature and execute any document using the digital signature technology with a certificate authority as approved by the California Secretary of State on the [Approved List of Digital Signature Certification Authorities](#).

Classes of Documents For Which E-Signatures Are Prohibited

Civil Code Section 1633.3 contains a list of transactions for which electronic signatures are not available. The chart below provides categories of documents which may be relevant for City business. If a transaction is in this category of documents, employees shall confer with the City Attorney's Office prior to accepting electronic signatures.

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Classes of Documents	Type of Signature Permitted	Notes, Examples
Civil Code §1633.3	Wet/Manual Signature Only	Broad Categories: Medical Information, Property Owner / Tenant notices of default, Mortgage foreclosures, Termination of Utility Services, Termination of Insurance Coverages
Prohibited by Law	Wet/Manual Signature Only	Initiative Petitions

Approved:

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Approved for posting:

/s/ Jennifer Maguire
 Assistant City Manager

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