

**CITY OF JOSHUA, TEXAS**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, AMENDING ARTICLE 1.03, "CITY COUNCIL," OF CHAPTER 1, "GENERAL PROVISIONS," OF THE CODE OF ORDINANCES OF THE CITY OF JOSHUA, TEXAS, BY ADDING A NEW SECTION 1.03.003, "SIGNATURES AND SEALS: ELECTRONIC, DIGITAL AND FACSIMILE," AND APPROVING THE ADOPTION OF CITY RULES FOR SAME; MAKING FINDINGS RELATIVE THERETO; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, it is the desire of the City Council to provide for the authorization of electronic, digital, and facsimile signatures and to approve the adoption of Rules for same; and

**WHEREAS**, this Ordinance and the Rules for Electronic, Digital, and Facsimile Signatures and Seals (the "Rules") will authorize the use and acceptance of electronic, digital, digitized, and facsimile signatures and seals to conduct transactions both internal and external by and to the City of Joshua, Texas ("City"); and

**WHEREAS**, pursuant to the Uniform Facsimile Signature of Public Officials Act, Texas Government Code, Title 6, Subtitle A, Chapter 618, an authorized officer of the City may execute, authenticate, certify, or endorse or authorize to be executed, authenticated, certified, or endorsed with the officer's facsimile signature instead of the officer's manual "wet" signature certain City transactions and contracts when authorized by the City Council; and

**WHEREAS**, the Texas Uniform Electronic Transactions Act ("Texas UETA"), Texas Business and Commerce Code, Title 10, Subtitle B, Chapter 322, authorizes and gives legal effect to electronic records, electronic signatures, and electronic contracts; and

**WHEREAS**, pursuant to Texas Government Code § 2054.060, a digital signature may be used to authenticate a written electronic communication sent to the City or to a State agency if it complies with the Rules adopted by the City Council; and

**WHEREAS**, it is the intent of the City Council to protect the public health, safety, and welfare; and

**WHEREAS**, the City is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, a home-rule municipality has full power of local self-government, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 51, Section 51.072(a); and

**WHEREAS**, the City Council finds that it is in the best interests of the citizens of the City to amend the Code of Ordinances as herein provided.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, THAT:**

### **SECTION 1**

All of the above premises are hereby found to be true and correct and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

### **SECTION 2**

From and after the effective date of this Ordinance, Article 1.03, "City Council," of Chapter 1, "General Provisions," of the Code of Ordinances of the City of Joshua, Texas, is hereby amended by adding thereto a new Section 1.03.003, entitled "Signatures and Seals: Electronic, Digital and Facsimile," to read as follows:

**"Sec. 1.03.003      Signatures and seals: electronic, digital, and facsimile.**

(a)    *Signatures.*

- (1)    *Authorization.* City Council authorizes the use and acceptance of electronic, digital, or facsimile signatures for City transactions, relating to business, commercial, or governmental affairs, in accordance with the City's rules, and State, federal, or other law, as may be amended.
- (2)    *Rules.* The City's Rules shall be posted on the City's website.

(b)    *Seals.*

- (\*)    *Notary Public Seal of Office and other Professional Seals.* City Council authorizes the use and acceptance of an electronic, digital, or facsimile notary public seal of office ("Notary Seal"), and other professional seals for City electronic transactions, relating to business, commercial, or governmental affairs, in accordance with the City's rules and State law, as may be amended.
- (2)    *City Corporate Seal.* City Council authorizes the use of an electronic, digital, or facsimile corporate seal ("City Seal") by the City Secretary or his/her designee for electronic transactions, relating to business,

commercial, or governmental affairs, in accordance with the City Charter, the City's rules, and State law, as may be amended.

- (3) *Rules.* The City's rules shall be posted on the City's website."

## **SECTION 2**

The City's Rules are attached hereto as Exhibit A and are incorporated by reference, and are hereby approved by the City Council. The City Secretary is hereby authorized to amend those Rules when deemed necessary by the City Secretary, and any amendments to the Rules by the City Secretary may be made without the need for additional City Council approval; provided, however, that such amendments to the Rules shall be in accordance with applicable Texas law.

## **SECTION 3**

If any word, section, article, phrase, paragraph, sentence, clause, or portion of this Ordinance or application thereto to any person or circumstance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity which remaining portions shall remain in full force and effect.

## **SECTION 4**

This Ordinance shall take effect and be in full force from and after its passage and publication, as provided by the laws of the State of Texas.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, THIS THE 18TH DAY OF AUGUST, 2022.**

\_\_\_\_\_  
Scott Kimble, Mayor

**ATTEST:**

\_\_\_\_\_  
Alice Holloway, City Secretary

**APPROVED AS TO FORM:**

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Terrence S. Welch, City Attorney

## **EXHIBIT A**

### **RULES FOR ELECTRONIC, DIGITAL, AND FACSIMILE SIGNATURES AND SEALS**

#### **Authorization**

The City Council has authorized the use and acceptance of electronic, digital, and facsimile signatures and seals for City transactions, relating to business, commercial, or governmental affairs.

#### **Scope**

These “Rules” apply to all City departments that desire to use and accept electronic, digital, digitized, and facsimile signatures and seals to conduct transactions both internal and external to the City.

#### **Other Policies and Procedures**

City departments wishing to receive authorization to incorporate electronic, digital, digitized, and facsimile signatures and seals into their electronic or hardcopy/paper workflow processes should review all relevant rules, regulations, and Information Technology (“IT”) policies and procedures.

#### **Signatures: Electronic and Digital**

- (1) An electronic signature (“e-Signature”) is an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. See Texas Uniform Electronic Transaction Act (“UETA”), Tex. Bus. & Com. Code Ann. § 322.002 (8).
- (2) A digital signature is a form of an electronic signature and contains an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature (aka “wet signature”). See Information Resources Management Act, Tex. Gov’t Code Ann. § 2054.060 (e)(1).
- (3) A digital signature may be used to authenticate a written electronic communication sent to a local government (“City”) if it complies with rules adopted by the governing body (“City Council”) of the City. Before adopting the City’s Rules, the City Council shall consider the rules adopted by the Texas Department of Information Resources (“Texas DIR”) and, to the extent possible and practicable, shall make the City’s Rules consistent with the Texas DIR’s rules. See Tex. Gov’t Code Ann. § 2054.060 (b).
- (4) Procedures for proper use and acceptance of electronic signatures (which includes digital signatures) may be found under UETA.

## **E-Contracts**

- (1) When an electronic contract ("e-Contract") is generated by the City, the e-Signature shall be a digital signature.
- (2) When an e-Contract is not generated by the City, if an electronic signature is accepted by the City, the required signature type shall be a digital signature. The City's preferred software is DocuSign software, or other software on the Texas Department of Information Resources ("DIR") "Approved List of PKI Service Providers." See Texas Administrative Code, Title 1, Part 10 Department of Information Resources.
- (3) Each party to a transaction must agree to conduct the transaction electronically for the electronic transaction to be valid and binding. Consent may be implied from the context and surrounding circumstances, including the parties' conduct. See Tex. Bus. & Com. Code, § 322.005. If a law prohibits a transaction from occurring electronically, the transaction must occur in the manner specified.

### **NOTICE REGARDING UNLAWFUL, FRAUDULENT, UNAUTHORIZED, OR IMPROPER SIGNATURES**

In the event that any electronic signature, including a digital signature, digitized signature, or facsimile signature, is found by the City to have been used or applied to a City record or document, or was certified, in violation of this policy or any other law the signature and the City record or document signed electronically, or otherwise, using the unlawful, fraudulent, unauthorized, or otherwise improper signature shall also be (1) NULL AND VOID, (2) DISCONTINUED, and (3) UNENFORCEABLE AGAINST THE CITY.