

## **City of Wheatland**

### **Electronic Signature Policy**

#### **PURPOSE:**

This policy enables the City of Wheatland (“City”) to accept electronic signature(s), in lieu of wet ink signatures, on documents and certain automated processes on the City’s website. This policy does not supersede laws specifically requiring a written signature nor does this policy limit the right or option to conduct a transaction on paper or non-electronic forms.

#### **DEFINITIONS:**

“Certificate Authority” means an entity that stores, signs, and issues digital Certificates.

“Certificate” means an electronic document issued by a Certificate Authority that contains the public key for and specifies the identity and organization of each attached Digital Signature.

“Digital Signature” is a type of “Electronic Signature,” and 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” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

“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.

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

#### **LEGAL BASIS:**

The City’s use of Electronic Signatures is authorized by two California statutes, the Uniform Electronic Transactions Act (“UETA”), codified at Civil Code section 1633.1 *et seq.*, and Government Code section 16.5. The UETA provides that a signature may not be denied legal effect or enforceability solely because it is in electronic form. In order for the UETA to apply, the parties must agree to conduct the transaction by electronic means, and whether they have agreed to do so “is determined from the context and surrounding circumstances, including the parties’ conduct.”

Government Code section 16.5 applies to public entities, including the City, and authorizes any party to a written communication with a public entity, in which a signature is required or used, to affix a signature by use of a digital signature that complies with the requirements of Government Code section 16.5. Government Code section 16.5 and State regulations require that a Digital Signature (i) be created by a technology that is acceptable for use by the State of California and (ii) embody the following five attributes:

1. It is unique to the person using it;
  2. It is capable of verification;
  3. It is under the sole control of the person using it;
  4. It is linked to data in such a manner that if the data are changed, the Digital Signature is invalidated;
- and,

5. It conforms to regulations adopted by the Secretary of State, codified at Chapter 10 of Division 7 of Title 2 (commencing at Section 22000) of the California Code of Regulations.

**POLICY:**

1. To the fullest extent permitted by law, the City accepts electronic signatures as legally binding and equivalent to handwritten signatures to signify an agreement in accordance with California Government Code section 16.5.
2. This policy applies only to transactions between parties agreeing to conduct transactions by electronic means with the use of the City's approved Electronic Signature method. If the parties to a transaction have agreed to conduct the transaction by electronic means, the parties are required to utilize the City's Electronic Signature system for approved, electronically signed documents and all applicable security processes for authentication must be followed.
3. This policy applies to all employees of the City and governs all uses of Electronic Signatures and Electronic Records used to conduct the official business of the City. Such business may include, but is not limited to, electronic communications, transactions, contracts, and other official purposes, both internal and external to the City.
4. The City's right or option to conduct a transaction on paper or in non-electronic form shall not affect the City's right, option or obligation to have documents provided or made available in electronic format.
5. Approved and automated processes for City transactions are automatically subject to the provisions of this policy.
6. The final approval of any Electronic Signature method will be made by the City Manager and City Attorney. In determining whether to approve an Electronic Signature method, consideration will be given to the systems and procedures associated with using that Electronic Signature, and whether the use of the Electronic Signature is at least as reliable as the existing method being used. As advised by the Secretary of State, the City shall consider the following issues and other issues when identifying the appropriate technology to use for each document that includes a Digital Signature component:
  - A. Are the documents containing signatures going to be transmitted over an "open" or a "closed" network?
  - B. Does the signature on the document need to be verified?
  - C. How much time and resources can be allocated to verification?
  - D. Does the signature need to be compared to a manual signature on paper or can a digital Certificate adequately provide one-stop verification?
  - E. Will immediate verifiability reduce the potential of fraud?
  - F. Will the documents containing Digital Signatures need to be reproduced for public access to the records?
  - G. Will the documents containing Digital Signatures need to be utilized by another local, state or federal agency? If so, is the technology compatible with the other agency's needs?
7. In the event it is determined an approved Electronic Signature method is no longer trustworthy, the City Manager or the City Attorney shall revoke the approval of that Electronic Signature method. Any records that were signed prior to the finding that the approved Electronic Signature method is no longer trustworthy shall continue to be valid.

**PROHIBITED USES OF ELECTRONIC SIGNATURES:**

1. Documents requiring notarization, County recording, or the City's seal.

2. Any records, reports or other documents required by federal law, state law, or City policy to be maintained in physical form with original manual signature.
3. Ordinances, resolutions, and minutes of the City Council.
4. Documents or transactions that require a handwritten signature, including, but not limited to, transfers of interests in real property.
5. Certificates or permits (except as otherwise authorized by applicable laws).
6. Documents or transactions that are not signed using approved Electronic Signature technologies and/or vendors.
7. Any other documents which the City Manager deems appropriate to require original manual signatures.

**STORAGE OF ELECTRONICALLY SIGNED DOCUMENTS:**

If a document exists only electronically, steps shall be taken by the City to ensure that a fixed version of the final document and the document's audit trail, which details the Electronic Signature process, are stored in a manner consistent with the City's policies, including the City's Records Retention policy, and any applicable laws.