

RESOLUTION NO. ____-2021

**A RESOLUTION OF THE FORT BRAGG CITY COUNCIL
ADOPTING AN ELECTRONIC RECORDS AND SIGNATURE
USE POLICY AND AUTHORIZING THE USE OF
ELECTRONIC RECORDS AND SIGNATURES**

WHEREAS, in December 2019, an outbreak of respiratory illness due to a novel coronavirus (COVID-19) was first identified in Wuhan City, Hubei Province, China; and

WHEREAS, the Center for Disease Control and Prevention (CDC) considers COVID-19 to be a very serious public health threat with outcomes ranging from very mild (including some with no reported symptoms) to severe, including illness resulting in death; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a State of Emergency for the State of California and on March 19, 2020, issued a statewide stay at home order; and

WHEREAS, on March 11, 2020, the World Health Organization characterized COVID-19 as a “pandemic”; and

WHEREAS, on March 13, 2020, the President of the United States issued a proclamation declaring the COVID-19 outbreak in the United States as a national emergency, beginning March 1, 2020; and

WHEREAS, on March 17, 2020 the City Manager, as the City’s Director of Emergency Services, issued Proclamation No. CM-2020-01 declaring a local emergency as authorized by Government Code section 8630 and Fort Bragg Municipal Code section 2.24.040(B); and

WHEREAS, the Governor of the State of California and the Public Health Officer of the County of Mendocino have both issued Shelter-in-Place orders to combat the spread of COVID-19; and

WHEREAS, as a consequence of the stay at home orders, city governments are having to conduct business electronically and remotely, including by the use of video conferencing, telephone conferencing, and electronic transmission of records and signatures; and

WHEREAS, in order to efficiently conduct City business, the City desires to authorize the use of electronic records and signatures; and

WHEREAS, the use of electronic signatures on legally binding documents has become increasingly prevalent in the private sector but has not yet become widespread among public agencies; and

WHEREAS, pursuant to California Government Code Section 16.5, the City may elect to use digital signatures and may accept a digital signature from another party, for any written communications with the City in which a signature is required or used; and

WHEREAS, the California Secretary of State has issued regulations regarding the use of digital signatures, set forth in Title 2, Division 7, Chapter 10 (Digital Signatures) of the California Code of Regulations; and

WHEREAS, government agencies may use all types of electronic signatures, including digital signatures, in accordance with the Uniform Electronic Transactions Act (UETA), under California Civil Code section 1633.1 *et seq.*; and

WHEREAS, the use of electronic signatures has the same legal effect as manual or “wet” signatures; and

WHEREAS, the benefits of electronic signatures include, but are not limited to, reductions in the use of paper, time, and costs associated with transmitting, approving, and executing physical documents; and

WHEREAS, electronic signature technologies have been developed to address concerns with verifying the identity of the person affixing his or her electronic signature; and

WHEREAS, the City desires to implement industry best practices using electronic records and electronic signatures to effectively manage documents in accordance with California state law; and

WHEREAS, the City desires to use electronic records and electronic signatures to the fullest extent allowed by law without compromising security.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FORT BRAGG DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by reference as findings of fact.

SECTION 2. **Electronic Records and Signature Use Policy.** The City Council hereby approves and adopts the Electronic Records and Signature Use Policy, authorizing the use and acceptance of electronic records and electronic signatures, including digital signatures, attached as Exhibit A to this Resolution.

SECTION 3. **Certification and Effective Date.** The City Clerk shall certify to the adoption of this Resolution. This Resolution and the adopted policy shall take effect immediately.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 25th day of January, 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, CMC
City Clerk

EXHIBIT A

CITY OF FORT BRAGG ELECTRONIC RECORDS AND SIGNATURE USE POLICY

I. Purpose and Intent.

This Policy is intended to enable the City of Fort Bragg to use electronic records and electronic signatures, including digital signatures, to the fullest extent allowed by law, and does not limit the City's ability to use electronic records, electronic signatures, or digital signatures in any way. Any use of electronic records, electronic signatures, and digital signatures by the City shall be in accordance with all applicable laws and City administrative policies and procedures, as may be amended from time to time by the City Manager. This policy does not supersede any laws that require a handwritten signature, nor does it limit the right or option of the City to conduct any business or transaction on paper or in non-electronic form.

II. Definitions.

The following definitions shall apply to this Policy:

(1) "Digital signature" has the same meaning as in section 16.5 of the California Government Code, as amended.

(2) "Electronic record" has the same meaning as in section 1633.2 of the California Civil Code, as amended.

(3) "Electronic signature" has the same meaning as in section 1633.2 of the California Civil Code, as amended. Unless otherwise specified, the term electronic signature shall include digital signatures.

(4) "UETA" means the Uniform Electronic Transactions Act, commencing at section 1633.1 of the California Civil Code, as amended.

III. Use of Electronic Records and Signatures.

(1) **Use of Electronic Records and Signatures.** The City authorizes the use and acceptance of electronic records and electronic signatures in any internal or external City business, documents, and transactions when it is operationally feasible, where technology permits, and when it is otherwise appropriate at the discretion of the City Manager, in accordance with the UETA and section 16.5 of the California Government Code.

(2) **Electronic Transactions and Communications.** In any transaction or communication with the City for which the parties have agreed to conduct the transaction or communication by electronic means, the following provisions apply:

(A) When a record is required to be in writing, an electronic record satisfies that requirement, if it is in accordance with the UETA.

(B) When a signature is required, the parties may agree that either:

(i) An electronic signature satisfies that requirement if it is in accordance with the UETA; or

(ii) A digital signature satisfies that requirement, if it is in accordance with section 16.5 of the California Government Code.

(3) **Digital Signatures.** Any use of digital signatures pursuant to this policy shall conform to the requirements set forth by the California Secretary of State in Title 2, Division 7, Chapter 10 (Digital Signatures) of the California Code of Regulations, as amended.

(4) **Accurate Reproduction.** All electronic records and electronic signatures used in any internal or external City business, documents, or transactions, shall be capable of retention and accurate reproduction by all parties or persons entitled to retain the record, transaction, or other document.

(5) **Records Retention.** All electronic records and electronic signatures in any internal or external City business, documents, or transactions shall be retained by the City in accordance with applicable law and the City's records retention policy.

(6) **Improperly Executed Records.** Any use of an electronic record or electronic signature that is not in accordance with City administrative policies and procedures, or any unauthorized signing of any contract, record, or other document, shall render such contract, record, or other document invalid as not fully and properly executed by the City.

(6) **Delegation.** Authority to sign or execute contracts, records, or other documents via electronic signatures or digital signatures may be delegated by the City Manager to other City department heads or designated City staff members. The act of delegation of electronic signature authority by the City Manager or other City department head must be memorialized in writing, including, but not limited to, memorandum, City form, email, or delegation process recorded within electronic signature software.

(7) **Prohibited Uses of Electronic Signatures.** Use of electronic signatures is prohibited in the following situations:

(i) Transactions for which electronic signatures are not enforceable by law; and/or

(ii) Transactions requiring a handwritten signature, such as transfers of real property; and/or

(iii) Checks or any other forms of payment issued by the City.

(8) **Electronic Record and Signature Methods.** The City Manager or their designee shall determine acceptable technologies and vendors that comply with applicable laws and are consistent with industry best practices to ensure the security and integrity of all records and signatures created and executed in accordance with this policy.

(9) **Administrative Policies and Procedures.** The City Manager shall have the authority to amend this administrative policy and develop procedures to the extent necessary to implement the terms of this policy.