

## SETTLEMENT, RELEASE AND INDEMNITY AGREEMENT

This Settlement, Release and Indemnity Agreement (“Agreement”) between the City of Houston and Sandra Ortiz (“Plaintiff”), is effective on the date of countersignature by the City Controller of the City of Houston upon the terms and conditions described herein.

### **A. DEFINITIONS**

The terms below shall be defined as follows throughout the Agreement:

“Lawsuit” refers to the lawsuit entitled *Sandra L. Ortiz v. City of Houston, Texas*, Case No. 4:19-cv-02488 in the United States District Court for the Southern District of Texas.

“Incident” shall refer to the acts, occurrences, and events alleged by Plaintiff, in her Original Complaint.

“Claims” shall refer to Plaintiff’s allegations that she filed in her Charge of Discrimination and Lawsuit that she was subject to a discrimination, harassment and retaliation in violation of Title VII of the Civil Rights Act, 42 U.S.C. §2000e and unequal pay in violation of the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 206 et seq., as amended by the Equal Pay Act of 1963.

“Plaintiff” shall mean Sandra Ortiz.

“City” shall mean the City of Houston.

“Parties” shall collectively refer to Plaintiff and City Defendant.

“Released Parties” shall mean the City of Houston as well as the past, present and future elected and appointed City of Houston officials, council members, administrators, employees, agents, representatives, successors in interest, assigns, contractors and all other persons, firms and entities in privity with the City of Houston who may have been, are now or may hereafter be affiliated with the City of Houston.

### **B. RECITALS**

**WHEREAS**, Plaintiff has asserted certain Claims against the City arising from the Incident, as more fully stated in the Lawsuit; and

**WHEREAS**, the City disputes liability and denies Plaintiff’s Claims arising from the Incident, as more fully stated in the Lawsuit; and

**WHEREAS**, the parties desire to enter into this Agreement to resolve the Lawsuit and provide for certain payments in full settlement and discharge of all matters of any kind or character whatsoever relating to the Incident and Claims, as more fully stated in the Lawsuit and the foregoing recitals; and

**NOW, THEREFORE**, for good and valuable consideration, the sufficiency of which is hereby acknowledged by all to this Agreement, the parties agree as follows:

## **C. AGREEMENT TERMS AND CONDITIONS**

### **1. Binding Effect of this Agreement**

(a) This Agreement, which is a full and complete settlement of all Claims by Plaintiff against the City, shall fully bind Plaintiff is for the benefit of the City. The provisions of this Agreement are contractual and are not mere recitals, and the undersigned specifically represents that the contents and effects hereof are fully and completely agreed to and understood.

### **2.0 Consideration**

(a) In exchange for Plaintiff's consideration described in Section 3.0 below, the City shall deliver to Plaintiff the total settlement sum of **SIXTY-FOUR THOUSAND AND NO/100 DOLLARS (\$64,000.00) made payable to Sandra Ortiz, and her attorney Ben Foster** ("Settlement Sum").

(b) Payment of the Settlement Sum is intended to cover any and all damages sought by Plaintiff, which include any and all expenses, costs, court costs, attorneys' fees and disbursements incurred by Plaintiff's attorneys in this lawsuit as full and final settlement of any and all claims known and unknown, asserted or unasserted, which the Plaintiff has or may have against the City as of the date of execution of this Agreement.

(c) **Approval Contingencies.** This Agreement is expressly conditioned upon the approval by the Houston City Council and the contingencies stated in Section 3.0(c) below. The approval by Houston City Council requires completion of all the following:

1. Approval by the City Attorney and the Mayor of the terms;
2. Placement of an ordinance on a City Council agenda by the Mayor to enable City Council action on this agreement;
3. Approval of the proposed Agreement by City Council;

4. Signature by the Mayor, whose signature must be attested by the City Secretary;  
and
5. Countersignature by the Houston City Controller.

Nothing herein requires the Houston City Council to complete any of the five steps described above and if any of the steps are not completed in the sole discretion of the Houston City Council, this Agreement shall not be binding on any party.

### **3.0 Plaintiff's Agreements and Representations.**

In exchange for receipt of the Settlement Sum:

(a) Plaintiff acknowledges the receipt and sufficiency of the Settlement Sum stated in Section 2.0(a). Plaintiff further understands that the payment of the Settlement Sum is not to be construed as an admission of liability on the part of the City, by whom liability is expressly denied.

(b) **Release and Discharge.** Plaintiff completely RELEASE, ACQUIT and FOREVER DISCHARGE, for herself, her heirs, executors, administrators, successors, legal representatives and assigns, the City and their attorneys, agents, servants, representatives, employees, subsidiaries, affiliates, partners, successors, predecessors, and all other persons affiliated or in privity with the City, of the Claim, and from any and all claims, demands, obligations, actions, causes of action, damages, liens, costs, losses of services, expenses or compensation of any nature whatsoever, known and unknown, asserted or unasserted, which the Plaintiff has or may have against the City as of the date of execution of this Agreement.

Plaintiff fully understands and agrees that this Release and Discharge extends to every type of claim, action or cause of action, whether based on a state or federal statute, tort, contract or other theory of recovery. Plaintiff further fully understands that any claim against the City that Plaintiff might have for future consequences as a result of any damages or injuries arising from the Incident, the Claim, and/or the Lawsuit, are among the claims included in this Release and Discharge. Plaintiff intends the Release and Discharge to be as broad and comprehensive as possible so as to give the City the broadest possible protection.

(c) **INDEMNITY AGREEMENT.** Plaintiff agrees to indemnify the City as described in detail below:

**In consideration for the payments and other consideration described in Section 2.0, Plaintiff, on behalf herself, her beneficiaries, heirs, successors and assigns, have agreed to and do hereby jointly and severally DEFEND, INDEMNIFY AND HOLD HARMLESS the Released Parties against all claims, demands, causes of action, liabilities (including subrogation interests or liens), damages, costs, expenses (including reasonable attorney fees), liabilities of every kind (including all medical bills), judgments, fines, losses and amounts paid in settlement actually and reasonably**

**incurred in connection with third party claims against the Released Parties that arise out of the Incident, the Claim or the Lawsuit. The obligation to DEFEND, INDEMNIFY AND HOLD HARMLESS shall be valid and binding against Plaintiff regardless of any negligence, whether alleged or found, against any of the Released Parties, and regardless of the degree of fault or culpable conduct attributed to Released Parties, even if such culpable conduct is 100 percent.**

It is expressly provided that any indemnity agreement contemplated by this Agreement shall only extend to those claims arising by, through or under Plaintiff and not otherwise. Further, as a pre-condition to Plaintiff's obligation to tender any defense or indemnity contemplated by this Agreement, any party claiming under said defense and indemnity must, if confronted with a claim arguably covered by this indemnity (including but not limited to subrogation interests or liens), tender the defense of the claimed interest to Plaintiff and must give Plaintiff a reasonable opportunity to resolve the claim before the party claiming under this indemnity incurs any additional costs and/or expenses which could arguably be passed on to Plaintiff.

(e) **Attorney's Fees.** Plaintiff agrees to bear all costs, expenses and attorney fees arising from the actions of her counsel relating to all matters, including pre-suit and post-suit matters, related to the Lawsuit, including but not limited to filing of all pleadings, court costs, bonds, investigation expenses, settlement negotiations, correspondences, motions and any other related matter related to the events at issue in the Lawsuit. It is further specifically and expressly agreed and understood that Plaintiff will pay out of the consideration stated in Section 2.0(a) all attorney's fees, expenses, and costs incurred in or related to the events that are the subject of the Lawsuit.

(f) **No Tax Advice Provided.** Plaintiff acknowledges and understands that neither the City nor its attorneys have made any representations or provided any advice regarding the tax consequences, if any, of the payment and settlement set forth in the Agreement. Plaintiff represents that she will rely upon the advice of her own chosen attorneys, accountants, or financial advisors concerning the tax consequences of this Agreement, if any.

(g) **Consideration and Revocation Periods – Notice.**

(i) Plaintiff acknowledges that Plaintiff already has attained the age of forty (40) and understands that this is a full release of all existing claims whether currently known or unknown including, but not limited to, claims for age discrimination under the Age Discrimination in Employment Act.

(ii) Plaintiff further acknowledges that Plaintiff has been advised to consult with an attorney of Plaintiff's own choosing before signing this Agreement, in which Plaintiff waives important rights, including those under the Age Discrimination in Employment Act.

(iii) By executing this Agreement, Plaintiff also acknowledges that Plaintiff has been afforded up to twenty-one (21) calendar days to consider the meaning and effect of this Agreement and to discuss the contents and meaning of this Agreement, as well as the alternatives to signing this Agreement, with an attorney of Plaintiff's choosing, and has done so. Plaintiff agrees that the twenty-one (21) day consideration period began on the date this Agreement first was delivered to

Plaintiff and that any changes to the terms contained in this Agreement (whether the changes are material or not), do not restart the original twenty-one (21) day consideration period, which shall continue without interruption.

(iv) Plaintiff understands that the releases contained in this Agreement do not extend to any rights or claims that Plaintiff has under the Age Discrimination in Employment Act that first arise after execution of this Agreement.

(v) If Plaintiff signs this Agreement before the twenty-one (21) day consideration period expires, the seven (7) day revocation period (described in Section f below) immediately shall begin. If Plaintiff signs this Agreement before the twenty-one (21) day consideration period expires, Plaintiff agrees that Plaintiff knowingly and voluntarily has accepted the shortening of the twenty-one (21) day consideration period and that the City has not promised Plaintiff anything or made any representations that are not contained in this Agreement. In addition, if Plaintiff signs this Agreement before the twenty-one (21) day consideration period expires, Plaintiff acknowledges and affirms that the City has not threatened to withdraw or alter the offer contained in this Agreement prior to the expiration of the twenty-one (21) day consideration period.

(vi) Plaintiff may revoke this Agreement for a period of seven (7) calendar days following the date Plaintiff executes this Agreement. Any revocation during this period must be submitted in writing via email and state, "I hereby revoke my acceptance of our Settlement, Release and Indemnity Agreement." The revocation must be emailed to Deidra Norris Sullivan at [Deidra.Sullivan@houstontx.gov](mailto:Deidra.Sullivan@houstontx.gov) within seven (7) calendar days after Plaintiff's execution of this Agreement. The foregoing notwithstanding, this Agreement shall not become effective and enforceable until the seven (7) day revocation period has expired.

#### **4.0 Warranties**

(a) **Representation of Comprehension of Document.** Plaintiff understand and agree that she will not receive any additional amounts of money beyond the consideration stated in this document in Section 2(a). Plaintiff also declares and represents that no promise, inducement or agreement not herein expressed has been made to her regarding the settlement of all claims arising out of, touching upon or in any way related to the Lawsuit.

Plaintiff further acknowledges and represents that she has not been influenced to any extent whatsoever in signing this Agreement nor has she relied upon any representations, statement or inducements regarding the injuries, damages or any other matter made by any person(s) acting on behalf of, by the representatives of or by any person employed by the City.

In entering into this Agreement, Plaintiff represents that she has relied upon the advice of her attorneys, who are the attorneys of her choice, concerning the legal consequences of this Agreement; that the terms of this Agreement have been completely read and explained to her by her attorneys and that the terms of this Agreement are fully understood and voluntarily accepted by her.

(b) **Cooperation with Additional Documents.** Upon completion of all the steps listed in Sections 2(c), and upon execution of this Agreement, the parties authorize their respective attorneys to execute and file with the Court any and all documents as may be necessary or appropriate to obtain a mutual and simultaneous dismissal of the Lawsuit with prejudice.

(c) **Capacity to Execute Agreement.** Plaintiff represents and warrants that no other person or entity has, or has had, any interest in the claims, demands, obligations or causes of action related to the Incident, the Claim or the Lawsuit; and that Plaintiff has the sole right and exclusive authority to receive the sums specified in Section 2.0 of this Agreement.

(d) **No Assignment.** Plaintiff represents and warrants that, with the exception of an assignment of a portion of her claims to her attorneys as attorneys' fees, she has not assigned to any other person, corporation or entity any interest in the claims, demands, obligations, or causes of action, at law or in equity, known and unknown, which she has or may have had against the City in any way arising out of, relating to or touching upon the Incident, the Claim and/or the Lawsuit. Plaintiff declares that all bills or expenses, on account of which anyone could assert a lien upon the Settlement Sum either have already been paid or shall be paid out of the Settlement Sum.

(e) **Entire Agreement and Successors in Interest.** This Agreement contains the entire agreement between the Plaintiff and the City with regard the matters set forth in it and shall be binding upon and inure to the benefit of the legal representatives and assigns of each. There are no other understandings or agreements between the parties.

(f) **Governing Law and Venue.** This Agreement shall be construed and interpreted in accordance with the applicable laws of the State of Texas. Venue for any disputes relating in any way to this Agreement shall lie exclusively in Harris County, Texas.

(g) **Severability.** Each part of this Agreement is intended to be severable. If any terms, covenants, conditions or provisions of this Agreement found to be illegal, invalid, or unenforceable in any respect, such illegality, invalidity, or unenforceability shall not affect the legality, validity, or enforceability of the remaining parts of this Agreement and the remaining parts shall be legal, valid, and enforceable and have full force and effect as if the illegal, invalid or unenforceable part had not been included.

(h) **Multiple Counterparts.** This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes and all of which constitutes, collectively, one agreement; but, in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

(i) **Copies.** A copy of this Agreement may be used and enforced as the original Agreement.

(j) **Interpretation.** This Agreement shall not be construed against or unfavorably to any party because of such party's involvement in the preparation or drafting of this Agreement.

(k) **Effective Date.** The Agreement shall be effective upon the date of the countersignature by the City Controller of the City of Houston.

EXECUTED on this the 4 day of October, 2023.

Sandra L. Ortiz  
SANDRA ORTIZ

**ACKNOWLEDGMENT**

STATE OF TEXAS       §  
                                  §  
COUNTY OF HARRIS   §

**KNOWN TO ALL MEN BY THESE PRESENT:**

BEFORE ME on this day, Sandra Ortiz, known to me to be the person whose name is subscribed to the foregoing instrument and signed in my presence and swore upon oath that this Settlement, Release and Indemnity Agreement was executed by her as her free act and deed and for the purposes and consideration therein expressed.

SUBSCRIBED, SWORN TO and ACKNOWLEDGED before me on this the 11<sup>th</sup> day of October, 2023.

Shawna George  
Notary Public, State of Texas

My commission expires: 07/21/2026

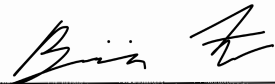


**ATTORNEY'S CERTIFICATE**

I certify that I am one of the attorneys of record for Plaintiff in the lawsuit entitled *Sandra L. Ortiz v. City of Houston, Texas*, Case No. 4:19-cv-02488 in the United States District Court for the Southern District of Texas, and that I acknowledge that the expenses will be satisfied out of the consideration set forth in the above Agreement and hereby release any assignment of interest in Plaintiff's claims or causes of action asserted in this litigation.

FOSTER SALISBURY PLLC

Date: 10/11/2023, 2023.

By:   
Benjamin F. Foster

**THE CITY OF HOUSTON, TEXAS**

\_\_\_\_\_  
**Mayor**

**Date:** \_\_\_\_\_

**ATTEST/SEAL**

\_\_\_\_\_  
**City Secretary**

**COUNTERSIGNED BY:**

\_\_\_\_\_  
**City Controller**

**Date:** \_\_\_\_\_

**APPROVED:**

DocuSigned by:

*Samuel Peña*

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**Samuel Peña, Fire Chief**  
**Houston Fire Department**

DocuSigned by:

*Arturo G. Michel*

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**Arturo G. Michel**  
**City Attorney**

**APPROVED AS TO FORM:**

DocuSigned by:

*Deidra Norris Sullivan*

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**Deidra Norris Sullivan**  
**Section Chief— Labor, Employment & Civil Service Section**

**Certificate Of Completion**

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Document Pages: 9	Signatures: 3
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Angela Reed
Time Zone: (UTC-06:00) Central Time (US & Canada)	611 Walker St.
	HITS
	Houston, TX 77002
	Angela.Reed@houston.tx.gov
	IP Address: 204.235.229.248

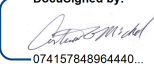
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Security Appliance Status: Connected	Pool: FedRamp	
Storage Appliance Status: Connected	Pool: City of Houston IT Services	Location: DocuSign

**Signer Events**

Arturo Michel  
 Arturo.Michel@houston.tx.gov  
 City Attorney  
 Security Level: Email, Account Authentication (None)

**Signature**

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**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Deidra Norris Sullivan  
 deidra.sullivan@houston.tx.gov  
 Section Chief  
 City of Houston IT Services  
 Security Level: Email, Account Authentication (None)

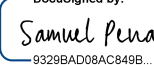
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 Signed: 10/13/2023 3:21:11 PM

**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Samuel Pena  
 Samuel.Pena@houston.tx.gov  
 Fire Chief  
 HFD  
 Security Level: Email, Account Authentication (None)

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**Electronic Record and Signature Disclosure:**

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In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Angela Ricks Angela.Ricks@houston.tx.gov City of Houston IT Services Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<b>COPIED</b>	Sent: 10/12/2023 3:29:08 PM
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Deborah Scott Deborah.Scott@houston.tx.gov Executive Administrative Coordinator City of Houston Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<b>COPIED</b>	Sent: 10/12/2023 3:29:08 PM
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Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Signing Complete	Security Checked	10/16/2023 3:45:20 PM
Completed	Security Checked	10/16/2023 3:45:20 PM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, City of Houston - Information Technology (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

### **How to contact City of Houston - Information Technology:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

#### **To advise City of Houston - Information Technology of your new email address**

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at [IT@cityofhouston.net](mailto:IT@cityofhouston.net) and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

#### **To request paper copies from City of Houston - Information Technology**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to [IT@cityofhouston.net](mailto:IT@cityofhouston.net) and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

#### **To withdraw your consent with City of Houston - Information Technology**

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to [docusign@houstontx.gov](mailto:docusign@houstontx.gov) and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### **Required hardware and software**

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

### **Acknowledging your access and consent to receive and sign documents electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify City of Houston - Information Technology as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by City of Houston - Information Technology during the course of your relationship with City of Houston - Information Technology.