

CAUSE NO. _____

JAMES ROBERT JONES and ALLEN
WATSON,

Plaintiffs,

V.

SYLVESTER TURNER, in his official capacity
as Mayor of the City of Houston, Texas, and
DWIGHT BOYKINS, MARTHA CASTEX-
TATUM, KARLA CISNEROS, ELLEN R.
COHEN, JACK CHRISTIE, JERRY DAVIS,
AMANDA EDWARDS, ROBERT
GALLEGOS, MIKE KNOX, MICHAEL
KUBOSH, MIKE LASTER, STEVE LE,
DAVE MARTIN, DAVID ROBINSON,
BRENDA STARDIG, and GREG TRAVIS, in
their official capacities as City Council
Members of the City of Houston, Texas,
Defendants.

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION
AND APPLICATION FOR PERMANENT INJUNCTION AND MANDAMUS

TO THE HONORABLE HARRIS COUNTY DISTRICT COURT JUDGE:

NOW COME Plaintiffs James Robert Jones and Allen Watson, filing this Original Petition and Application for Permanent Injunction and Mandamus, and would respectfully show the Court as follows.

1. Discovery in this matter will be conducted under a Level 3 Discovery Control Plan as set forth in Texas Rule of Civil Procedure 190.4.
2. Plaintiff James Robert Jones is a resident of the City of Houston and a property-tax-paying real property owner in the City of Houston. Mr. Jones owns the residential property, at which he resides, located at 402 Bayou Cove Court, Houston, Texas 77042, and pays the City of Houston the property tax amounts annually levied on such residential real property.

3. Plaintiff Allen Watson is a resident of the City of Houston and a property-tax-paying real property owner in the City of Houston. Mr. Watson owns the residential property, at which he resides, located at 739 Somerset Commons Lane, Houston, Texas 77055, and pays the City of Houston the property tax amounts annually levied on such residential real property.

4. Defendant Sylvester Turner is sued in his official capacity as the Mayor of the City of Houston (the “Mayor”). The Defendant Mayor may be served with suit by delivering citation and a copy of this petition to him at Houston City Hall, 901 Bagby, Houston, Texas 77002, or wherever else he may be found.

5. Defendants Dwight Boykins, Martha Castex-Tatum, Karla Cisneros, Ellen R. Cohen, Jack Christie, Jerry Davis, Amanda Edwards, Robert Gallegos, Mike Knox, Michael Kubosh, Mike Laster, Steve Le, Dave Martin, David Robinson, Brenda Stardig, and Greg Travis are sued in their official capacities as Members of the City Council of the City of Houston, Texas (the “City Council Members”). The Defendants City Council Members may be served with suit by delivering citation and a copy of this petition to them at Houston City Hall Annex, 900 Bagby, Houston, Texas 77002, or wherever else they may be found.

6. The Court has jurisdiction in this cause pursuant to Texas Civil Practice and Remedies Code sections 37.003 and 65.021 and Texas Government Code chapter 24. Defendants have acted outside their authority under applicable law and applicable provisions of the City of Houston Charter. Defendants’ acts and/or omissions are *ultra vires*. Defendants have no governmental immunity with respect to their *ultra vires* actions. The amount in controversy in this cause exceeds the minimum jurisdictional requirements for this Court.

7. Venue is proper in Harris County pursuant to Texas Civil Practice and Remedies Code section 15.002. The Defendants’ principal offices are in Harris County, Texas, and all or a

substantial part of the events, acts, and/or omissions giving rise to Plaintiffs' claims occurred in Harris County, Texas.

8. Plaintiffs seek monetary relief of \$100,000 or less and non-monetary relief. The damages sought by Plaintiffs are within the jurisdictional limits of the Court. Plaintiffs also demand a judgment for all other relief to which they are entitled.

9. All conditions precedent to this suit have been performed or have occurred.

10. The Mayor and the City Council Members (collectively, "Defendants") are violating the terms of the Houston City Charter (the "Charter").

11. The voters of the City of Houston overwhelming approved Proposition A on November 6, 2018. Over 74 percent of the votes cast on Proposition A were a vote of "Yes." Yet, contrary to this mandate, Defendants seek to dilute the will of the citizens of the City of Houston through undisclosed manipulations of the accounting applied to funds that are or should be dedicated to the Dedicated Drainage and Street Renewal Fund.

12. Proposition A amended the Charter to add a new Article IX, Section 22, entitled "Dedicated Pay-As-You-Go Fund for Drainage and Streets." The Dedicated Drainage and Street Renewal Fund is funded by four sources. Three of those sources are developer impact fees, drainage charges to properties, and proceeds from third party contracts, grants, or payments earmarked or dedicated to drainage or streets. The fourth source is what is at issue in this lawsuit. The fourth source consists of the following:

An amount equivalent to proceeds from \$0.118 of the City's ad valorem tax levy minus an amount equivalent to debt service for drainage and streets for any outstanding bonds or notes:

(A) Issued prior to December 31, 2011, and

(B) Bonds or notes issued to refund them.

HOUSTON CITY CHARTER art. IX, § 22(b)(iii).

13. Defendants have no discretion to calculate the “amount equivalent to proceeds from \$0.118 of the City’s ad valorem tax levy” beyond its straightforward mathematical formula. The 2019 assessed taxable property value is \$214,000,000,000.00. Thus, the amount equivalent to \$0.118 of the City’s ad valorem tax levy (calculated at \$.01 per \$100 in taxable value) is \$252,520,000.00:

$$\textbf{\$214,000,000,000 X (\$0.118 / \$100.00) = \$252,520,000.00}$$

14. Defendants also have no discretion to calculate the “amount equivalent to debt service for drainage and streets for any outstanding bonds or notes [i]ssued prior to December 31, 2011, and [b]onds or notes issued to refund them,” beyond its established mathematical formula.” For the year 2019, that amount is equal to **\$161,226,060.00**.

15. Thus, in accordance with the plain language of Article IX, Section 22(b)(iii) of the Charter, a total of \$91,293.940.00 is to be added to the Dedicated Drainage and Street Renewal Fund from the 2019 ad valorem property tax collected:

$$\textbf{\$252,520,000.00 – \$161,226,060.00 = \$91,293.940.00}$$

16. Yet, according to the City of Houston’s 2020 budget approved by Defendants, only \$47,103,000.00 is to be added to the Dedicated Drainage and Street Renewal Fund from the 2019 ad valorem property tax collected. Defendants are only paying into the Fund 51.6 percent of the amount that the Charter mandates be paid into the Fund for 2019.

17. Plaintiffs seek declaratory relief to the effect that the Defendants must calculate the funding amount in Houston City Charter Article IX, Section 22(b)(iii) such that a full \$0.118 of the City’s ad valorem tax levy shall be contributed to the Dedicated Drainage and Street Renewal Fund after deducting the amount equivalent to debt service, without reducing that

\$0.118 amount based on any revenue limitation contained elsewhere in the Houston City Charter.

18. Plaintiffs request that Defendants be permanently enjoined from reducing the proceeds from the City's ad valorem tax levy contributed to the Dedicated Drainage and Street Renewal Fund to an amount less than 11.8 cents of the rate per \$100 of taxable value, except to the extent such total amount of proceeds is reduced by the "amount equivalent to debt service" under Article IX, Section 22(b)(iii) of the Houston City Charter. Plaintiffs have no adequate remedy at law against Defendants' reduction of the amount of ad valorem tax revenues paid into the Dedicated Drainage and Street Renewal Fund.

19. Plaintiffs request that the Court enter mandamus relief mandating that Defendants contribute to the Dedicated Drainage and Street Renewal Fund the full amount of 11.8 cents of the rate per \$100 of taxable value from the proceeds of the City's ad valorem tax levy, except to the extent such total amount of proceeds is reduced by the "amount equivalent to debt service" under Article IX, Section 22(b)(iii) of the Houston City Charter. Defendants have a clear duty under the Houston City Charter not to reduce the amount of ad valorem tax revenues paid into the Dedicated Drainage and Street Renewal Fund, and Plaintiffs have no adequate remedy at law against such reduction.

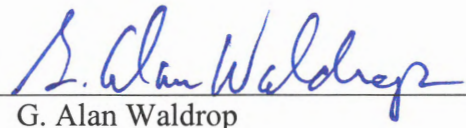
20. Plaintiffs request their attorneys' fees pursuant to Texas Civil Practice and Remedies Code chapter 37 and any other applicable Texas law.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs James Robert Jones and Allen Watson respectfully request as follows:

- a. That Defendants be cited to appear and answer herein;

- b. That the Court enter a declaratory judgment that Defendants must calculate the funding amount in Houston City Charter Article IX, Section 22(b)(iii) such that a full \$0.118 of the City's ad valorem tax levy shall be contributed to the Dedicated Drainage and Street Renewal Fund after deducting the amount equivalent to debt service, without reducing that \$0.118 amount based on any revenue limitation contained elsewhere in the Houston City Charter;
- c. That Defendants be permanently enjoined from reducing the proceeds from the City's ad valorem tax levy contributed to the Dedicated Drainage and Street Renewal Fund to an amount less than 11.8 cents of the rate per \$100 of taxable value, except to the extent such total amount of proceeds is reduced by the "amount equivalent to debt service" under Article IX, Section 22(b)(iii) of the Houston City Charter;
- d. That the Court issue a writ of mandamus requiring Defendants to contribute to the Dedicated Drainage and Street Renewal Fund the full amount of 11.8 cents of the rate per \$100 of taxable value from the proceeds of the City's ad valorem tax levy, except to the extent such total amount of proceeds is reduced by the "amount equivalent to debt service" under Article IX, Section 22(b)(iii) of the Houston City Charter;
- e. That Plaintiffs be awarded their reasonable attorneys' fees, expenses, and costs incurred in this cause;
- f. That Plaintiffs be awarded all pre- or post-judgment interest as provided by law; and
- g. Such other and further relief to which Plaintiffs may be entitled.

Respectfully submitted,

By: _____

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