CAUSE NO. _____

STATE OF TEXAS, *Plaintiff,*	§	**IN THE DISTRICT COURT**
v.	§	
HARRIS COUNTY, TEXAS, HARRIS COUNTY COMMISSIONERS COURT, LINA HIDALGO, in her official capacity as Harris County Judge, RODNEY ELLIS, in his official capacity as Commissioner of Harris County Precinct 1, ADRIAN GARCIA, in his official capacity as Commissioner of Harris County Precinct 2, TOM RAMSEY, in his official capacity as Commissioner of Harris County Precinct 3, and LESLEY BRIONES, in her official capacity as Commissioner of Harris County Precinct 4, HARRIS COUNTY PUBLIC HEALTH, BARBIE ROBINSON, in her official capacity as Executive Director of Harris County Public Health, *Defendants.*	§	**_____JUDICIAL DISTRICT**
	§	**HARRIS COUNTY, TEXAS**

STATE OF TEXAS' ORIGINAL PETITION AND APPLICATION FOR TEMPORARY RESTRAINING ORDER AND INJUNCTIVE RELIEF

There is no such thing as free money—especially in Texas. The Texas Constitution expressly prohibits giving away public funds to benefit individuals—a common sense protection to prevent cronyism and ensure that public funds benefit all citizens. Despite this constitutional prohibition, Harris County has illegally implemented a lottery-based handout program, the "Harris Handout". This socialist experiment by Lina Hidalgo and the progressive democrats responsible for the Harris County disaster is an illegal and illegitimate government overreach. The

State of Texas brings this suit to ensure that Harris County follows the law and that public funds are properly expended and not doled out as door prizes at the voting booth.

I. DISCOVERY LEVEL

1. Discovery is intended to be conducted under Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

II. PARTIES

2. Plaintiff, the State of Texas, is a state of the United States of America and a sovereign entity that "has an intrinsic right to enact, interpret, and enforce its own laws."[1] Injuries to this right are sufficient to both create standing to sue and show irreparable harm.[2]

3. Defendant, Harris County, Texas, is a political subdivision of the State of Texas.

4. Defendant Harris County Commissioners Court is the administrative body of Harris County, Texas.

5. Defendant Lina Hidalgo is the Harris County Judge and presiding officer of the Harris County Commissioners Court.

6. Defendant Rodney Ellis is the Harris County Commissioner for Precinct 1 and member of the Harris County Commissioners Court.

7. Defendant Adrian Garcia is the Harris County Commissioner for Precinct 2 and member of the Harris County Commissioners Court.

8. Defendant Tom Ramsey is the Harris County Commissioner for Precinct 3 and member of the Harris County Commissioners Court.

[1] *State v. Naylor*, 466 S.W.3d 783, 790 (Tex. 2015).
[2] *See, e.g., Valentine v. Collier*, 956 F.3d 797, 803 (5th Cir. 2020); *Texas v. EEOC*, 933 F.3d 433, 447 (5th Cir. 2019); *Texas Ass'n of Bus. v. City of Austin, Texas*, 565 S.W.3d 425, 441 (Tex. App.—Austin 2018, pet. denied).

9. Defendant Lesley Briones is the Harris County Commissioner for Precinct 4 and member of the Harris County Commissioners Court.

10. Defendant Harris County Public Health ("HCPH") is a governmental entity organized and existing under the laws of the State of Texas and the agency of Harris County, Texas responsible for administering the Harris Handout.

11. Defendant Barbie Robinson is the executive director of HCPH.

III. JURISDICTION & VENUE

12. This Court has subject matter jurisdiction over the claims asserted herein pursuant to Article V, § 8 of the Texas Constitution; Section 24.007 of the Texas Government Code; Sections 37.001 and 37.003 of the Texas Uniform Declaratory Judgments Act; and Section 65.021 of the Texas Civil Practice and Remedies Code.

13. Venue is mandatory in Harris County as this is a suit against that county. TEX. CIV. PRAC. & REM. CODE § 15.015. Additionally, all of the events giving rise to this lawsuit occurred in Harris County, Texas and the residence or principal office of all Defendants is in Harris County, Texas. Accordingly, venue is proper in this Court pursuant to Texas Civil Practice and Remedies Code Section 15.002(a)(1), (a)(2), and (a)(3).

IV. BACKGROUND

A. Texas Counties Have Limited Legal Authority

14. Unlike home-rule cities which have "all the powers of the state not inconsistent with the Constitution, the general laws, or the city's charter," *City of Galveston v. State*, 217 S.W.3d 466,

469 (Tex. 2007), for counties "the legal basis for any action taken must be grounded ultimately in the constitution or statute."[3]

15. "The power the Legislature confers on counties and commissioners courts are duties rather than privileges." *City of San Antonio v. City of Boerne*, 111 S.W.3d 22, 28 (Tex. 2003). "Thus[,] a commissioners court may only exercise powers expressly given by either the Texas Constitution or the Legislature." *Id.* "[T]he powers of such governmental agencies as counties, townships, and school districts 'are generally more strictly construed that those of incorporated municipalities." *Tri-City Fresh Water Supply Dis.t No 2 or Harris County v. Mann*, 142 S.W.2d 945 (Tex. 1940) (citing *Stratton v Commissioners' Court of Kinney County*, 137 S.W. 1170, 1177 (Tex. Civ. App.—San Antonio 1911, writ ref'd)). A county commissioners court "is not invested with any general police power, and any attempt by it to exercise such power is unauthorized." *Commissioners' Court of Harris Cnty. v. Kaiser*, 23 S.W.2d 840, 842 (Tex. Civ. App.—Galveston 1929, writ ref'd).

B. Harris County Creates the Harris Handout

16. On June 5, 2023, Harris County Judge Lina Hidalgo and Barbie Robinson, the executive director of HCPH, unveiled the Family Financial Stability and Income Program, also called "Uplift Harris"—a blatantly unconstitutional handout giving away public funds to individual residents of Harris County.[4] HCPH maintains that the Harris Handout is funded with $20.5 million received from the American Rescue Plan Act ("ARPA"), which was a COVID-19 stimulus relief package

[3] *Guynes v. Galveston Cnty*, 861 S.W.2d 861, 863 (Tex. 1993).

[4] Harris County Commissioner Ellis, County Judge Hidalgo to Introduce Uplift Harris, an ARPA-funded Guaranteed Income Program, Harris County Precinct 1, https://www.hcp1.net/Connect-With-Us/Newsroom/commissioner-ellis-judge-hidalgo-to-introduce-uplift-harris-an-arpa-funded-guaranteed-income-program.

signed into law by the Biden Administration nearly three years ago on March 11, 2021, at the height of a pandemic that President Biden has long since declared "over."

17. HCPH describes the Harris Handout as a guaranteed income program that "will provide ***no-strings-attached*** $500 monthly cash payments to 1,928 Harris County residents for 18 months."[5] On January 12, 2024, the same day applications for the Harris Handout opened, County Commissioner Rodney Ellis appeared in an interview on local NBC affiliate KPRC2+ and made clear that "[t]here will be no strings attached to the funding."[6] He repeated so it was clear—"No strings attached to the money. We will let the people who get the money decide what's best for them to do with this funding."[7] Recipients "can use the money however they see fit to meet their needs."[8]

18. HCPH alleges the main "goal of the program is to improve participants' financial and health outcomes."[9] Harris County is using federal pandemic funds, not to address problems caused by the pandemic, but "to help stop some of the generational poverty out there."[10]

19. The Harris Handout randomly selects who will benefit from the program's illegal monthly dispersal of public funds. Defendants haphazardly decided that "[t]wo cohorts of applicants will be eligible for Uplift Harris Guaranteed Income Pilot funds. Eligible applicants will be *randomly selected* for both cohorts:"

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[5] About the Pilot, Frequently Asked Questions, Uplift Harris—Harris County Public Health, https://uplift.harriscountytx.gov/faqs (last visited Feb. 6, 2024) (emphasis added).

[6] Who Qualifies for $500 a Month in 'Uplift Harris' Program, KPRC 2, https://www.youtube.com/watch?v=m7zBzUkrSF8 (Jan. 12, 2024) (last visited Feb. 5, 2024)

[7] *Id.*

[8] Selection, Enrollment, and Payment, Frequently Asked Questions - Uplift Harris, Harris County Public Health, https://uplift.harriscountytx.gov/FAQs (last visited Feb. 6, 2024).

[9] About the Pilot, *supra*, note 3.

[10] Who Qualifies, *supra*, note 4.

- Geographic cohort: Eligibility is based on income and geography. Applicant's household income must be below 200% of the federal poverty line (FPL) and reside in one of the identified high-poverty ZIP codes. Around 70% of the Uplift Harris Guaranteed Income Pilot participants will be selected for the Geographic Cohort.
- ACCESS Harris: Active participants of Accessing Coordinated Care and Empowering Self Sufficiency (ACCESS) Harris County are qualified to apply through their participation in ACCESS Harris and having a household income below 200% FPL. ACCESS cohort participants can reside anywhere in Harris County. Around 30% of the Uplift Harris Guaranteed Income Pilot Participants will be selected for the ACCESS Cohort.[11]

20. Those chosen to receive payments "will be selected randomly from the people that apply, it will go into a lottery" according to Harris County Commissioner Rodney Ellis.[12]

21. In his own interview on the Harris Handout, County Commissioner Tom Ramsey recognized that the Harris Handout's goal of providing $500 monthly gifts using public funds to random individuals was problematic, saying there were "*many potential problems* when you try to identify 1,800 people that you're going to give $500 a month to—no restrictions—then you better have a pretty transparent program[.]"[13]

22. As of Friday, February 2, the Harris Handout's window for accepting applications from thousands of eligible Harris County residents closed. Defendants then commenced a "review" of

[11] Eligibility, Frequently Asked Questions – Uplift Harris, Harris County Public Health, https://uplift.harriscountytx.gov/FAQs (last visited Feb. 6, 2024) (emphasis added).
[12] Who Qualifies, *supra* note 4.
[13] Guaranteed Income Program 'Uplift Harris' Finalized Details, Fox 26 Houston, https://www.youtube.com/watch?v=Vc-0U4WKHxw (Jan. 9, 2024) (last visited Feb. 5, 2024) (emphasis added).

an untold number of applications from private individuals before determining which individuals will receive illegal $500 pay outs every month for the next eighteen months.

23. Defendants have now selected the "winners" of the Harris Handout and began notifying them on or about March 18, 2024.[14] The first payment of $500 will be distributed to the lottery winners as early as April 24, 2024.[15]

V. CAUSES OF ACTION

24. Pursuant to the *ultra vires* doctrine and the Texas Declaratory Judgment Act, the State of Texas alleges the following causes of action against Defendants:

A. Count 1: The Harris Handout Violates Article III, Section 52(a) of the Texas Constitution

25. Under § 52(a), the Texas "Legislature shall have no power to authorize any county . . . of the State to lend its credit or to grant public money or thing of value in aid of, or to any individual . . . whatsoever[.]"[16] Under Texas Supreme Court precedent, to meet the requirements of § 52(a), the program must (1) accomplish a legitimate public purpose—not benefit private parties, (2) Harris County must "retain public control over the funds to ensure that the public purpose is accomplished and to protect the public's investment, and (3) Harris County must ensure that it receives a return benefit.[17]

26. The Harris Handout plainly violates Article III, Section 52(a) of the Texas Constitution. First, the Harris Handout directly benefits randomly selected individual residents of Harris County and does not accomplish a public purpose. Second, Harris County does not retain public control

[14] Uplift Harris Guaranteed Income Pilot announces award notifications starting today, Fox 26 Houston, https://www.fox26houston.com/news/uplift-harris-guaranteed-income-pilot-announces-award-notifications-starting-today (last visited March 22, 2024)
[15] *Id.*
[16] *See* Tex. Const. art. III, § 52(a).
[17] *Tex. Mun. League Intergovernmental Risk Pool v. Tex. Workers' Comp. Comm'n*, 74 S.W.3d 377, 383 (Tex. 2002).

over the funds. As described above, the payments have "no strings attached," and the recipients can use the money however they wish. Finally, Harris County has neither received nor will receive any return benefit from monthly cash handouts to 1,928 individuals (or 0.04% of the population of Harris County). Because the Harris Handout does not meet the requirements of § 52(a), it is an unlawful *ultra vires* act and should be enjoined.

B. Count 2: The Harris Handout Violates Article I, Section 3 of the Texas Constitution

27. Article I, § 3 of the Texas Constitution—part of the Texas Bill of Rights—provides that all men "have equal rights, and no man, or set of men, is entitled to exclusive separate emoluments, or privileges."[18] "[E]very thing in [the] 'Bill of Rights' is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto . . . shall be void."[19]

28. A governmental entity "may establish a classification so long as the classification is reasonable and applies equally to all persons who fall within the class."[20] In order for a classification to be valid, "all persons or things within a particular class, a sub-class, or persons similarly situated, must be affected alike."[21] A "classification must not be arbitrary or unreasonable but rather must be based on a real and substantial difference having a relation to the subject of the particular enactment."[22] A classification is invalid if "it appears that the basis therefor is purely arbitrary."[23]

29. Here, the selection of individuals to receive payments under the Harris Handout is plainly arbitrary. While the initial eligibility criteria might be considered valid classifications, Defendants cross the line from rational to arbitrary by selecting participants by random lottery.

[18] Tex. Const. art. I, § 3.
[19] Tex. Const. art. I, § 29.
[20] *Producers Ass'n of San Antonio v. City of San Antonio*, 326 S.W.2d 222, 226 (Tex. App.—San Antonio 1959, writ ref'd n.r.e.)
[21] *Prudential Health Care Plan, Inc. v. Comm'r of Ins.*, 626 S.W.2d 822, 830 (Tex. App.—Austin 1981, writ ref'd n.r.e.)
[22] *Crawford Chevrolet, Inc. v. McLarty*, 519 S.W.2d 656, 661 (Tex. App.—Amarillo 1975, no writ).
[23] *Inman v. R.R. Comm'n*, 478 S.W.2d 124, 127 (Tex. App.—Austin 1972, writ ref'd n.r.e.)

30. Accordingly, Defendants' classification is not valid, and the Harris Handout violates article I, § 3 of the Texas Constitution and Harris County is without authority to carry out the program which is, therefore, void and should be enjoined.

VI. APPLICATION FOR TEMPORARY RESTRAINING ORDER AND TEMPORARY AND PERMANENT INJUNTIVE RELIEF

31. Given the important and urgent issues raised in this action, the State requests an expedited setting on its applications for a temporary restraining order and a temporary injunction, especially given that thousands of Harris County residents have applied for the illegal dispersal of public funds through the Harris Handout, the application portal is now closed, Defendants have reviewed individual applications for selection and begun notifying "winners" of the handout program that contravenes state law with payouts expected to begin April 24, 2024.[24]

32. A temporary restraining order serves to provide emergency relief and to preserve the status quo until a hearing may be held on a temporary injunction.[25] "A temporary injunction's purpose is to preserve the status quo of the litigation's subject matter pending a trial on the merits."[26] The applicant must prove three elements to obtain a temporary injunction: (1) a cause of action against the adverse party; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim.[27] These requirements are readily met here.

A. The State is Likely to Succeed on the Merits.

33. The State is likely to succeeds on the causes of action described above. Texas, as a sovereign entity, "has an intrinsic right to enact, interpret, and enforce its own laws."[28] This includes a right

[24] *See* Uplift Harris, *supra*, note 14.
[25] *Texas Aeronautics Comm'n v. Betts*, 469 S.W.2d 394, 398 (Tex. 1971).
[26] *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002).
[27] *Id.*
[28] *State v. Naylor*, 466 S.W.3d 783, 790 (Tex. 2015).

to "reassert the control of the state" and "enforce existing policy" as declared by the Texas Legislature.[29] Injuries to this right are sufficient to both create standing to sue and show irreparable harm.[30]

34. This interest logically extends to issues concerning the applicability of the State's laws. The State is "the guardian and protector of all public rights" and has authority to sue to redress any violations of those rights.[31] The State's interests extend to preventing "an abuse of power by public officers" and to issues concerning the "maintenance and operation of its municipal corporations in accordance with law."[32]

35. The Harris Handout violates Article III, Section 52(a) of the Texas Constitution and flouts the State's prohibition against gratuitous payments of public funds to private persons without any return consideration to the State or its political subdivision, Harris County. The program's purpose is not to accomplish a legitimate public purpose but rather to personally benefit a select few through unrestricted monthly cash payments to a random selection of Harris County residents over an 18-month period for the direct benefit of those private parties in violation of Section 52(a).[33] Moreover, Defendants cannot show that Harris County will receive a return benefit from indiscriminate cash deposits to a randomly selected group of Harris County residents comprising 0.04% of the population of the county. Consequently, the Harris Handout cannot satisfy the three-part test set forth in *Texas Municipal League Intergovernmental Risk Pool v. Texas Workers'*

[29] *City of El Paso v. Heinrich*, 284 S.W.3d 366, 372 (Tex. 2009).
[30] *See, e.g., Valentine v. Collier*, 956 F.3d 797, 803 (5th Cir. 2020); *Texas v. EEOC*, 933 F.3d 433, 447 (5th Cir. 2019); *Texas Ass'n of Bus. v. City of Austin, Texas*, 565 S.W.3d 425, 441 (Tex. App.—Austin 2018, pet. denied).
[31] *Yett v. Cook*, 115 Tex. 205, 219 (1926); *see also Alfred L. Snapp & Son, Inc. v. Puerto Rico ex re. Barez*, 458 U.S. 592, 607 (1982) ("[A] State has a quasi-sovereign interest in the health and wellbeing—both physical and economical—of its residents in general.").
[32] *Yett*, 115 Tex. at 219–20.
[33] *Tex. Mun. League*, 74 S.W.3d at 383.

Compensation Commission for determining whether a payment to an individual using public funds is gratuitous and thus unconstitutional.[34]

36. Further, the Harris Handout violates Article I, Section 3 of the Texas Constitution because its classification of recipients is arbitrary because it employs a random lottery as opposed to a rational classification and not all members of the classification used to select the winners will receive payments under the program.

B. The State will be Imminently and Irreparably Injured Absent an Injunction.

37. This litigation implicates important State interests, namely, the sanctity of its constitution. Local officials cannot ignore a state law just because they disagree with it; however, that is precisely what the Defendants have done here. Harris County received stimulus funding nearly three years ago from the federal government at the height of the COVID-19 pandemic. With the pandemic having all but faded, Defendants opted to take the public funds Harris County received from the federal government and create a guaranteed income program through which they will randomly select almost 2,000 individual Harris County residents (of over 4.7 million residents) to whom they will deliver monthly $500 checks without any restrictions and without any measurable return consideration to Harris County. Defendants' blatant violation undermines state law and irreparably injures the State.[35]

38. The Texas Supreme Court has explained that a century's worth of precedent establishes "the State's 'justiciable interest in its sovereign capacity in the maintenance and operation of its municipal corporation in accordance with law.'"[36] The Court noted that an *ultra vires* suit is a

[34] *Id.* at 383–84.
[35] 620 S.W.3d 400, 409–10 (Tex. 2020).
[36] *Id.* at 410 (quoting *Yett*, 115 Tex. at 842).

necessary tool to reassert the State's control over local officials who are misapplying or defying State laws.[37] The Court reasoned: "[This] tool would be useless . . . if the State were required to demonstrate additional, particularized harm arising from a local official's specific unauthorized actions."[38]

39. The Court continued that "[t]he [State] would be impotent to enforce its own laws if it could not temporarily enjoin those breaking them pending trial."[39] The Court found that, "[w]hen the State files suit to enjoin ultra vires action by a local official, a showing of likely success on the merits is sufficient to satisfy the irreparable-injury requirement for a temporary injunction."[40]

40. The State of Texas has an interest that justifies suit, and the State will suffer an irreparable injury absent judicial relief.

41. Further, the application window for the Harris Handout closed on February 2, 2024. Defendants have randomly selected the winners and are expected to commence the handouts on or about April 24, 2024.[41] Once those payments are issued, it will not be possible to recoup the funds so that they may be allocated for a legal purpose.

C. Emergency Injunctive Relief is Necessary to Preserve the Status Quo

42. "The status quo is the last actual, peaceable, non-contested status which preceded the pending controversy."[42] Here, the status quo is before Defendants unconstitutionally created and implemented the Harris Handout without legal authority. It is crucial that this Court maintain the status quo during the pendency of this action so that public funds are not used for cash payments

[37] *Id.*
[38] *Id.*
[39] *Id.*
[40] *Id.*
[41] *See* Uplift Harris, *supra*, note 14
[42] *Sharma v. Vinmar Intern., Ltd.*, 231 S.W.3d 405, 419 (Tex. App.—Houston [14th Dist.] 2007, no pet.).

to Harris County residents prior to this Court determining the constitutionality of Defendants' guaranteed income program.

VII. PRAYER

43. For the reasons discussed above, the State of Texas respectfully prays that this Court:

A. Grant a temporary restraining order, which will remain in force until a temporary injunction hearing can be held, restraining Defendants and any of their officers, agents, servants, employees, attorneys, representatives, or any other persons in active concert or participation with them from continuing to implement and operate he Harris Handout, which is expected to randomly select Harris County residents as recipients of public funds and commence the issuance of those funds in March or April 2024;

B. Grant temporary and permanent injunctions prohibiting Defendants and any of their officers, agents, servants, employees, attorneys, representatives, or any other persons in active concert or participation with them from continuing to implement and operate the Harris Handout;

C. Declare that the Harris Handout is unconstitutional under Article III, § 52(a) and Article I, § 3 of the Texas Constitution;

D. Declare that the Harris Handout constitutes an *ultra vires* action;

E. Award attorney's fees and costs; and

F. Award any such further relief that the Court deems just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served electronically through the electronic-filing manager in compliance with Texas Rule of Civil Procedure 21a on April 9, 2024, on Defendants.

/s/ William H. Farrell
WILLIAM H. FARRELL
Assistant Attorney General

VERIFICATION

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary for the State of Texas, on this day personally appeared William H. Farrell, the affiant, whose identity is known to me. After I administered an oath, affiant testified as follows:

"My name is William H. Farrell. I am over the age of eighteen and otherwise fully capable of making this verification. I have read the foregoing *State of Texas' Original Petition and Application for Temporary Restraining Order and Injunctive Relief,* and the facts stated therein are within my personal knowledge and are true and correct."

/s/ William H. Farrell
William H. Farrell

Sworn to and subscribed before me by William H. Farrell on April 9, 2024.

Notary Public in and for
the State of Texas

Automated Certificate of eService

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La Shanda Green on behalf of William Farrell
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Envelope ID: 86443307
Filing Code Description: Petition
Filing Description: STATE OF TEXAS ORIGINAL PETITION AND APPLICATION FOR TEMPORARY RESTRAINING ORDER AND INJUNCTIVE RELIEF
Status as of 4/9/2024 11:26 AM CST

Associated Case Party: STATE OF TEXAS

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