The Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CITY OF SEATTLE; CITY OF CLEVELAND; CITY OF COLUMBUS; CITY OF DURHAM; CITY OF PORTLAND; ALLEGHENY COUNTY; HENNEPIN COUNTY; PRINCE GEORGE'S COUNTY; and RAMSEY COUNTY, Plaintiffs, v. DONALD J. TRUMP, *et al*., Defendants.	No. 2:25-cv-01435-BJR PLAINTIFFS' REPLY IN SUPPORT OF SECOND MOTION FOR PRELIMINARY INJUNCTION
CITY OF SHORELINE, Plaintiff, v. UNITED STATES DEPARTMENT OF TRANSPORTATION and SEAN DUFFY, in his official capacity as the Secretary of Transportation, Defendants.	No. 2:26-cv-01311-BJR CITY OF SHORELINE'S MOTION FOR PRELIMINARY INJUNCTION

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

I. INTRODUCTION—PLAINTIFFS' REPLY

Once again, the Trump Administration offers no persuasive arguments supporting its *ultra vires* Executive Orders, which force federal grant recipients to make a Hobbesian choice—either broadly certify compliance with the Administration's policy mandates directed at "DEI" and "gender ideology," or risk losing millions of dollars in congressionally allocated funds that support important infrastructure and safety initiatives that have nothing whatsoever to do with "DEI" or "gender ideology." Once again, the Administration defends the Executive Orders as mere restatements of existing law. But the Administration's own words and actions belie that argument, as do the Orders themselves, which attempt to amend federal statutes, such as the federal False Claims Act, and impose an ideological agenda on Plaintiffs as a condition of receiving congressionally allocated grant funds. And if there was any doubt regarding the Administration's goal of imposing its policy agenda on federal grantees such as Plaintiffs, the Court need look no further than the Office of Management and Budget's May 29th proposed revisions to its Guidance for Federal Financial Assistance. 91 Fed. Reg. 32199 (May 29, 2026). While blandly purporting to "improve transparency, accountability, and oversight for use of Federal taxpayer dollars," the rulemaking commentary makes clear that the revisions are aimed at, among other things: "[a] 'woke' policy agenda that did not reflect the values of the vast majority of the American public," [DEI] policies and preferences across the country"[1] and "government sponsorship of gender ideology and other radical doctrines,"[2] among other alleged ills. The OMB explicitly states that its guidance and policies will be revised and supplemented to reflect "key administrative policies and priorities" such as the requirements of the Anti-Diversity and Gender Orders challenged in this litigation.[3]

Clearly, the Administration has not been deterred by recent orders enjoining enforcement of the Executive Orders and has doubled down on them by integrating their unlawful requirements

---

[1] *Id.*
[2] *Id*. at 32203.
[3] *Id*. at 32215.

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

into federal procurement policy. There can be no doubt that Plaintiffs are harmed by the substantial uncertainty, confusion, and risks such as False Claims Act enforcement that flow from the unlawful Orders and are therefore entitled to broad injunctive relief from application of these unlawful Orders.

II. ARGUMENT—PLAINTIFFS' REPLY

Defendants' Opposition acknowledges that this Court has already found Plaintiffs' arguments supporting injunctive relief "convincing." Dkt. 79 at 1. Their Opposition is primarily a restatement of arguments in opposition to Plaintiff City of Seattle's Motion for Preliminary Injunction, which this Court rejected in issuing the initial preliminary injunction in this case. *See* Dkt. 22. To the extent that Defendants make new arguments in their opposition, Plaintiffs reply as follows.

A. The Orders Violate the APA.

Defendants first try to argue that the APA challenge cannot be made against a President's actions (because a President is not an "agency"), but they do not seriously argue that an APA claim is unwarranted when federal agencies seek to implement an unlawful Executive Order. Tellingly, the government never argues that the Defendant Agencies are not enforcing or do not intend to implement the Orders. Indeed, to the extent that Defendants are not currently enforcing the Orders, it is because they have been enjoined by a court from doing so. Defendants' arguments that certain agency documents such as the April 2025 version of the HHS Grants Policy Statement do not currently contain language referencing DEI is a red herring; the government does not maintain that HHS is not implementing the Executive Orders, and the agency's own documents suggest no such thing. The Agency's October 2025 Grants Policy Statement, referenced in Plaintiffs' Motion and the most current iteration of its grants policy, does not specifically reference DEI, but states: "By applying for or accepting federal funds from HHS, recipients certify compliance with all federal antidiscrimination laws and these requirements and that complying with those laws is a material

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

condition of receiving federal funding streams."[4] HHS's removal of references to DEI in its recent policy statements is more plausibly a sleight of hand in response to recent litigation challenging the Anti-Diversity Order than an indication that the agency does not intend to enforce the Order. Again, if HHS does not intend to enforce the Anti-Diversity Order as to the Additional Plaintiffs, it could just say so. But it has not.

Defendants also rehash their prior arguments that the Order's conditions are authorized by existing law, an argument this Court rejected. *See* Dkt. 22 at 13–18. They now cite the Fourth Circuit's decision in *National Association of Diversity Officers in Higher Education v. Trump (“NADOHE*”), 167 F.4th 86 (4th Cir. 2026) in support of their argument that “agencies' possible future interpretations of the law are not a proper subject of attack.” Dkt. 79 at 6. *NADOHE*, however, was a facial challenge to certain Executive Orders (only one of which is challenged in this case) that was grounded in the First Amendment, whereas the action here challenges the Gender and Anti-Diversity Orders under the APA, separation of powers, Spending Clause, and 10th Amendment. Critically, these legal theories do not turn on First Amendment doctrines such as the “overbreadth doctrine” discussed in *NADOHE*. The APA, for example, requires courts to “hold unlawful and set aside agency action, findings, and conclusions” that are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” “contrary to constitutional right, power, privilege, or immunity,” or “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2). Crucially, APA review does *not* ask whether a provision is facially unconstitutional in all (or even a substantial number of) its applications. It asks whether agency action was arbitrary, capricious, contrary to law, or unauthorized. The facial versus as-applied distinction that dominates First Amendment doctrine is largely inapplicable in the APA context, because the APA targets the agency's action itself—the imposition of a funding condition, for example—rather than the constitutionality of a provision in

---

[4] *HHS Grants Policy Statement*, DEP'T OF HEALTH & HUM. SERVS. (Oct. 1, 2025), https://www.hhs.gov/sites/default/files/hhs-grants-policy-statement-oct-2025.pdf.

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

the abstract. Similarly, a challenge to agency implementation of an Executive Order based on Separation of Powers and the Spending Clause turns on the simple question of whether the agency acted with the bounds of its authority as conferred by Congress. This Court already acknowledged these distinctions, noting that *NADOHE* "raises different challenges to the DEI Order (and another executive order not at issue in this case)" and does not "impact the relevant legal framework as applied to the unique facts of this case." *City of Seattle v. Trump*, 808 F. Supp.3d 1204, 1218 n.13 (W.D. Wash. 2025).

Defendants are also wrong that the provisions of the Anti-Diversity Order related to the False Claims Act ("FCA") are somehow authorized by civil rights laws. To accept this argument, the Court would need to ignore the plain language of the Anti-Diversity Order, which requires that federal grant recipients certify "that [their] compliance in all respects with all applicable Federal anti-discrimination laws is material to the government's payment decision for purposes of section 3729(b)(4) of Title 31, United States Code." Anti-Diversity Order, Section 3(b)(iv)(A). The Order's language is unequivocal: it states that compliance "***is*** material"; it does not state that compliance "***could be*** material" as the government infers in arguing that "plaintiffs would remain free to challenge materiality, and the relevance of their certification, if any False Claims Act suit were ultimately filed." Dkt. 79 at 7.

Defendants also do not offer any new arguments in support of the reasonableness of agency enforcement of the Orders to defeat an arbitrary and capricious challenge. The fact that Plaintiffs have long been required to comply with civil rights laws as grant recipients does not authorize the Executive to unilaterally amend the materiality standard of a federal fraud statute in order to strong-arm compliance with its anti-diversity policy agenda, or to impose vague restrictions related to promotion of "gender ideology" in the context of federal infrastructure and safety grants. The civil rights laws have their own enforcement mechanisms,[5] which the government can pursue if it

[5] *See* Section 602, *codified at* 42 U.S.C. § 2000d-1.

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

believes any person, including a federal contractor, is violating the law.[6]

B. The Orders Violate the Spending Clause.

The government responds to the Spending Clause argument with an absurdity—claiming that Plaintiffs are suggesting that they "have a constitutional right to, for example, spend housing or transportation funds on programs that violate federal antidiscrimination law, or that promote their own view of gender ideology." Dkt. 79 at 10. Obviously, Plaintiffs have made no such claim. To the contrary, Plaintiffs have emphasized that their federal grants and projects they support have nothing whatsoever to do with DEI and "gender ideology." For example, Additional Plaintiffs' grants fund projects such as nutritional support for vulnerable families, emergency fire and rescue services, and pedestrian safety initiatives. *See* Dkt. 66 Mathews Decl. (Hennepin) ¶ 7 (nutritional support); Dkt. 62 Fournier Decl. (Allegheny County) ¶ 18 (fire and rescue); Dkt. 68 Fair Decl. ¶ 17. Yet, the Defendants seek to impose the Orders against Plaintiffs regardless of the subject matter of the grant. Significantly, federal regulations already allow agencies to police federal grant recipients to ensure that funds are spent in accordance with their purpose. *See*, *e.g.*, 2 C.F.R. § 200.339 (agencies may withhold payments, disallow costs, suspend or terminate awards, among other things, if recipient violates conditions of an award). The government's argument that the Orders simply seek to "ensure recipients do not spend federal funds on programming unrelated to purpose of the grant" rings hollow, and does not support an appropriate nexus between the condition and purpose of the implicated funds. *S. Dakota v. Dole*, 482 U.S. 203, 208 (1987).

C. The Unlawful Orders Are Unconstitutionally Vague.

Once again, the Administration ignores recent case law invalidating other executive orders issued by President Trump on void-for-vagueness grounds. *See, e.g.*, *Santa Cruz Lesbian & Gay Community Center v. Trump*, 508 F. Supp. 3d 521, 545 (N.D. Cal. 2020). Instead, it cites two First

[6] This raises the question of why the Orders were issued in the first place. Given the Agencies' and Administration's own pronouncements, *see* Dkt. 61 at 5 fn. 7 ("President Trump: 'We will terminate every diversity, equity, and inclusion program across the entire Federal Government.'"), the answer is that the Administration is hoping to advance its own novel anti-DEI agenda, leveraging federal grant funds and the threat of FCA investigations and enforcement to advance its policy goals.

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

amendment cases, *NADOHE*, 167 F.4th at 101, and *Finley v. National Endowment for the Arts*, 524 U.S. 569 (1998), for the proposition that vague standards are appropriate in the funding context. The "vagueness latitude" principle espoused in *Finley* is a creature of First Amendment doctrine, operating to lower the constitutional threshold for vagueness challenges in grant-making contexts because the government is "acting as patron rather than sovereign," *Finley*, 524 U.,S. 569 (1998). This latitude simply does not carry over into a Fifth Amendment due process challenge, where the concern is "clarity in regulation" so that a person can know what is prohibited and act accordingly. *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012)*; see also City of Seattle v. Trump*, 808 F. Supp.3d 1204, 1218 n.13 (W.D. Wash. 2025) (First Amendment analysis in *NADOHE* does not "impact the relevant legal framework as applied to the unique facts of this case.").

D. The Executive Orders Coerce the City's Compliance with Trump Administration Policies in Violation of the Tenth Amendment.

The Administration's opposition to Plaintiffs' Tenth Amendment anti-commandeering challenge is also unpersuasive. Defendants miscast Plaintiffs' argument as suggesting that the Tenth Amendment defect is occasioned by the broad applicability of the grant conditions. But that is not the case. The Orders violate the Tenth Amendment because of their coercive effect, not their breadth. For example, a requirement that grantees comply with federal anti-discrimination law, which has long been a contractual term in federal grant agreements, is not coercive, as it simply restates what grant recipients are already legally required to do (follow the law). 42 U.S.C. § 2000(d). The Orders go beyond this. They demand compliance with the Administration's interpretation of anti-discrimination law—rather than the courts'—and force grantees to certify their compliance with these vague requirements or risk ruinous FCA exposure or investigation costs if the Administration disagrees with its certification.

E. Enforcement of the Orders Will Irreparably Harm Plaintiffs If Not Enjoined.

The existence of prior injunctions in other cases, such as *Rhode Island*, does not eliminate the need for injunctive relief here because, as Defendants recognize, those injunctions do not cover all Plaintiffs, all Defendants, or all grant conditions at issue in this case. Moreover, Plaintiffs'

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

motion addresses many of the claim-splitting arguments raised by Defendants; Plaintiffs who are party to *Turner* and *Noem* are not asking for the same relief as Plaintiffs who are not party to those cases. Next, Defendants' claim that fiscal uncertainty does not constitute injury has already been rejected by this court. *See* Dkt. 22 at 21 ("And as this Court has previously concluded in *King County v. Turner*, the 'looming risk' of acute budgetary uncertainty due to Defendants' unlawful actions is an injury in of itself.").

F. The Equities Favor Plaintiffs.

The irreparable harm Plaintiffs face in the absence of an injunction tips the balance of equities sharply in their favor. As was true in *Turner*, "Defendants have not posited any anticipated (let alone likely) non-monetary harm they will experience if an injunction were to issue" and "Defendants do not have a legitimate interest in ensuring that funds are spent pursuant to conditions that were likely imposed in violation of the APA and/or the Constitution." *Id.* at 892. Moreover, Defendants already have mechanisms to enforce civil rights laws or to recoup grant funds (or terminate grants) that are spent on an unauthorized purpose.

G. This Court Can Address Claim-Splitting Issues Through an Appropriately Crafted Order Enjoining Defendants.

Defendants' requests for agency carve-outs based on the relief obtained by some Additional Plaintiffs in other matters (*i.e.*, *King County, et al v. Turner et al*. and *Chicago v. Noem*) have already been addressed through the proposed order (Dkt. 61-1) filed in this case. Plaintiffs have been mindful of prior litigation and have exercised care to request relief that is not duplicative of or inconsistent with prior rulings on challenges to the contested Executive Orders that involve the Additional Plaintiffs. And the injunction in *RICADV v. Kennedy*, 813, F. Supp. 3d 180 (D.R.I. 2025), has no bearing here. "The existence of another injunction—particularly one in a different circuit that could be overturned or limited at any time—does not negate [Plaintiffs'] claimed irreparable harm." *California v. Health & Human Servs.*, 390 F. Supp. 3d 1061, 1066 (N.D. Cal. 2019).

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

H. The Court Should Deny Defendants' Request for a Stay and a Bond.

The Court should deny the Administration's request for a bond and stay for the same reasons as given in *Turner* and in the City of Seattle's Preliminary Injunction Motion. *Turner*, 2025 WL 2322763 at *16; Dkt. 22 at 23–24. A stay pending a Ninth Circuit decision in *Turner* (or "pending any appeal" as Defendants also argue) is particularly unwarranted given the public interest at stake in this litigation. Plaintiffs continue to be harmed by the substantial budgetary uncertainty created by the unlawful Orders, which are repeatedly reflected in updated grant conditions and agreements. *See* Dkt. 65, Flora Decl. (Durham) ¶ 14; Dkt. 66, Mathews Decl. (Hennepin) ¶ 15; Dkt. 68, Fair Decl. (Prince George's County) ¶¶ 5–7. They should not be denied immediate relief from enforcement of the illegal Orders pending the outcome of appeals with unknown timeframes. A bond is also unwarranted here. *See Landwatch v. Connaughton*, 905 F. Supp. 2d 1192, 1198 (D. Or. 2012) ("Federal courts have consistently waived the bond requirement in public interest environmental litigation, or required only a nominal bond.") (citing *People of State of Calif. ex rel. Van de Kamp v. Tahoe Regional Planning Agency*, 766 F.2d 1319 (9th Cir.1985)). Unlike private plaintiffs, the Plaintiffs in this case are public entities with public bond ratings.[7] The Administration's claim that the issuance of an injunction necessitates posting a bond is therefore illogical.

III. CONCLUSION—PLAINTIFFS' REPLY

For the foregoing reasons and the reasons set forth in Additional Plaintiffs' Motion, Plaintiffs respectfully ask this Court to enjoin Defendants, their officials, agents, employees, assigns, and all persons acting in concert or participating with them, and all other federal Departments and Agencies, from enforcing Section 3(b)(iv) of the Anti-Diversity Order and

[7] For example, the City of Seattle's bond rating is AAA. *See Fitch Rates Seattle, WA's $77.5MM 2025 LTGO Improvement & Refunding Bonds "AAA; Outlook Stable"*, FITCH RATINGS (May 29, 2025), https://www.seattle.gov/documents/Departments/InvestorRelations/2025%20Documents/Fitch%20Rates%20Seattle.pdf.

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

Section 3(g) of the Gender Order against Plaintiffs as specified in the proposed order, and to deny the Defendants' request for a stay and a bond.

DATED this 5th day of June, 2026.

CORR CRONIN LLP

s/ Jeffrey B. Coopersmith

Jeffrey B. Coopersmith, WSBA No. 30954
Emily J. Harris, WSBA No. 35763
Eric A. Lindberg, WSBA No. 43596
Kathryn Joy, WSBA No. 60056
Renee M. Howard, WSBA No. 38644
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Ph: (206) 625-8600 | Fax: (206) 625-0900
jcoopersmith@corrcronin.com
eharris@corrcronin.com
elindberg@corrcronin.com
kjoy@corrcronin.com
rhoward@corrcronin.com

Attorneys for Plaintiffs

I. INTRODUCTION—SHORELINE

Pursuant to the Court's Order on June 2, 2026, and the parties' stipulation of May 29, 2026, the City of Shoreline ("Shoreline") hereby joins the Second Motion for Preliminary Injunction submitted by Plaintiffs in *City of Seattle et al. v. Trump*, No. 2:25-cv-01435-BJR (W.D. Wash.), Dkt. No. 61. Shoreline incorporates and relies on all arguments made in the Seattle Plaintiffs' motion, but in the interests of efficiency and preservation of judicial resources, Shoreline will not repeat those arguments here. Instead, Shoreline addresses the facts, claims, and arguments unique to its case. Pursuant to this Court's Standing Order, the parties met and conferred on May 5, 2026. Defendants intend to oppose the relief sought in this motion.

II. STATEMENT OF FACTS—SHORELINE

A. Shoreline's West Side Transformation Project.

In 2023, Shoreline received a $20 million Federal Highway Administration ("FHWA") grant under FHWA's Rebuilding American Infrastructure with Sustainability and Equity Program ("RAISE"). Decl. of Tricia Juhnke in Supp. of Plf. Shoreline's Mot. for Prelim. Inj. ("Juhnke Decl.") ¶ 19. Shoreline's grant was intended to fund a significant portion of the West Side Transformation Project, a three-part, multi-phase set of multimodal transportation infrastructure improvements around a regional transit station located in a rapidly growing area of the city along a high-injury corridor. *Id.* ¶¶ 17-18, 21; *see also id.* ¶¶ 5, 8-16. The project's improvements will vastly enhance traffic flow and safety for thousands of pedestrians, cyclists, and motorists who travel through the area daily, and expand Shoreline's connection to the greater Seattle area. *Id.* ¶¶ 5, 8-15, 18. The West Side Transformation Project is the result of an intergovernmental collaboration beginning in 2015 between the State of Washington, King County, the Central Puget Sound Regional Transit Authority, and Shoreline's neighboring cities of Seattle, Bothell, Kenmore, and Lake Forest Park. *Id.* ¶ 7.

In September 2024, FHWA and the Washington State Department of Transportation ("WSDOT") executed a term sheet for Shoreline's $20 million RAISE grant, followed by a grant

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

agreement in October 2024. *Id.* ¶¶ 21-22. The term sheet and October 2024 agreement incorporated by reference the FHWA General Terms and Conditions for the FY 2023 RAISE Program dated June 23, 2024 and October 1, 2024, respectively. *Id.* Both documents also included a provision regarding consequences for non-compliance. *Id.*

Following the execution of the grant agreement, Shoreline began to implement the West Side Transformation Project. *Id.* ¶¶ 21-25. As the designated subrecipient, Shoreline must first incur costs and then seek reimbursement from FHWA through WSDOT. *Id.* ¶ 20. Relying on the availability of RAISE grant funds, Shoreline has committed irrevocable resources to design, property acquisition, and construction. *Id.* ¶¶ 23-25, 32-34, 37, 40, 41. The potential loss of these funds due to Defendants' unlawful actions poses a significant threat to Shoreline, which has already budgeted and expended RAISE funds, acquired properties and displaced families, and begun design and construction efforts. *Id.*

B. The Orders Trigger the Agency Defendants to Impose Unlawful Conditions Upon Shoreline's RAISE Grant.

Defendant United States Department of Transportation ("DOT") has applied the Executive Orders by imposing new and unlawful conditions on FHWA grant awards and implementing new agency-wide policy for all DOT awards (collectively, "DOT Conditions"), including on the RAISE grant awarded to Shoreline.

In accordance with the Executive Orders and DOT's anti-DEI policy laid out in Secretary Duffy's April 24, 2025 letter[8], the FHWA issued Competitive Grant Program General Terms and Conditions purportedly applicable to all FHWA competitive grants.[9] The 2025 FHWA General Terms and Conditions imposed new requirements on all FHWA competitive grants (including the RAISE program), conditioning federal grant funds on recipients' agreement not to promote DEI

---

[8] Letter from Sean P. Duffy, Sec'y of Transp., to All Recipients of U.S. Dep't of Transp. Funding (Apr. 24, 2025), https://perma.cc/3KAT-FDJK (captured Apr. 10, 2026).

[9] These terms and conditions were modified on November 4, 2025. The November 4, 2025, version is the current operative version. U.S. Dep't of Transp., *BUILD FY 2025 FHWA General Terms and Conditions (November 4, 2025)*, last updated Nov. 20, 2025, https://perma.cc/E87V-TYAZ (captured Apr. 10, 2026).

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

and to concede this requirement is material for purposes of the False Claims Act ("FCA"). The Exhibits to the 2025 FHWA General Terms and Conditions further require the recipient to assure and certify that it will "comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Project," including the Executive Orders at issue in this case.[10]

On or around September 1, 2025—approximately one year after the execution of the initial term sheet and Shoreline's RAISE grant agreement—Shoreline received an e-mail from WSDOT Local Programs, explaining that FHWA had updated the RAISE grant agreement template, which incorporated by reference the 2025 FHWA General Terms and Conditions. Juhnke Decl. ¶¶ 26-29. The new agreement's incorporation of the 2025 FHWA General Terms and Conditions effectively placed new conditions on Shoreline's RAISE grant, while still including the same provision from the term sheet and prior agreement regarding consequences for non-compliance. *Id.* Shoreline sought clarification regarding these new conditions in conversations with WSDOT, but WSDOT repeatedly responded that DOT and FHWA would not allow changes to the grant agreement language. *Id.* ¶ 30.

Shoreline did not sign any version of the RAISE grant agreement for the West Side Transformation Project. *Id.* ¶ 31. FHWA now requires Shoreline to agree to some or all of the new grant conditions in order to receive or be able to draw down on the RAISE grant funding that FHWA agreed to provide and that is included within Shoreline's budget for the applicable infrastructure projects. Shoreline is thus unable to access its funds to continue acquisition and construction, or even to shift its funding around, unless it accepts the new conditions, risking delay of or endangerment of the success of the West Side Transformation Project. *Id.*

C. Shoreline Faces Imminent Harm from the DOT's New Grant Conditions.

Defendants' imposition of the DOT Conditions places Shoreline in an impossible position.

---

[10] U.S. Dep't of Transp., Exhibits to FHWA Grant Agreements under the Fiscal Year 2025 BUILD Program, Nov. 4, 2025, https://www.transportation.gov/grants/build/build-fy2025-fhwa-exhibits-november-4-2025.

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

Shoreline is currently unable to access its RAISE funds to continue with the ongoing construction and acquisitions. Juhnke Decl. ¶¶ 31-32. Shoreline must choose between foregoing funding that it has detrimentally relied upon for years in executing the West Side Transformation Project and accepting and certifying compliance with conditions that are unlawfully vague, in violation of other constitutional and statutory requirements, and at odds with its values. *See id.* ¶¶ 31-33, 37-38; *see also King Cnty. I*, 785 F. Supp. 3d at 889–92 (finding irreparable harm in forcing grant recipients to choose between unconstitutional conditions and risking loss of funding). *E.g.*, City of Shoreline, Wash., Res. No. 542 (Feb. 24, 2025) (committing to protect the rights of and uplift the voices and contributions of all individuals, including LGBTQIA2S+ individuals).

Shoreline has invested millions of dollars into designing and constructing the infrastructure improvements involving 145th Street/State Route 523 and the connected 148th Street Transit Station, including the West Side Transformation Project. *Id.* ¶¶ 7-16, 23-25. These efforts are the culmination of over a decade's worth of local intergovernmental cooperation, negotiation, and hard work. *Id.* ¶¶ 7, 19. Shoreline has already committed substantial resources to seeing these improvements—of which the RAISE-funded West Side Transformation Project is only a part—through. Work is well under way, with Shoreline already moving through the design phases into beginning construction, signing contracts, and acquiring properties (which resulted in displacement of households). *Id.* ¶¶ 11-16, 23-25, 32-34.

The potential loss of federal funds due to the DOT Conditions poses a significant threat to Shoreline. If Shoreline lost its RAISE funding, multiple phases of the project will be unable to proceed or be completed unless it can secure alternative funding. *Id.* ¶¶ 33-38, 42. Shoreline would also likely lose other grants (such as a recently secured $6.5 million grant from the Washington State Transportation Improvement Board for project phases also funded through Shoreline's RAISE grant) because of those other funds' completion deadlines and Shoreline's likely inability to find alternative funding within the timelines. *Id.* ¶ 42. If Shoreline cannot piece together grant funding from other sources and loses additional grant funding from other sources that relies on the

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

RAISE funds, Shoreline would be forced to provide the funds itself. *Id.* ¶¶ 36-38, 42. But diverting funds from other city sources would result in other important city programs, services, and projects being compromised, delayed, or even terminated, and would create a budget crisis. *Id.* And if Shoreline loses obligated RAISE funds and cannot timely secure alternative funding, Shoreline could be in breach of an existing construction contract, risking additional costs and legal liability. *Id.* ¶ 34.

Shoreline's RAISE grant is wholly unrelated to DEI, DEIA, or any gender ideology policy goals espoused by Defendants or outlined in the Executive Orders. By imperiling Shoreline's funding, the DOT Conditions undermine Shoreline's ability to protect public safety and threaten to stall a complex, regionally significant, multi-phase infrastructure project that is already budgeted, allocated, and well underway.

III. ARGUMENT—SHORELINE

All four *Winter* factors favor Shoreline here. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *see also All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131–32 (9th Cir. 2011) (injunction also warranted where likelihood of success is such that serious questions going to the merits were raised and the balance of hardships tips sharply in the plaintiff's favor, provided that the plaintiff can also demonstrate the other two *Winter* factors). Courts across the Ninth Circuit—including this one—have issued injunctions against the DOT Defendants for similar or identical conduct that Shoreline complains of now. *See, e.g.*, Dkt. No. 22; *Martin Luther King, Jr. Cnty. v. Turner* ("*King Cnty. I*"), 785 F. Supp. 3d 863 (W.D. Wash. 2025); *Martin Luther King, Jr. Cnty. v. Turner* ("*King Cnty. II*"), 798 F. Supp. 3d 1224 (W.D. Wash. 2025); *Martin Luther King, Jr. Cnty. v. Turner* ("*King Cnty. III*"), No. 2:25-cv-814, 2026 WL 161014 (W.D. Wash. Jan. 21, 2026); *City of Fresno v. Turner*, No. 25-cv-07070-RS, 2025 WL 2721390 (N.D. Cal. Sept. 23, 2025).

A. Shoreline Is Likely to Prevail on the Merits of Its Claims.

Shoreline is likely to prevail on the merits—the most important *Winter* factor—because Defendants have violated the Administrative Procedure Act ("APA") through the DOT Conditions.

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

See Baird v. Bonta, 81 F.4th 1036, 1040 (9th Cir. 2023); Dkt. No. 22 at 11–19; *King Cnty. I*, 785 F. Supp. 3d at 884–86, 887–89; *King Cnty. II*, 798 F. Supp. 3d at 1240–41; *King Cnty. III*, 2026 WL 161014 at *4; *Fresno*, 2025 WL 2721390 at *6–18. Defendants have also violated the Constitution for all the reasons described in the *Seattle* Plaintiffs' motion. Dkt. No. 61 at 12–20. Shoreline briefly addresses the likelihood of success on the two claims Shoreline does not share in common with the *Seattle* Plaintiffs: Defendants acted (1) ultra vires, and (2) without observance of procedure required by law under the APA.

1. Ultra Vires

Actions by executive branch officials that extend beyond delegated statutory authority—i.e., ultra vires actions—are reviewable. *Murphy Co. v. Biden*, 65 F.4th 1122, 1129 (9th Cir. 2023) (citing *Larson v. Domestic & Foreign Com. Corp.*, 337 U.S. 682, 689–90 (1949)); *Sierra Club v. Trump*, 963 F.3d 874, 891 (9th Cir. 2020) ("When an executive acts *ultra vires*, courts are normally available to reestablish the limits on his authority."), *vacated and remanded on other grounds, sub nom. Biden v. Sierra Club*, --- U.S. ---, 142 S. Ct. 46 (2021). The ability to enjoin unconstitutional action by government officials dates back to the courts of equity, "reflect[ing] a long history of judicial review of illegal executive action, tracing back to England." *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 327 (2015).

Defendants' implementation of the DOT grant conditions was an unlawful ultra vires act for substantially the same reasons those actions also violate the principle of separation of powers and the Spending Clause. Dkt. No. 61 at 13–17, 17–18. The Constitution "exclusively grants the power of the purse to Congress, not the President." *City & Cnty. of San Francisco v. Trump,* 897 F.3d 1225, 1231 (9th Cir. 2018); *see also Clinton v. City of New York*, 524 U.S. 417, 438 (1998). "Absent congressional authorization, the Administration may not redistribute or withhold properly appropriated funds in order to effect its own policy goals." *San Francisco,* 897 F.3d at 1235. No inherent executive authority to place conditions on the receipt of federal funds exists—any such authority must be given to the executive by the legislature. *See City of Los Angeles v. Barr*, 941

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

F.3d 931, 945 (9th Cir. 2019) (agency grant conditions imposed without statutory authority were "ultra vires"). Congress conferred no such authority on DOT here to unilaterally impose new conditions on Shoreline's RAISE grant.

2. APA – Without Observance of Procedure Required by Law

In addition to violating the APA by acting in an arbitrary and capricious manner not in accordance with law and in excess of statutory jurisdiction, Defendants also failed to observe procedure required by law. 5 U.S.C. § 706(2)(D).

An agency "must abide by its own regulations." *Fort Stewart Schs. v. Fed. Labor Rels. Auth.*, 495 U.S. 641, 654 (1990). DOT adopted regulations and policy requiring notice-and-comment rulemaking when it promulgates substantive rules. The agency's own operative Rulemaking Handbook notes that although the APA requirement for a notice-and-comment procedure in 5 U.S.C. § 553 exempts matters relating to grants, DOT nevertheless "applies notice and comment procedures to rulemakings establishing conditions for financial assistance in the same manner as these procedures are applied to other rulemakings not involving financial assistance." Dep't of Transp., Rulemaking Handbook 4–5 (May 2022), https://perma.cc/24EC-QGTB (captured Apr. 10, 2026). On March 10, 2025, Secretary Duffy signed a rulemaking order stating the following policy for DOT regulations: "Full public participation should be encouraged in rulemaking actions, primarily through written comment and engagement in public meetings. Public participation in the rulemaking process should be conducted and documented, as appropriate, to ensure that the public is given adequate knowledge of substantive information relied upon in the rulemaking process." Dep't of Transp., Order 2100.6B, https://perma.cc/T4JH-TMLN (captured Apr. 10, 2026).

The DOT Conditions purport to impose binding obligations that substantively change existing law and policies, including federal nondiscrimination law. *E.g.*, *Yesler Terrace Cmty. Council v. Cisneros*, 37 F.3d 442, 449 (9th Cir. 1994) ("Substantive rules . . . create rights, impose obligations, or effect a change in existing law pursuant to authority delegated by Congress"). In

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

imposing the DOT Conditions on Shoreline's RAISE grant, DOT failed to comply with its own notice-and-comment requirements.

Shoreline is likely to succeed on its ultra vires claim and its claim that Defendants failed to observe procedure required by law under the APA, in addition to its other APA and constitutional claims.

B. Shoreline Will Suffer Irreparable Harm If the Orders Are Not Enjoined.

Through the FHWA, DOT now requires Shoreline to agree to some or all of the above new grant conditions in order to receive or be able to draw down on the RAISE grant funding that the FHWA previously agreed to provide and that is included within Shoreline's budget for the applicable infrastructure projects. Shoreline is therefore unable to access its funds to continue with acquisition and construction or even shift its funding around unless it agrees to FHWA's new conditions, risking delay of or even endangerment of the success of the West Side Transformation Project. Juhnke Decl. ¶¶ 31-32.

These new grant conditions would require Shoreline to accept those conditions or lose access to $20 million in already-awarded FHWA grant funds which Shoreline has already committed (and in some cases, began expending) millions of dollars for various sub-projects comprising the West Side Transformation Project. Based on publicly reported experiences of other similarly situated jurisdictions, Shoreline anticipates that FHWA will require Shoreline to agree to some or all of the above conditions on an extremely short deadline, such that it would be difficult, if not impossible, to seek relief from the court before the deadline lapses. *Id.* ¶ 32.

Shoreline is being challenged to accept unlawful conditions on an impossible timeline at the risk of incurring financial penalties, or give up funds it was already awarded, had already accounted and contracted for in budget and project planning, and some of which it has already begun expending. *Id.* ¶¶ 32-34, 37-38, 41-42. The threat of the loss of federal funds immediately and irreparably harms Shoreline. If Shoreline cannot find replacement funds, it may face a budget crisis if forced to expend city funds to complete the multi-phase project that is already underway.

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

Diverting funds from other city sources would result in other important city programs, services, and projects being compromised, delayed, or even terminated. *Id.* ¶¶ 33, 36. Loss of RAISE funding would also have negative downstream effects on Shoreline's ability to secure future grants. *Id.* ¶¶ 38, 42. "[B]eing forced to comply with an unconstitutional law or else face financial injury" constitutes a constitutional injury. *See Santa Clara*, 250 F. Supp. 3d at 537–38 (citation omitted); *see also King Cnty. I*, 785 F. Supp. 3d at 889 (finding irreparable injury likely where plaintiffs faced "having to choose between accepting conditions that they believe are unconstitutional, and risking the loss of hundreds of millions of dollars in federal grant funding, including funding that they have already budgeted and are committed to spending").

Without the RAISE funds, this multi-phase infrastructure project that was many years in the works, is critical to public safety and transit for Shoreline's residents, and is already mid-stream, would be directly jeopardized. Shoreline could also face liability for breach of contract for RAISE funds it has already contracted to spend. Juhnke Decl. ¶ 34; *see also King Cnty. II*, 798 F. Supp. 3d at 1254 ("[T]he harms Plaintiffs have alleged are quintessentially irreparable in nature and can be avoided only by entry of the requested injunction."). The DOT Conditions' extensive harms will impair Shoreline's ability to carry out its day-to-day operations, complete this vital infrastructure project, and fulfill its legal obligations. As this Court recognized in *King County*, by accepting the funding conditions, Shoreline may still well lose promised funds if the Administration determines that the City does not comply with the DOT Conditions' vague requirements. *Id.* This looming risk is itself an independent injury.

Shoreline is not the only one facing harm: the local community bears the ultimate brunt of Defendants' illegal actions. Properties have been acquired and families have already been displaced in reliance on the West Side Transformation Project proceeding with RAISE funding. Juhnke Decl. ¶ 13. If Shoreline were forced to make up the loss of the RAISE grant by diverting funding from other city programs, services, or projects, Shoreline residents would inevitably lose the benefits of those programs, services, or projects. *Id.* ¶¶ 33, 36. If the project remains in jeopardy,

CORR CRONIN LLP
1015 Second Avenue, Floor 10
Seattle, Washington 98104-1001
Tel (206) 625-8600
Fax (206) 625-0900

scores of contracted local workers could be out of jobs. *Id.* ¶ 35. And worst of all, the high rate of injuries and fatalities on 145th Street/State Route 523 will continue unabated, posing tremendous risks to tens of thousands of daily travelers. *Id.* ¶¶ 39-40, 43; *see also id.* ¶¶ 5-6. These harms to the local community cannot be undone.

C. The Balance of Equities and Public Interest Weigh in Shoreline's Favor

The final two *Winter* factors, which merge here, weigh heavily in Shoreline's favor, as courts have found they do for so many other similarly situated plaintiffs. *E.g.*, Dkt. No. 22 at 22–23; *King Cnty. I*, 785 F. Supp. 3d at 892; *King Cnty. II*, 798 F. Supp. 3d at 1254–55; *King Cnty. III*, 2026 WL 161014 at *6; *Fresno*, 2025 WL 2721390 at *19. A preliminary injunction is necessary to prevent violations of Shoreline's constitutional rights and to protect the safety and interests of its residents.

IV. CONCLUSION—SHORELINE

For the foregoing reasons, Shoreline respectfully asks this Court to enjoin the DOT Defendants, their officials, agents, employees, assigns, and all persons acting in concert or participating with them and all other federal Departments and Agencies from enforcing the DOT Conditions or any other actions taken pursuant to Section 3(b)(iv) of the Anti-DEI Order and Section 3(g) of the Gender Ideology Order, against Shoreline.

DATED this 5th day of June, 2026.

Respectfully submitted,

/s/ Margaret King

Margaret King, WBSA No. 34886
Julie Ainsworth-Taylor, WSBA No. 36777
CITY OF SHORELINE
17500 Midvale Avenue North
Shoreline, WA 98133
Phone: (206) 801-2221
Fax: (206) 801-2781
mking@shorelinewa.gov
jainsworth-taylor@shorelinewa.gov

/s/ Kunyu Ching
Amy Powell* NY #4339743
Gary DiBianco* DC #458669
Kunyu Ching* CA #292616
LAWYERS FOR GOOD GOVERNMENT
1319 F St. NW, Suite 301
PMB 181
Washington, DC 20004
Phone: 404-913-5529
amy@lawyersforgoodgovernment.org
gary@lawyersforgoodgovernment.org
kunyu@lawyersforgoodgovernment.org

ATTORNEYS FOR PLAINTIFF CITY OF SHORELINE

**admitted pro hac vice*