No. 25-1428

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

WOONASQUATUCKET RIVER WATERSHED COUNCIL; EASTERN RHODE ISLAND CONSERVATION DISTRICT; GREEN INFRASTRUCTURE CENTER; NATIONAL COUNCIL OF NONPROFITS; CHILDHOOD LEAD ACTION PROJECT; CODMAN SQUARE NEIGHBORHOOD DEVELOPMENT CORPORATION,

Plaintiffs - Appellees,

(caption continued on next page)

On Appeal from the United States District Court for the District of Rhode Island (No. 1:25-cv-00097-MSM)

BRIEF OF *AMICUS CURIAE* THE U.S. CONFERENCE OF MAYORS IN SUPPORT OF PLAINTIFFS-APPELLEES AND AFFIRMANCE

Vincent M. Nolette (*counsel of record*)
Amy E. Turner
SABIN CENTER FOR CLIMATE CHANGE LAW COLUMBIA LAW SCHOOL
435 W. 116th St.
New York, NY 10027
(402) 320-4210
vmn2106@columbia.edu

Counsel for Amicus Curiae

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v.

U.S. DEPARTMENT OF AGRICULTURE; BROOKE ROLLINS, in her official capacity as Secretary of Agriculture; U.S. DEPARTMENT OF ENERGY; CHRIS WRIGHT, in his official capacity as Secretary of Energy; U.S. DEPARTMENT OF THE INTERIOR; DOUG BURGUM in his official capacity as Secretary of the Interior; U.S. ENVIRONMENTAL PROTECTION AGENCY; LEE ZELDIN, in his official capacity as Administrator of the Environmental Protection Agency; U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; SCOTT TURNER, in his official capacity as Secretary of Housing and Urban Development; U.S. OFFICE OF MANAGEMENT AND BUDGET; RUSSELL VOUGHT, in his official capacity as Director of the U.S. Office of Management and Budget; and KEVIN HASSETT, in his official capacity as Director of the National Economic Council,

Defendants-Appellants.

CORPORATE DISCLOSURE AND MONETARY CONTRIBUTIONS STATEMENT

Pursuant to Fed. R. App. P. Rule 26.1, *amicus curiae* state that no party to this brief is a publicly held corporation, issues stock, or has a parent corporation.

Under Fed. R. App. P. 29(a)(4), *amicus curiae* state that no party's counsel authored this brief in whole or in part, and no party or party's counsel contributed money intended to fund the preparation or submission of this brief. No person—other than the *amicus curiae* or their counsel—contributed money intended to fund the preparation or submission of this brief.

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IDENTITY AND INTEREST OF *AMICUS CURIAE*

The U.S. Conference of Mayors ("USCM"), founded in 1932, is the official nonpartisan organization of the more than 1,400 U.S. cities that are each home to 30,000 people or more. The Conference of Mayors established its Climate Protection Center and its Alliance for a Sustainable Future to assist local governments with implementation of both the 2005 Mayors Climate Protection Agreement and the goal to establish comprehensive decarbonization efforts to keep the global rise in temperature to the 1.5-degree Celsius level.

USCM's members and their residents rely on federal financial assistance, including under the Inflation Reduction Act of 2022 (Public Law 117-169) ("IRA") and the Infrastructure Investment and Jobs Act of 2021 (Public Law 117-58) ("IIJA"), in their efforts to protect the health and well-being of their residents, businesses, community organizations, and visitors and to mitigate and adapt to climate change, address emergencies, reduce pollution, and improve transportation and infrastructure. As discussed *infra*, the "Federal Funding Freeze," as described by Plaintiffs (*see e.g.,* Doc. 26 at 5-11; 28-35), paralyzed those efforts. Relying on a well-developed record, extensive briefing, and a hearing, the district court issued a nationwide preliminary injunction to halt the irreparably harmful effects of the Federal Funding Freeze for the Plaintiffs and all recipients of IRA and IIJA funding administered by Defendants. *See* Doc. 45. Lifting the injunction now could lead to a

refreezing of critical funds, triggering the same immediate, enduring, and irreparable harms to USCM's members and their residents, businesses, community organizations, and visitors.

USCM therefore submits this memorandum to respectfully urge the Court to uphold the district court's preliminary injunction. Doc. 45 (hereinafter "Op.").

SUMMARY OF ARGUMENT

This case challenges the "sudden, indefinite freeze of all already-awarded IIJA and IRA money." Op. at 4. Under Section 7 of the January 20, 2025 executive order entitled *Unleashing American Energy* (Jan. 20, 2025) (the "*Unleashing* EO") and the January 21, 2025 Office of Management and Budget's ("OMB") and National Economic Council's ("NEC") Memorandum entitled *Guidance Regarding Section 7 of the Executive Order Unleashing American Energy* ("*Unleashing* Guidance"), federal agencies were directed to pause the disbursement or transmission of appropriated federal funds under awarded grants, executed contracts, and other executed financial obligations, including IRA and IIJA funds (these actions together hereinafter referred to as the "Federal Funding Freeze"). Op. at 8-12. Plaintiffs extensively described the scope of the Federal Funding Freeze in their briefing supporting their motion for preliminary injunction. *See generally*, Doc. 26.

The district court's April 15, 2025 Order enjoins Defendants, including the U.S. Department of Energy ("DOE"), the U.S. Environmental Protection Agency

("EPA"), the U.S. Department of Housing and Urban Development ("HUD"), the U.S. Department of the Interior ("DOI"), and U.S. Department of Agriculture ("USDA") from "implementing, giving effect to, or reinstating under a different name the directive in [the *Unleashing* Guidance] to unilaterally freeze awarded funding appropriated under the [IRA] or the [IIJA]." Op. at 62. The order further barred Defendants from "freezing, halting, or pausing on a non-individualized basis the processing and payment of [already-awarded IRA and IIJA] funding" and required them to "take immediate steps to resume the processing, disbursement, and payment of [such] funding . . . and to release awarded funds previously withheld or rendered inaccessible." Op at 61. Due to Plaintiffs' likelihood of success on the merits, the district court entered a nationwide injunction for "similarly situated parties." Op. at 59-60. Defendants now appeal the district court's Order to this Court.

USCM's members and their residents are directly affected by the Federal Funding Freeze and receive protection from the existing preliminary injunction. Tens of billions of dollars in IRA and IIJA funding covered by the injunction flows to local governments and their residents—through direct grants, sub-grants, and state-administered programs—supporting the health and welfare of their local communities. USCM files this brief in support of Plaintiffs to present the unique local government perspective on the serious and irreparable harms related to the

environment, climate, and public health that cities, towns, and counties will face if the injunction is lifted.

As the district court held, a blanket freeze of appropriated funds resulted in "irreparable harm in several forms" to the Plaintiffs. Op. at 5, 50-55. The scope of that harm extends to the local governments and communities that rely on and benefit from IRA and IIJA funding that the injunction appropriately released. This Court should not disturb the district court's preliminary injunction.

ARGUMENT

I. Local Governments Receive Enormous Benefits from IRA and IIJA Funding

In 2021 and 2022, Congress enacted two statutes that appropriated significant funds for energy and infrastructure projects across the United States. Congress passed the IIJA in 2021, authorizing $1.2 trillion for transportation and infrastructure spending.[1] In 2022, it enacted the IRA, which included the largest Congressional appropriation of clean energy spending in American history—allocating $369 billion toward environmental and energy investments. Of that total, $37 billion was earmarked for tribal, State, and local governments.[2] In other words, Congress

[1] *See* Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021); *See also Ready to Rebuild*, NAT'L LEAGUE OF CITIES (last accessed Sep. 17, 2025), https://www.nlc.org/initiative/ready-to-rebuild/.
[2] *See* Inflation Reduction Act, Pub. L. No. 117-169, 136 Stat. 1818 (2022); *See also Climate action and the Inflation Reduction Act: A guide for local government leaders*, C40 CITIES CLIMATE LEADERSHIP (Oct. 2022), https://www.c40knowledgehub.org/s/article/Climate-action-and-the-Inflation-Reduction-Act-A-guide-for-local-government-leaders.

intended for these funds to reach communities nationwide, and provided billions of dollars in critical funding to local governments (either directly or through States) to enable them to plan, invest in, and implement energy, infrastructure, and public health projects.

Local governments, including USCM's members, invested significant staff capacity to receive federal IRA and IIJA grant awards and to implement the projects they fund. Per the terms of the IRA and IIJA, States were allotted billions of dollars in formula grants[3] – grants that are noncompetitive and allocated to grantees "determined by distribution formulas in the authorizing legislation and regulations"[4] – as well as the opportunity to apply for competitive grants. Local governments, on the other hand, were afforded less formula funding directly,[5] and therefore had to invest significant resources and staff capacity in response to grant funding they were awarded – capacity that wastes taxpayer dollars if Defendants do not meet their contractual obligations to disburse the grant funds they are obligated to provide to local governments awardees.

[3] *See, e.g.*, IRA §§ 50121 (Home Energy Efficiency Rebate Program) and 50122 (High-Efficiency Electric Home Rebate Program for Low to Moderate Income Households), each of which allocate over $4 billion in formula funding to the states to develop home energy efficiency and electrification rebate programs.
[4] *Grant Terminology*, U.S. GRANTS.GOV (last accessed Sep. 17, 2025), https://www.grants.gov/learn-grants/grant-terminology.html.
[5] One notable exception was the Climate Pollution Reduction Grant (CPRG) Program, 42 U.S. Code § 7437, which allotted $1 million in formula funding to each of over 70 of the largest metropolitan statistical areas in the country – but generally not to units of local governments themselves – for a CPRG planning phase. CPRG implementation grants, which were far larger, were awarded to local governments pursuant to a rigorous competitive process.

Even where local governments are not the direct recipients of federal funds, they remain key beneficiaries of IRA and IIJA funding. The specific programs discussed in subsections (A) and (B) herein exemplify the kinds of legally appropriated federal funding through which Plaintiffs have been awarded federal funds that deliver widespread benefits to USCM's members—statutorily protected benefits that the Executive Branch now urges this Court to permit them to refreeze in violation of the Administrative Procedure Act ("APA") and the Constitution of the United States. *See, e.g.,* Op. at 23-50 (finding that the Plaintiffs "have demonstrated a strong likelihood of success on two of their three APA claims.")

Judge McElroy held that the Plaintiffs had "more than adequately demonstrated irreparable harm." Op. at 51. Applying Judge McConnell's analysis in *New York v. Trump* to Defendants' grant terminations in this case, Judge McElroy stated that, "it is so obvious that it almost need not be stated that when money is obligated and therefore expected (particularly money that has been spent and reimbursement is sought) and is not paid as promised, harm follows." Op. at 51-52 (quoting *New York v. Trump*, 2025 WL 715621, at *13 (D.R.I. Mar. 6, 2025)). Local governments benefit from IRA and IIJA-funded projects that improve air quality, expand access to electric vehicle ("EV") charging infrastructure, protect sources of drinking water, and make buildings and the grid more energy-efficient and are thus harmed by the freezing of federal funds. Absent continued injunctive relief, that harm will renew

and re-intensify with each passing day, to the detriment of both the Plaintiffs and USCM's members and their residents.

A. IRA Programs

In the IRA, Congress created and appropriated funds for twelve grant programs for which local governments were made expressly eligible.[6] For example, Congress created the Climate Pollution Reduction Grants ("CPRG") Program, and appropriated a total of $5 billion to EPA to "competitively award grants to eligible entities to implement" greenhouse gas ("GHG") pollution reduction plans, and "make funds available" to grantees including local governments.[7] Under the CPRG's planning phase, the nation's largest metropolitan areas – often led by Regional Planning Councils – received approximately $81 million in grants to create plans that identify actions to reduce GHG emissions in their communities.[8]

CPRG's second phase awarded $4.3 billion in competitive funding for implementation strategies identified during the planning phase. Local governments

[6] IRA §§ 60103 (Greenhouse Gas Reduction Fund), 60114 (Climate Pollution Reduction Grants), 50131 (Assistance for Latest and Zero Building Energy Code Adoption), 60106 (Clean Heavy-Duty Vehicles), 60107 (Low Emissions Electricity Program), 60501 (Neighborhood Access and Equity Grant Program), 60505 (Environmental Review Implementation Funds), 60201 (Environmental and Climate Justice Block Grants), 40001 (Investing in Coastal Communities and Climate Resilience), 23003 (State and Private Forestry Conservation Programs), 50152 (Grants to Facilitate the Siting of Interstate Electricity Transmission) and 40007 (Alternative Fuel and Low-Emission Aviation Technology Program).

[7] 42 U.S.C.§ 7437(a)(1), (2); (b); (c)(1), (3).

[8] *See, e.g.*, BOWLING GREEN, KY, BOWLING GREEN METROPOLITAN STATISTICAL AREA (BG MSA) CLIMATE ACTION PLAN ("The creation of this [Priority Climate Action Plan] was successful largely due to a $1 million planning grant awarded to the BG MSA through the CPRG program.").

received over $1.1 billion in grants.[9] For example, Denver, Colorado was awarded $199,705,797 to reduce GHG emissions from buildings in the residential and commercial sector and increase energy efficiency within Denver, with the goal of achieving "region-wide . . . net-zero building-sector emissions by 2050."[10] In Ohio, Cuyahoga County was awarded $129,396,997 to deploy 63 megawatts ("MW") of solar installations on polluted and landfill sites and "restore natural habitat, expand tree coverage and create pollinator habitats."[11] The Alaskan Southeast Conference's $38,646,534 grant is intended to fund the replacement of oil-based heating systems with energy-efficient heat pumps in fifty southern coastal communities.[12] Local governments and communities stand to benefit from these three municipal-based actions through increased solar energy access, lower grid stress due to the energy efficiency gains from building electrification, environmental restoration, and strengthening resilience to climate change.

Where local governments are not the direct recipients of federal awards, their communities remain the sites for, and beneficiaries of, implementation. Under the IRA, Congress created the Solar for All ("SFA") program, appropriating $7 billion to EPA "to enable low-income and disadvantaged communities to deploy or benefit

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[9] *General Competition Selection Applications Table*, U.S. ENV'T PROTECTION AGENCY (last accessed September 15, 2025), https://www.epa.gov/inflation-reduction-act/general-competition-selected-applications-table (data filtered to state awards and summed for Plaintiff States).
[10] *Id*.
[11] *Id*.
[12] *Id*.

from zero-emission technologies," such as solar installations and battery storage for single- and multi-family households and community solar programs.[13] EPA awarded most SFA grants to state and nonprofit applicants.[14] States were awarded over $2.2 billion in SFA grants, and can use their funds to make subawards to local governments.[15] Even where states opt not to make subgrants to local governments, the ultimate benefits from the solar energy deployment – cleaner air and lower utility bills – are felt at the local level. State SFA grants advance state goals—such as reducing fossil fuel reliance, localizing energy generation to ease grid stress and improve reliability, improving air quality, and expanding access to low-carbon technologies—through measurable changes in local communities. The health, safety, and welfare benefits of the program accrue to local communities within the state where projects are deployed, and it is those same communities that will feel the brunt of the harm from a renewed funding freeze.

Congress also appropriated $1.5 billion in competitive funding for the USDA's Urban and Community Forestry Program to support state and local governments, among other entities, to "plant and maintain community trees, forests, and green spaces, including in disadvantaged areas." Doc. 26, Ex. N at 2. For example, the Green Infrastructure Center—a named plaintiff in this case—relies on

[13] 42 U.S.C. § 7434(a)(1).
[14] *Solar For All*, U.S. ENV'T. PROTECTION AGENCY (last accessed Sep. 17, 2025), https://www.epa.gov/greenhouse-gas-reduction-fund/solar-all.
[15] *Id*.

multiple funding streams under this program to supports its operations and achieve its mission. *See generally*, *id*. As another example, New York leveraged its $7.1 million in promised funds from this program to make 23 grants supporting urban forestry projects in several cities, villages, and counties across the state.[16] In Connecticut, Hartford alone was awarded $6 million to implement its Capital Forest Stewardship Initiative, a plan to plant new trees and support their growth, identify and remove hazardous trees, and conduct outreach, education, and engagement programming.[17] The resulting environmental and climate gains from this program stand to directly benefit USCM's members and their residents by increasing access to green space, providing adaptation to extreme heat events, and mitigating carbon dioxide and local air pollutants. Like SFA, these benefits are realized at the local level—in neighborhoods, households, and municipal systems—demonstrating that the impact of these federal investments is both broad and community-specific.

Further, under Sections 103 to 105 of the Clean Air Act, EPA has administered a national air monitoring program for sixty years. Congress appropriated $117.5 million in the IRA, available to entities such as local and state governments, to fund air monitoring grants under this program to increase the

[16] *New York State Awards 23 Projects $7 Million in Urban and Community Forestry Grants*, NEW YORK STATE URBAN FORESTRY COUNCIL (last accessed Sep. 15, 2025), https://nysufc.org/new-york-state-awards-23-projects-7-million-in-urban-and-community-forestry-grants/2024/08/14/.

[17] *$6 Mil Federal Urban and Community Forestry Grant*, CITY OF HARTFORD, CT (last accessed Sep. 15, 2025), https://www.hartfordct.gov/Government/Departments/MayorLukeBronin/Mayor-News/6-Mil-Federal-Grant.

detection of dangerous pollution like particulate matter (soot) and air toxics.[18] These pollutants are especially concentrated in urban areas—particularly in disadvantaged communities.[19] These funds are meant to improve detection and provide data, which can help local governments make informed decisions to protect human health and the environment. For example, in urban areas recovering from wildfires, early detection of high levels of particulate matter in the air can help local governments protect their residents from the severely negative impacts of sustained and acute exposure to air pollution.[20] Lifting the injunction would compromise this public health safeguard, rendering the most vulnerable communities even more vulnerable from unmonitored air pollution, aging pollution monitoring systems, or a lack of air quality data.

USCM's members have structured their climate, clean energy, and public health initiatives around IRA-funded programs. These federal funds deliver tangible benefits at the local level, and local governments have relied on both funding streams in planning, budgeting, and implementing their work. To preserve funds essential to

[18] *See Inflation Reduction Act Tracker, IRA Section 60105 – Air Pollution Monitoring Grants*, SABIN CENTER FOR CLIMATE CHANGE LAW & ENV'T DEF. FUND (last accessed Sep. 15, 2025), https://iratracker.org/programs/ira-section-60105-air-pollution-monitoring-grants/.

[19] *See, e.g.,* Jason G. Su et al., *Examining air pollution exposure dynamics in disadvantaged communities through high-resolution mapping*, 10 SCI. ADVANCES 32 (Aug. 7, 2024), available at: https://www.science.org/doi/10.1126/sciadv.adm9986. (study in California revealing "consistently higher mean annual concentrations of NO_2 and $PM_{2.5}$ in disadvantaged communities compared to advantaged communities.").

[20] *See, e.g., EPA Research Partner Support Story: Wildfire Smoke Air Monitoring Response Technology Pilot*, U.S. ENV'T. PROTECTION AGENCY (last accessed Sep. 17, 2025), https://www.epa.gov/research-states/epa-research-partner-support-story-wildfire-smoke-air-monitoring-response.

advancing local climate and environmental justice goals, the injunction must be upheld.

B. IIJA Programs

As with the IRA, USCM's members have been directly awarded grants to implement a range of IIJA programs, and also depend on, state administered IIJA funding to fully realize the statute's intended benefits.

For example, Congress created the Clean School Bus ("CSB") Program under the IIJA, a $5 billion program administered by EPA to replace existing school buses with low-emitting school buses.[21] Already, EPA reports it has made 909 awards in 1,174 school districts across the country to replace over 8,000 school buses, totaling $2.6 billion in federal funds.[22] The following is merely a snapshot of the local governments who were awarded CSB grants: Birmingham, Alabama City Schools ($5.9 million) to procure 15 clean school buses; Boston, Massachusetts ($20 million) to procure 50 clean school buses; Lansing, Michigan ($5.9 million) to procure 15 clean school buses; Little Rock, Arkansas ($9.9 million) to procure 25 clean school buses; Fleming County, West Virginia ($6.9 million) to procure 17 clean school buses; Miami-Dade County, Florida ($19.75 million) to procure 50 clean school buses; and Lawton, Oklahoma ($9 million) to procure 23 clean school buses.[23] Local

[21] IIJA § 71101.
[22] *Clean School Bus Program Awards*, U.S. ENV'T. PROTECTION AGENCY (last accessed Sep. 17, 2025), https://www.epa.gov/cleanschoolbus/clean-school-bus-program-awards.
[23] *Id.*

governments and their residents, especially their younger residents, will experience cleaner air in their communities by substituting heavy-duty, polluting diesel buses with buses that run on low-emitting sources of energy.

The IIJA also appropriated almost $30 billion "for use in constructing and rehabilitating state water, wastewater, and sewage facilities[.]" *New York*, Dkt. No. 1:25-cv-00039-JJM-PAS, Doc. 67 at 49. These funds include mandatory capitalization grants for revolving state water funds.[24] Section 50210 of the IIJA appropriated $14.65 billion in grants for States' Clean Water Revolving Funds for 2022 to 2026. *New York*, Dkt. No. 1:25-cv-00039-JJM-PAS, Doc. 67 at 7. The IIJA also reauthorized and appropriated an additional $14.65 billion from 2022 to 2026 for Drinking Water State Revolving Funds. *Id*. at 8. Local governments are among the primary eligible entities to receive financial assistance from these state funds for a range of water infrastructure projects.[25] These include the construction of wastewater treatment facilities, development of green infrastructure, stormwater management systems, the protection of water bodies, and water recycling initiatives.[26] States can use their revolving funds to pursue public policy objectives by, for example, directing funding toward certain communities or incentivizing

[24] *See* 33 U.S.C. §§ 1381(a), 1384(a), (c)(2) (EPA "*shall* make capitalization grants to each state" for water pollution control using a statutory formula); 42 U.S.C. § 300j-12(a)(1)(A)(C) (drinking water grant).
[25] *See About the Clean Water State Revolving Fund (CWSRF)*, U.S. ENV'T. PROTECTION AGENCY, (last accessed Sep. 18, 2025), https://www.epa.gov/cwsrf/about-clean-water-state-revolving-fund-cwsrf#works.
[26] *Id*.

certain types of water-related projects. In turn, local governments—including USCM's members—reap substantial public health and infrastructure benefits from the projects these funds support.

Congress also appropriated $550 million to the DOE for the IIJA's Energy Efficiency and Conservation Block Grant ("EECBG") Program, which is available to States, Tribes, and local governments to help implement strategies to reduce energy use and fossil fuel emissions, and to improve energy efficiency.[27] EECBG provides crucial investments in communities with historically limited funding for climate action and must allocate 68% of its grants to local governments.[28] As a noncompetitive formula grant program, local governments are eligible to receive awards, but they must apply to receive them. According to the Midwest Energy Efficiency Alliance ("MEEA"), "[a]s of May 29, 2024, the [DOE] has awarded a total of $130,592,650 in [Block Grant] formula funding to 151 communities."[29] To provide only a few examples, St. Louis County, Missouri and Romeoville, Illinois received awards of $735,240 and $76,390, respectively, to install EV-charging stations.[30] Cincinnati, Ohio's $334,440 grant was awarded to establish a revolving

[27] IIJA § 40552; During the initial Federal Funding Freeze, DOE took down its web pages dedicated to EECBG. EECBG's web address, https://www.energy.gov/clean-energy-infrastructure/energy-efficiency-and-conservation-block-grant-program-formula-grant, now reroutes to https://www.energy.gov.
[28] *EECBG Status Update: Many Eligible Midwest Communities Awarded Formula Grants*, MIDWEST ENERGY EFFICIENCY ALLIANCE (June 17, 2024), https://www.mwalliance.org/blog/eecbg-status-update-many-eligible-midwest-communities-awarded-formula-grants.
[29] *Id*.
[30] *Id*.

loan fund for energy-efficiency upgrades.[31] Additionally, DOE must allocate 28% of its EECBG grants to state governments.[32] State governments are required to sub-grant at least 60% of their formula funding to cities and counties that do not otherwise receive funding under the program.[33] Local governments have used EECBG funds to develop clean energy plans, conduct energy audits, implement energy efficiency and clean energy upgrades and projects, and install EV charging stations—projects that, for many communities with limited capacity, would not occur but for federal and state EECBG support.[34]

Congress appropriated $10.5 billion of IIJA funds to DOE's Grid Resilience and Innovation Partnerships ("GRIP") program, which aims to ensure the continued reliability of the country's power system in the face of increasing extreme weather events.[35] DOE has already awarded billions of dollars to hundreds of projects in all fifty states, including many municipally-led projects.[36] The City of Kaukauna, Wisconsin was awarded $3,012,462 to enhance grid resilience and reliability; Lake Worth, Florida and Naperville, Illinois were awarded $23,462,167 and $1,116,174, respectively, to increase the flexibility, efficiency, and reliability of their power systems; and Tallahassee, Florida's municipally-owned electric utility was awarded

[31] *Id*.
[32] *Id*.
[33] 42 U.S.C. 17155(c)(1)(A).
[34] *See supra*, n. 29.
[35] IIJA §§ 40101(c), 40103(b), 40107.
[36] *Grid Resilience and Innovation Partnerships (GRIP) Program Projects*, U.S. DEP'T OF ENERGY (last accessed Sep. 18, 2025), https://www.energy.gov/gdo/grid-resilience-and-innovation-partnerships-grip-program-projects.

$28,696,679 to modernize its electric grid.[37] A resilient power system means that local governments and their residents can access basic necessities and essential services throughout the year, during routine weather and extreme events. Modernizing the grid also can increase energy efficiency and reduce energy costs for residents in communities across the country.[38]

Under these and other IRA and IIJA programs, local governments have won funding, or been allocated sub-grants from states, for projects that they now rely on and that federal agencies are obligated to pay when grant requirements are met. These funds provide for a host of actions that advance local climate action, protect and improve public health, and safeguard the well-being of their communities and residents. The district court held that the Federal Funding Freeze was done "broadly and indiscriminately[,]" harming plaintiffs and extending well beyond to "affect[] the safety of their homes, their communities' ability to withstand natural disasters, access to food from local farms, and a clean and safe environment." Op. at 36. Many of the individuals affected are also residents of USCM's members. As explained more fully in the following section, lifting the injunction would directly undermine USCM's members' ability to protect the health and well-being of their residents,

[37] *Id*.
[38] *See* Glen Andersen, Megan Cleveland, and Daniel Shea, MODERNIZING THE ELECTRIC GRID: STATE ROLE AND POLICY OPTIONS, NAT'L CONF. OF STATE LEGS. (Sep. 22, 2021), https://www.ncsl.org/energy/modernizing-the-electric-grid.

maintain critical infrastructure, and implement the very climate, transportation, clean energy programs, and investments that the IRA and IIJA were duly enacted by Congress to support.

II. USCM's Members Have Suffered—and Remain at Risk of Further Suffering—Irreparable Harm if the Preliminary Injunction Is Not Upheld.

Plaintiffs have described in detail the "predictable and dire" consequences of the Federal Funding Freeze for awardee organizations and the people they serve. Plaintiffs' Br. at 8-11. The preliminary injunction also averted substantial harm to local governments and their residents—harms similar to those experienced by Plaintiffs. If the injunction is lifted, local governments will face the same irreparable harm that the district court found to be "more than adequately demonstrated." Op. at 51. Indeed, just as the Federal Funding Freeze placed the Plaintiffs' "critical climate, housing, and infrastructure projects in serious jeopardy, while also threatening the livelihoods of the [Plaintiffs'] employees as well as their fundamental missions[,]" USCM members face similar harms to their projects, employees' livelihoods, standing in the community, and ability to protect their residents' health, safety, and well-being. Op. at 55.

By their own concession, Defendants cannot present a clear timeline for how long a renewed freeze would continue because they do not have one. Op. at 56 (noting

that "without injunctive relief to pause the categorical freeze of IRA and IIJA funds, the funding that the [Plaintiffs] are owed . . . creates an indefinite limbo."). The harms from the federal government's failure to disburse funds are not abstract or speculative. They would worsen each day. IRA- and IIJA-funded projects would be at risk of languishing, costs may rise, and ultimately, local communities will bear the burden of stalled or abandoned projects, to the detriment of local taxpayers. USCM's members are relying on federal funding to help protect the health and well-being of their residents, business communities, and others who rely on them, supplying crucial services for which they may have foregone other projects or avenues of funding.

A. Harm Due to Budget Impacts, Projects Paused, Services Interrupted, and Layoffs

Local governments have structured their budgets, secured commitments, and begun project implementation in reliance on Defendants' fulfillment of funding obligations. These obligations are not conceptual—they have enabled tangible, shovel-ready projects that local governments would otherwise be unable to pursue. If the injunction is lifted and a renewed freeze is implemented, these projects may not move forward.

For example, and as mentioned *supra*, Cuyahoga County, Ohio was awarded a CPRG implementation grant to deploy 63 MW of solar and 10 MW of battery

storage,[39] as did New York's Hudson Valley Regional Council to reduce fugitive methane emissions from landfills.[40] Through its Drinking Water State Revolving Fund, Massachusetts awarded $115.2 million in grants for 47 projects in 40 municipalities and water utilities across the state.[41] In Wisconsin, through the IIJA's appropriation for state water revolving funds to address emerging contaminants, the City of Wausau was awarded over $17 million, part of which was earmarked for projects intended to reduce the concentration of per- and polyfluoroalkyl substances ("PFAS") in drinking water.[42] California used funds from its EECBG grant to award subgrants to local governments for projects to plan or implement building decarbonization actions.[43] In Rhode Island, 29 cities and towns are eligible to receive EECBG subgrants "to support the reduction of fossil fuel emissions, reduction of total energy use in communities, improve efficiency of facilities, and contribute to the growth of the clean energy economy."[44] And under EPA's air monitoring

[39] *Inflation Reduction Act, Cuyahoga County (Ohio)*, U.S. ENV'T. PROTECTION AGENCY (last accessed Sep. 17, 2025), https://www.epa.gov/inflation-reduction-act/cuyahoga-county-ohio.
[40] *Inflation Reduction Act, Hudson Valley Regional Council (New York)*, U.S. ENV'T. PROTECTION AGENCY (last accessed Sep. 17, 2025), https://www.epa.gov/inflation-reduction-act/hudson-valley-regional-council-new-york.
[41] *See* Carolyn Berndt and Peyton Siler Jones, *Municipal Water Projects Advance with State Revolving Fund Financing and Funding*, NAT'L LEAGUE OF CITIES (Nov. 14, 2023), https://www.nlc.org/article/2023/11/14/municipal-water-projects-advance-with-state-revolving-fund-financing-and-funding/.
[42] *Id*.
[43] *See e.g., Local Government Building Decarbonization Challenge*, CAL. GRANTS PORTAL (last accessed Sep. 17, 2025), https://www.grants.ca.gov/grants/local-government-building-decarbonization-challenge-2/.
[44] *See Energy Efficiency and Conservation Block Grant (EECBG)*, R.I. OFF. OF ENERGY RES. (last accessed Sep. 18, 2025), https://energy.ri.gov/leadbyexample/municipal-programs/energy-efficiency-and-conservation-block-grant-eecbg.

program, local governments can directly receive funds, and state awardees can make subawards to local governments, to help monitor air pollution.[45]

Lifting the preliminary injunction would jeopardize these and many other projects, placing them at risk of delay or cancellation. These are projects that local governments may not have otherwise had the funding to pursue, and to which they devoted enormous amounts of time to prepare grant applications. But in reliance on final agreements, projects were planned and prepped. Without assistance from federal funding, local governments would be forced to either reallocate funds from other essential services or pause or cancel projects indefinitely. Moving money from other programs and services could result in the loss of services essential to the daily lives of residents, while cancelling projects indefinitely would risk permanently sinking costs already incurred to plan and prepare for project implementation. As a corollary, the budgetary trade-offs would risk layoffs to public employees and contractors, exacerbating the harm to local communities.

Indeed, as described in *New York*, it is "so obvious" that a pause in funding would cause harm because it creates unavoidable opportunity costs. Faced with a renewed Federal Funding Freeze, local governments would have to give up

[45] *See Program Guidance for Air Pollution Control Agencies*, U.S. ENV'T. PROTECTION AGENCY, at 6 (last accessed Sep. 18, 2025), https://www.epa.gov/system/files/documents/2024-02/air-monitoring-grants-ira-60105a-b-guidance-02-15-24_0.pdf.

something. Each option would leave USCM's members and their residents worse off.

B. Harm to Local Governments' Climate Efforts and Residents' Health, and Well-Being

Lifting the preliminary injunction would also stand to significantly jeopardize USCM's members' efforts to mitigate and respond to the impacts of climate change, causing further harm to the health and well-being of local residents. The Intergovernmental Panel on Climate Change ("IPCC"), a world-leading panel of scientific experts convened by the United Nations and the World Meteorological Organization, has clearly stated the world must reduce GHG emissions from fossil fuel extraction and consumption as rapidly as possible to avoid the potentially catastrophic consequences of anthropogenic global warming and climate change.[46] Recent data shows that 2024 was the warmest year since 1850, with global average temperatures 1.62°C above pre-industrial levels.[47] The higher temperatures are supercharging extreme weather events which threaten communities across America. The IPCC has warned that, to limit future impacts, GHG emissions must be rapidly and dramatically reduced over the next five years.[48] Local governments are at the

[46] IPCC, AR6 SYNTHESIS REPORT: CLIMATE CHANGE 2023 (2023) [hereinafter IPCC AR6 SR].
[47] *See* Robert Rohde, BERKELEY EARTH, GLOBAL TEMPERATURE REPORT FOR 2024 (Jan. 10, 2025), https://berkeleyearth.org/global-temperature-report-for-2024/.
[48] IPCC AR6 SR, *supra* note 41, at 92.

forefront of efforts to reduce emissions and prepare for climate impacts and rely on federal funds to do that.

Congress appreciated the need to quickly lower GHG emissions and appropriated IRA and IIJA funds accordingly. The programs and funding reflected herein reflect Congressional policy judgments and priorities that the Executive Branch must respect. Because the Federal Funding Freeze unlawfully violated and jeopardized that careful decision-making, the district court properly enjoined it.

A renewed Federal Funding Freeze on municipal projects made possible through IRA and IIJA funding would radically inhibit local climate action. Local projects funded by this legislation include solar energy and battery storage installations benefitting disadvantaged communities through the IRA's Solar for All program. If fully implemented, SFA would reduce GHG emissions equivalent to more than 7 million passenger vehicles per year, while reducing local air pollution and lowering energy bills.[49]

Other critical projects now at risk include those funded by CPRG and EECBG direct grants and sub-grants worth hundreds of millions of dollars. These are projects that will reduce GHG emissions and local air pollution, and improve public health, through building decarbonization, renewable energy deployment, reductions in

[49] *Solar for All Fast Facts*, U.S. ENV'T. PROTECTION AGENCY, (last accessed Sep. 18, 2025), https://www.epa.gov/greenhouse-gas-reduction-fund/solar-all-fast-facts.

methane emissions at landfills, infrastructure improvements to incentivize alternative transportation, EVs and associated charging infrastructure, and energy-efficiency improvements. The collective benefits of these projects are immense: the deployment of tens of thousands of megawatts of solar generation, hundreds of thousands of efficient heat-pumps, clean water supplying millions of people, millions of metric tons of avoided methane emissions, and millions of tons of diverted food waste from landfills, among others.[50]

The cascading effects of a renewed Federal Funding Freeze would further threaten the long-term viability of these projects: permits may lapse, contractors may withdraw, and purchased materials may deteriorate or become unusable. Moreover, many hours of local government staff resources will be wasted on projects and grant applications that never come to fruition. A renewed freeze jeopardizes emissions reductions and introduces damaging uncertainty into municipal planning. These harms would be made particularly acute because local governments reasonably relied on final, binding IRA and IIJA agreements with the federal government. Many local governments forewent other sources of capital for their climate work in reliance on federal government commitments to fund and implement projects in their communities.

[50] *See, e.g., CPRG Implementation Grants: General Competition Selections*, U.S. ENV'T. PROTECTION AGENCY, (last accessed Sep. 18, 2025), https://www.epa.gov/inflation-reduction-act/cprg-implementation-grants-general-competition-selections.

Even temporary delays in funding and project execution would result in long-lasting harm. For example, if Colorado's plan to fund 64 local governments to adopt improved minimum energy codes through subgrants from its $128 million CPRG implementation grant is frozen, it would hinder local governments' climate commitments, like Denver's goal to achieve net-zero building emissions by 2050.[51] Relatedly, any sub-grant that Denver receives from the Denver Regional Council of Governments' implementation grant to decarbonize the building sector similarly relies on the flow of federal funding.[52] The timing of climate action matters a great deal. Even if Denver could, in theory, reach its 2050 goal in the face of a temporary delay, it will be more difficult and costly to achieve those reductions closer to that date, and as noted, the *temporariness* of the delay is very much not guaranteed.

Local governments in Illinois face similar risks, as the state plans to use part of its $430 million grant to provide local governments with subgrants to support transitions to stretch energy codes.[53] As mentioned *supra*, New York awarded $7.1

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[51] *See State of Colorado*, U.S. ENV'T. PROTECTION AGENCY, (last accessed Sep. 18, 2025), https://www.epa.gov/inflation-reduction-act/state-colorado (explaining that Colorado's Decarbonization Accelerator will "offer[] subawards to local governments for policies and actions in sectors with significant GHG emissions reduction potential, including in the transportation, buildings, land-use, and waste sectors."); *see also* STATE OF COLORADO, COLORADO CLIMATE ACTION PLAN (Mar. 2024), https://www.epa.gov/system/files/documents/2024-03/colorado-pcap.pdf.

[52] *Inflation Reduction Act, Denver Regional Council of Governments (Colorado)*, U.S. ENV'T. PROTECTION AGENCY (last accessed Sep. 17, 2025), https://www.epa.gov/inflation-reduction-act/denver-regional-council-governments-colorado.

[53] *See State of Illinois*, U.S. ENV'T. PROTECTION AGENCY, (last accessed Sep. 18, 2025), https://www.epa.gov/inflation-reduction-act/state-illinois.; *see also* STATE OF ILLINOIS, PRIORITY CLIMATE ACTION PLAN (Mar. 1, 2024), https://epa.illinois.gov/content/dam/soi/en/web/epa/topics/climate/documents/Illinois%20Priority%20Climate%20Action%20Plan.pdf.

million in subgrants to 23 urban forestry projects to plant more trees, with a particular focus on disadvantaged communities.[54] If the preliminary injunction is lifted, any delay caused by a renewed Federal Funding Freeze will exacerbate public health harms linked to low tree canopy coverage—such as heightened extreme heat risk, poor storm resiliency, reduced air quality, and the loss of urban green space benefits to quality of life.[55]

Lifting the injunction would thus immediately endanger projects critical to municipal climate action, increase local climate-related risks, and undermine local governments' trust in the federal government. The district court correctly recognized that Plaintiffs and all recipients of IRA and IIJA funding administered by Defendants would experience these same harms and rightly granted injunctive relief. Op. at 57-62. Preserving the preliminary injunction protects plaintiffs and the day-to-day ability of local governments to serve their residents, meet statutory mandates, and deliver on federally funded climate and infrastructure goals.

CONCLUSION

Wheretofore, *Amicus Curiae* USCM respectfully urges this Court to uphold the injunction and allow briefing on the merits to proceed without changing the status quo.

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[54] *New York State Awards 23 Projects $7 Million in Urban and Community Forestry Grants*, NEW YORK STATE URBAN FORESTRY COUNCIL (last accessed Sep. 18, 2025), https://nysufc.org/new-york-state-awards-23-projects-7-million-in-urban-and-community-forestry-grants/2024/08/14/.

[55] *Id.*

Respectfully Submitted,

/s/ Vince M. Nolette

VINCENT M. NOLETTE
Counsel of Record
AMY E. TURNER
SABIN CENTER FOR CLIMATE CHANGE LAW
435 West 116th Street
New York, NY 10027
(402) 320-4210
vmn2106@columbia.edu

Counsel for Amicus Curiae

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing brief complies with the type-volume limitations set forth in Fed. R. App. P. 32(a)(7)(B)(i) and 29(a)(5) because this brief contains 5,782 words, excluding the parts of the brief exempted by Fed. R. App. P 32(f). The foregoing brief complies with the typeface requirements of Fed. R. App. P 32(a)(5) and the type style requirements of Fed. R. App. P 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Office Word in 14-point Times New Roman font.

/s/ Vincent M. Nolette
VINCENT M. NOLETTE

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of October 2025, I caused a true and correct copy of the foregoing to be electronically filed with the Clerk of the Court of the United States Court of Appeals for the First Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users, and that service will be accomplished by the CM/ECF system.

/s/ Vincent M. Nolette
VINCENT M. NOLETTE