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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CITY OF SAN JOSE, CALIFORNIA, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as President of the United States, et al.,

Defendants.

CASE NO. 5:20-cv-05167-LHK-RRC-EMC

DECLARATION OF DWIGHT DIVELY IN SUPPORT OF PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT AND IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS, OR IN THE ALTERNATIVE, MOTION FOR PARTIAL SUMMARY JUDGMENT

Date: October 8, 2020
Time: 1:30 p.m.
Place: Courtroom 8, 4th Floor
Judge: Honorable Richard R. Clifton
Honorable Lucy H. Koh
Honorable Edward M. Chen

DECLARATION OF DWIGHT DIVELY

I, Dwight Dively, hereby declare as follows:

1. I am the Performance, Strategy and Budget Director for King County, Washington (the "County"). I submit this Declaration in support of Plaintiffs' Reply in Support of Motion for Partial Summary Judgment and in Opposition to Defendants' Motion to Dismiss, or in the Alternative, Motion for Partial Summary Judgment. I have personal knowledge of the facts stated herein and, if called as a witness, I could testify to them competently under oath.

2. I am responsible for developing and monitoring the biennial County budget, implementing, identifying and tracking performances measures, and overseeing business planning. I oversee a wide range of activities, including project analysis, financial forecasting, program evaluation, demographic analysis, and policy development. Prior to King County, I had a 22-year career with the City of Seattle, most recently serving as Director of Finance and leading the city's financial and budget management initiatives.

3. I have been in high-level roles at the County and other public entities for 30 years. I am extremely familiar with the County's demographics, policies, structure, operations, and budgeting processes, and have been involved in the preparation of dozens of public entity budgets. I am currently integrally involved in the County's budget process.

4. King County is located in Washington State and includes cities and towns such as Seattle, Bellevue, and Redmond. King County is the thirteenth largest county by population in the United States and is home to over 2.2 million people. Most of the population resides in the 39 cities and towns within the County. However, King County serves as the local government for approximately 250,000 residents, and provides regional public transportation, public health, wastewater treatment, recreation, emergency preparedness, and human services across jurisdictional boundaries. County residents rely on King County to provide essential services, such as law enforcement, health care, care for the County's youth and elderly, and other social services.

5. King County has experienced record growth since 2010, where our total population has grown by 15%. We know from the Census Bureau's American Community

Survey data that the majority of our population growth is comprised of historically undercounted communities. More than three-quarters of King County's new residents are from communities of color, and half are immigrants, both populations that are less likely to self-respond to the census.

6. King County relies on accurate census data to project workforce needs to deliver services and to direct those services to where needs are highest for the county's residents, workers, and visitors. A host of planning activities across the organization rely on census data. King County Metro Transit relies on population counts and demographic data to ensure buses are routed efficiently, and new transit investments are located to serve concentrations of population. American Community Survey data, based on decennial counts, help identify where transit-dependent populations reliant upon the County's transit live and work. Metro relies on accurate census data for required Title VI reporting to the Federal Transit Administration. Public Health Seattle-King County uses census data to identify where public health clinics should be located and plan the types of services patients are likely to need. King County's Department of Local Services relies on census data to provide demographics that inform neighborhood and transportation planning. King County Emergency Management relies on census data for hazard mitigation and recovery planning. Census data inform regional planning throughout King County, as it forms the base for population forecasting and provides demographics for comprehensive planning. As a partner to the State Data Center program, the King County Demographer provides residents, other governments, the media, and any interested party with demographic information from the census. Providing accurate data enriches the public's trust in government and being unable to provide accurate data erodes that support.

7. King County receives federal funding, including CDBG, HOME, and ESG funding from HUD and Federal Transit Formula Grants from the FTA, which are distributed proportionately based on census counts. In FY19, over $108 million was disbursed to the Seattle, Washington region in Transit Formula Grants, a significant portion of which was further distributed to King County Metro based on population and service. In 2020, King County received $9,852,719 for the three HUD programs. An undercount in the 2020 Census would

reduce the amount of federal funding King County receives for these programs proportionately disbursed by census population counts.

8. In addition to federal fund distribution, many Washington state funding streams distributed to King County are population-based, including Criminal Justice sales tax revenues, motor vehicle fuel taxes, and liquor revenues. These are based on Washington state county population estimates, which in turn depend entirely on accurate decennial Census counts. An undercount in the 2020 Census would reduce the County's 2020 population count and directly reduce those funds to King County over the next decade.

9. Under Washington state law, the County must use the federal census as the basis for adjusting the boundaries of its Council districts every ten years. *See* Revised Code of Washington, Title 29A.76.010. An undercount in the 2020 Census, specifically one that misses historically undercounted populations would affect how district boundaries are drawn, underrepresenting undercounted residents.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 17, 2020 in Seattle, Washington.

Dwight Dively