MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT
(City of St. Louis)

THE STATE OF MISSOURI *ex rel.* ERIC S. SCHMITT,	)	
Plaintiff,	)	Cause No. 2222-CC08920-01
v.	)	Division No. 18
CITY OF ST. LOUIS, *et al*,	)	
Defendants.	)	

ORDER

The Court has before it the following two motions: the State of Missouri *ex rel.* Eric S. Schmitt ("Plaintiff")'s Motion for Preliminary Injunction against the City of St. Louis ("the City"), Darlene Green – Comptroller for the City of St. Louis ("the Comptroller"), Adam Layne – Treasurer for the City of St. Louis ("the Treasurer"), and Dr. Matifadza Hlatshwayo Davis – Director of Health for the City of St. Louis ("the Director") (collectively "Defendants"); and Defendants' Amended Motion to Dismiss. The Motions were heard on October 17, 2022. Plaintiff and Defendants appeared for the hearing by counsel. Since the hearing, and up to June 8, 2023, Defendants have submitted affidavits from Craig Schmid, a Government Services Analyst within the City of St. Louis Department of Health. The Court now rules as follows.

On July 21, 2022, Plaintiff filed a petition seeking a declaration that the City's actions to earmark public funds to provide access to abortion through logistical support are unconstitutional, unlawful, and/or *ultra vires*; a declaration that Board Bill 61 ("BB61") is unconstitutional and unlawful because it fails to account for the impact on unborn children; a declaration that BB61 violates Sections 188.205, 188.210, and 188.215 RSMo; an injunction against the City and its officers, employees, and agents from taking any action to carry out any of BB61 Sections 1, 2, and

3, and from taking any action that would provide in any manner for the use of public funds, public employees, public facilities, and/or public resources for abortions or abortion assistance, including any "logistical support" for abortion; and a final judgment in Plaintiff's favor on all Counts in the Petition.

I. BACKGROUND

On June 24, 2022, the Supreme Court of the United States handed down its opinion in Dobbs v. Jackson Women's Health Organization, 142 S.Ct. 2228 (2022). Dobbs held "that the Constitution does not confer a right to abortion." Id. at 2242. As a result, "the authority to regulate abortion" has "returned to the people and their elective representatives." Id. at 2243.

In May of 2019, the Missouri General Assembly passed House Bill 126 ("HB126"). HB126 amended Section 188.010 RSMo to provide: "In recognition that Almighty God is the author of life, that all men and women are 'endowed by their Creator with certain unalienable Rights, that among these are Life ....'" Accordingly, the General Assembly declared "that the state and all of its political subdivisions are a 'sanctuary of life' that protects pregnant women and their unborn children."

On May 24, 2019, Governor Michael Parson signed HB 126, detailed above, into law. After the Governor signed the bill, most of the provisions went into effect on August 28, 2019. The General Assembly also enacted the Right to Life of the Unborn Child Act ("the Act"), Section 188.017 RSMo with a contingent effective date. Shortly after the U.S. Supreme Court's issuance of Dobbs, the attorney general issued an opinion letter informing the Revisor that the Dobbs opinion satisfied the first condition of Section 188.017.4 RSMo. As a result, the Act became effective on June 24, 2022. The Act mandates that "no abortion shall be performed or induced upon a woman, except in cases of medical emergency." Section 188.017 RSMo.

In addition to the above, Section 1.205 provides that: "[t]he life of each human being begins at conception." Section 1.205.1(1). "Unborn children have protectable interests in life, health, and wellbeing." Section 1.205.1(2). Also, "the laws of this state shall be interpreted and construed to acknowledge on behalf of the unborn child at every stage of development, all the rights, privileges, and immunities available to other persons, citizens, and residents of this state . . .." Section 1.205.2.

In 1986, Missouri passed House Bill 1596 ("HB1596"), which prohibits using public resources for the purpose of supporting or assisting abortion. It was codified into Section 188.205 RSMo, which provides: "It shall be unlawful for any public funds to be expended for the purpose of performing or assisting an abortion, not necessary to save the life of the mother, or for the purpose of encouraging or counseling a woman to have an abortion not necessary to save her life." There are similar prohibitions against the use of public employees and public facilities to support, encourage, or assist abortion in Sections 188.210 and 188.215 RSMo.

The attorney general has "concurrent original jurisdiction throughout the state . . . to commence actions for a violation of any provision" of Chapter 188. Section 188.075. The attorney general also "may seek injunctive or other relief against any person who, or entity which, is in violation of any provisions of this chapter, misuses public funds for an abortion, or violates any state law which regulates an abortion facility or a person who performs or induces an abortion." Id.

In March 2021, Congress enacted the American Rescue Plan Act ("ARPA"), to establish a local fiscal recovery fund, providing that, through December 31, 2024, local governments may use the recovery funds "to cover costs incurred" to, among other things, "respond to the public health

emergency with respect to the [COVID-19 pandemic] or its negative economic impacts . . .." On January 27, 2022, the Department of Treasury promulgated final rules to guide in the implementation of, and identify categories of, eligible uses for ARPA funds. The final rule provides that "[t]he [State and Local Fiscal Recovery Funds] program, and Treasury's interim final rule, provide substantial flexibility to recipients to respond to pandemic impacts in their local community." "This flexibility is designed to help state, local, and Tribal governments adapt to the evolving public health emergency and tailor their response as needs evolve and to the particular local needs of their communities." The eligible uses for Local Fiscal Recovery Funds are set forth in subpart A of 31 CFR § 35.1, which provides that a program or service is broadly eligible for funds "if a recipient identifies a harm or impact to a beneficiary or class of beneficiaries caused or exacerbated by the public health emergency or its negative economic impacts" and the program or services "responds to such harm." The regulation further provides, as relevant, that a State "may not place additional conditions or requirements on distributions to . . . units of general local government beyond those required by section 603 of the Social Security Act or this subpart." 31 CFR § 35.12(d).

The City passed Resolution Number 141 on December 10, 2021, declaring that the City is a "safe zone" for abortion. On July 15, 2022, the City's Board of Aldermen voted to pass BB61, which purported to establish a "Reproductive Equity Fund." In passing BB61, the Board of Aldermen found the Covid 19 pandemic exacerbated existing social and economic inequities and that "Women, Black women, and mothers" are at the lowest workforce participation rate in thirty years. Further, the Board of Aldermen found Missouri's pregnancy-related mortality ratio is one of the highest in the country and four times greater for Black women than white women.

The sections of BB61relevant to the instant Motions state as follows:

SECTION ONE. There is hereby appropriated the sum of One Million Dollars ($1,000,000) of the ARPA Funds appropriated to the City to the St. Louis Department of Health. The Department of Health will establish a process to allocate the funds to community partners through grants as part of a new Reproductive Equity Fund dedicated to logistical support. These grants will not be used to fund or assist abortion procedures nor shall funds be used to encourage or counsel an individual to have an abortion. Grant funds will be used to provide access to abortion through logistical support including but not limited to the funding of childcare, transportation, and other logistical support needs. The Director of the Department of Health is authorized to make, negotiate, and execute any and all contracts or other documents on behalf of the City to expend such funds and to expend such funds on behalf of the City for the purposes described on Exhibit **A**. The Comptroller is authorized and directed to issue warrants upon the City Treasury for payment of all expenditures authorized in this Section provided that such warrants do not exceed the total amount of funds appropriated by this Section.

SECTION TWO. There is hereby appropriated the sum of Five Hundred Thousand Dollars ($500,000) of the ARPA Funds appropriated to the City to the St. Louis Department of Health. The Department of Health will establish a process to allocate the funds to community partners through grants as part of a Reproductive Equity Fund dedicated to community needs. Allocations through this fund will support infrastructure and operations for organizations already providing direct services to support reproductive healthcare access in the region including access to doulas and lactation support. The Director of the Department of Health is authorized to make, negotiate, and execute any and all contracts or other documents on behalf of the City to expend such funds and to expend such funds on behalf of the City for the purposes described on **Exhibit A**. The Comptroller is authorized and directed to issue warrants upon the City Treasury for payment of all expenditures authorized in this Section provided that such warrants do not exceed the total amount of funds appropriated by this Section.

SECTION THREE. There is hereby appropriated the sum of Two Hundred and Fifty Thousand Dollars ($250,000) of the ARPA Funds appropriated to the City to the St. Louis Department of Health. These funds will be used to provide administrative oversight and evaluation for the Reproductive Equity Program and Fund. The Director of the Department of Health is authorized to make, negotiate, and execute any and all contracts or other documents on behalf of the City to expend such funds and to expend such funds on behalf of the City for the purposes described on **Exhibit A**. The Comptroller is authorized and directed to issue warrants upon the City Treasury for payment of all expenditures authorized in this Section provided that such warrants do not exceed the total amount of funds appropriated by this Section.

The Mayor signed BB61 on July 21, 2022. BB61 funds the Reproductive Equity Fund with $1.5 million in ARPA funds. It also provides $250,000 in ARPA funds for "administrative

oversight and evaluation" of the Reproductive Equity Fund. Of the $1.5 million, $1 million in the Reproductive Equity Fund "provide[s] access to abortion through logistical support including but not limited to the funding of childcare, transportation, and other logistical support needs." BB61 authorizes the City's Director of the Department of Health to "make, negotiate, and execute any and all contracts or other documents on behalf of the City to expend such funds." BB61 directs the City Comptroller to "issue warrants upon the City Treasury for payment of all expenditures authorized" under the Reproductive Equity Fund's purposes. The other $500,000 of the Reproductive Equity Fund "provide[s] direct services to support reproductive healthcare access in the region...," and it also permits funds to be used for doulas and lactation support. In addition, BB61 appropriates $250,000 "to provide administrative oversight and evaluation for the Reproductive Equity Program and Fund." Using these public funds, "[t]he Director of the Department of Health is authorized to make, negotiate, and execute any and all contracts or other documents on behalf of the City to expend such funds...." Further, "[t]he Comptroller is authorized and directed to issue warrants upon the City Treasury for payment of all expenditures authorized in this Section...." BB61 contains an emergency clause stating that it "shall become effective immediately upon its passage and approval by the Mayor." As a result, the City has dedicated at least $1.25 million, and up to $1.75 million, to this Reproductive Equity Fund.

In response, Plaintiff has filed this action contending the City's recently enacted BB61 violates State law by using taxpayer-funded resources to support, encourage, and assist out-of-state abortions. Plaintiff filed its petition seeking a preliminary injunction and a declaratory judgment. Plaintiff alleges the following causes of action: Count I: Unlawful Use of Public Funds; Count II: Unlawful Activity by Public Employees; Count III: Unlawful Use of Public Facilities; and Count IV: The City's Policy Is Preempted by State Law.

In response, Defendants sought to remove the matter to federal court, attempting to invoke federal question jurisdiction. While the case was pending in federal court, Defendants filed an answer, a counterclaim, and a motion to dismiss. Plaintiff moved to remand the case to this Court. The federal court remanded the case to this Court, leaving all other outstanding motions for resolution by this Court. All of the filings made while the case was pending in federal court were made part of the file in this case.

When the case was again pending in this Court, Defendants filed an amended motion to dismiss, an amended answer, an amended counterclaim, an amended memorandum in opposition to Plaintiff's motion for a preliminary injunction, and an amended reply in support of their motion to dismiss.[1] Plaintiffs also filed an amended opposition to Defendants' motion to dismiss, an amended reply in support of the motion for a preliminary injunction.[2]

This Court will begin its inquiry with Defendants' Amended Motion to Dismiss before turning to Plaintiff's Motion for Preliminary Injunction.

II. DEFENDANTS' AMENDED MOTION TO DISMISS

In their amended motion to dismiss, Defendants assert Plaintiff has failed to state a claim upon which relief may be granted. Defendants contend Plaintiff's petition fails to state a claim because (1) it fails to present a ripe and justiciable controversy; (2) Section 188.205 RSMo's limit on expenditure of federal funds violates the Supremacy Clause; (3) Sections 188.205-215 RSMo are impermissibly overbroad and vague under the First Amendment to the United States Constitution; and (4) Sections 188.205-215 RSMo are unconstitutional under Article VI, Section19(a) and Section 16 of the Missouri Constitution.

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[1] Defendants sought leave to make these filings. If the Court did not previously grant such leave, it is granted now.
[2] Similarly, Plaintiff sought leave to make these filings. If it was not previously granted, it is granted now.

A motion to dismiss for failure to state a claim for which relief can be granted under Rule 55.27(a) is solely a test of the adequacy of the petition. Bromwell v. Nixon, 361 S.W.3d 393, 398 (Mo. banc 2012). The Court assumes that all of plaintiff's averments are true, and liberally grants to plaintiff all reasonable inferences therefrom. Bosch v. St. Louis Healthcare Network, 41 S.W.3d 462, 464 (Mo. banc 2001). No attempt is made to weigh any facts as to whether they are credible or persuasive. Id. Instead, the petition is reviewed to see whether the facts alleged meet the elements of a recognized cause of action, or of a cause that might be adopted in that case. Id. "Missouri rules of civil procedure demand more than mere conclusions that the pleader alleges without supporting facts." Pulitzer Publ'g Co. v. Transit Casualty Co., 43 S.W.3d 293, 302 (Mo. 2001).

a. Ripeness.

First, Defendants contend Plaintiff fails to present a ripe and justiciable controversy and instead seeks an advisory opinion. A declaratory judgment is not a general panacea for all real and imaginary legal ills. Missouri Soybean Ass'n v. Missouri Clean Water Comm'n, 102 S.W.3d 10, 25 (Mo. banc 2003). Nor is it available to adjudicate hypothetical or speculative situations that may never come to pass. Id. To grant a declaratory judgment, the court must be presented with: (1) a justiciable controversy that presents a real, substantial, presently-existing controversy admitting of specific relief, as distinguished from an advisory decree upon a purely hypothetical situation; (2) a plaintiff with a legally protectable interest at stake, "consisting of a pecuniary or personal interest directly at issue and subject to immediate or prospective consequential relief;" (3) a controversy ripe for judicial determination; and (4) an inadequate remedy at law. Id. A declaratory judgment should have a conclusive effect and should lay to rest the parties'

controversy. Id. A declaratory judgment must declare a fixed right and accomplish a useful purpose. Id.

Moreover, the authority of the courts of this State to render declaratory judgments must be used and operate within the limits of the constitutional powers and duties of the courts. Id. at 26. One such limit is the traditional doctrine of ripeness; a court cannot render a declaratory judgment unless the petition presents a controversy ripe for judicial determination. Id. The basic rationale of the ripeness doctrine is to "prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements over policies, and also to protect from judicial interference until a decision has been formalized and its effects felt in a concrete way by the challenging parties. Id.

Determining whether a particular case is ripe for judicial resolution requires a two-fold inquiry, a court must evaluate whether the issues tendered are appropriate for judicial resolution, and the hardship to the parties if judicial relief is denied. Id. at 27. Ripeness does not exist when the issue rests solely on the probability that an event will occur. Buechner v. Bond, 650 S.W.2d 611, 614 (Mo. Banc 1983).

Here, Plaintiff requests that the Court declare the City's actions earmarking federal funds to provide logistical support for reproductive healthcare access as unlawful; declare that BB61 violates Sections188.205-15; enjoin the Defendants from "taking any action to carry out any of BB61 Sections 1, 2, and 3; and enjoin Defendants from taking any action that would provide "for the use of public funds, public employees, public facilities, and/or public resources for abortions or abortion assistance, including any 'logistical' support for abortion."

Plaintiff alleges the City is using public funds to pay for abortion-related logistical support, including childcare and travel expenses. Plaintiff further alleges that BB61 violates Chapter 188

RSMo because it subsidizes, encourages, and attempts to increase access to abortion. Plaintiff then alleges that BB61 requires City employees in its Department of Health to create and manage the Reproductive Equity Fund and that in managing that fund, public employees will be assisting or encouraging abortion by processing claims for public funds to cover costs incurred in obtaining abortions.

Defendants counter that Plaintiff has offered no factual allegations demonstrating that the City has expended funds in a manner that violates state law or that the State has been or will imminently be injured in some concrete manner. Defendants maintain that Plaintiff's petition does not sufficiently allege facts demonstrating an actual expenditure of public funds in a manner that violates Sections188.205-15; rather, its allegations center on what the City intends to do or might do at some future point in time. Further, BB61 explicitly prohibits the expenditure of federal funds "to fund or assist abortion procedures" or "to encourage or counsel an individual to have an abortion." To sum up, Defendants maintain Plaintiff's petition "relies upon purely speculative and hypothetical expenditures of public funds that might never actually occur."

Notwithstanding the above, the Third Amended Affidavit of Craig Schmid, a Government Services Analyst within the City of St. Louis Department of Health, demonstrates that organizations have applied for funding to support a range of activities, some of which may violate Sections 188.200-215 RSMo. A determination as to whether certain activities violate the statutes depends on more detailed facts and how broadly the relevant statutes are construed.

There are certain situations where courts have held that pre-enforcement constitutional challenges to laws were ripe when the facts necessary to adjudicate the underlying claims were fully developed and the laws at issue affected the plaintiffs in a manner that gave rise to an immediate, concrete dispute. Missouri Health Care Ass'n v. Att'y Gen. of the State of Mo., 953

S.W.2d 617, 621 (Mo. Banc 1997). The Court finds that this is such a case. The Court finds Plaintiff has presented a controversy ripe for decision.

b. Section 188.205 RSMo as Applied to BB61 and the Supremacy Clause.

As noted above, Section 188.205 RSMo provides:

> It shall be unlawful for any public funds to be expended for the purpose of performing or assisting an abortion, not necessary to save the life of the mother, or for the purpose of encouraging or counseling a woman to have an abortion not necessary to save her life.

The Supremacy Clause provides as follows:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

U.S. Constitution, Article VI, Paragraph 2.

It is clear that abortion is illegal in Missouri. Thus, the issue implicated in this case is whether Defendant can use ARPA funds to provide grants to organizations in the City to provide "access to abortion through logistical support including but not limited to the funding of childcare, transportation, and other logistical support needs." In other words, the common situation cited by the parties is whether Defendant can use federal funds to make travel to, for example, Illinois, a possibility for a woman seeking abortion or does BB61's potential expenditure of funds from ARPA for that or a similar purpose violate Section 188.205 RSMo?

Initially, the Court will note that it is questionable whether the use of ARPA funds to fund organizations that seek to provide logistical support to women who seek an abortion actually violates Section 188.205 RSMo prohibition of "performing or assisting an abortion" or "encouraging or counseling a woman to have an abortion." These terms are not defined by Section

188.205 RSMo. As a result, one could read them fairly narrowly or so expansively that they could encompass almost any activity.

Defendant contends Section 188.205 RSMo, as applied to BB61, violates the Supremacy Clause. In particular, Defendant argues Plaintiff fails to state a claim as to Section 188.205 RSMo because it does not allege facts sufficient to show that expending ARPA funds for subsidizing the costs of interstate travel related to extra-jurisdictional reproductive healthcare is an illegal expenditure of federal funds under federal law. Defendants contend that ARPA permits such an expenditure because Congress intended to afford recipients maximum flexibility to spend funds in a manner that suits the public health needs of that particular community. Defendants note that ARPA is silent on abortion and expenditures related to provision of access to abortion, and they argue that the lawfulness of the access-related expenditures contemplated by BB61 is evidenced by the fact that ARPA is not subject to the Hyde Amendment, a funding restriction on the use of federal funds to reimburse the cost of abortions except under certain specified circumstances.

Plaintiff contends ARPA Section 803(c)(1) places limitations on the use of ARPA funds, stating that: "a metropolitan city…shall only use the funds provided under a payment made under this section to cover costs incurred by the metropolitan city…by December 31, 2024" and only insofar as those costs fit within the four limited provisions in Section 803(c)(1)(A)-(D). The limitation relevant here permits ARPA funds to cover costs "to respond to the public health emergency with respect to [COVID] or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality." 42 U.S.C. Section 803(c)(1)(A).

It must be noted that neither party alleges ARPA explicitly states it preempts or does not preempt Section 188.205 RSMo. An inquiry into the scope of a statute's pre-emptive effect is

guided by the rule that the purpose of Congress is the ultimate touchstone in every pre-emption case. Altria Grp., Inc. v. Good, 555 U.S. 70, 76 (2008). Congress may indicate pre-emptive intent through a statute's express language or through its structure and purpose. Id. Pre-emptive intent may also be inferred if the scope of the statute indicates that Congress intended federal law to occupy the legislative field, or if there is an actual conflict between state and federal law. Id. at 76-77.

Here, there is no express or field preemption, so the relevant inquiry is whether there is conflict preemption. In order to evaluate that issue, the Court must examine whether Congress's purpose in allocating ARPA funds was sufficiently clear and did it provide Defendant with sufficient latitude to use the funds as it proposes.

In Lawrence County. v. Lead-Deadwood Sch. Dist. No. 40-1, the Supreme Court dealt with the Payment in Lieu of Taxes Act, which was a law passed by Congress to compensate local governments for the loss of tax revenue resulting from the tax-immune status of federal lands located in their jurisdictions, and for the cost of providing services related to these lands. 469 U.S. 256, 258 (1985). The federal law further provided the local unit "may use the payment for any governmental purpose." Id. South Dakota enacted a state law that required local governments to distribute federal payments from the Payment in Lieu of Taxes Act in the same way they distribute general tax revenues. Id. at 259. This South Dakota law would have required the County to give 60% of the funds from the Payment in Lieu of Taxes Act to its school districts, but the County declined to distribute the funds in that way, which led to the litigation. Id. The Supreme Court noted even where Congress has not expressly pre-empted state law in a given area, a state statute may nevertheless be invalid under the Supremacy Clause if it conflicts with federal law or stands

as an obstacle to the accomplishment of the full purposes and objectives of Congress. Id. at 260. Ultimately, the Supreme Court, in striking down the South Dakota state law, held:

> Because existing methods of funding did not provide local governments with the funds and flexibility needed to meet the demands created by the presence of federal lands in their jurisdictions, Congress crafted a scheme designed to ensure that the funds would reach and be placed at the disposal of the affected local governments. The attempt of the South Dakota legislation to limit the manner in which counties or other qualified local governmental units may spend federal in-lieu-of-tax payments obstructs this congressional purpose and runs afoul of the Supremacy Clause. Congress intended the affected units of local government, such as Lawrence County, to be the managers of these funds, not merely the State's cashiers.

Id. at 270.

The current case does not include an express purpose from congress stating Defendant "may use the payment for any governmental purpose." Instead, as noted above, the relevant limitations provide that ARPA funds are to be used only for costs incurred by the City before December 31, 2024 and only to cover costs "to respond to the public health emergency with respect to [COVID] or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality." 42 U.S.C. Section 803(c)(1)(A). Further, the federal regulations explain that a recipient may use funds to respond to the public health emergency or its negative economic impacts on a beneficiary or class of beneficiaries for one or more of the following purposes unless such use is grossly disproportionate to the harm caused or exacerbated by the public health emergency or its negative economic impacts. 31 C.F.R. Section 35.6 (b). Moreover, funds can be allocated to programs and services to address health disparities of the disproportionately impacted household, population, or community. 31 C.F.R. Section 35.6 (b)(3)(ii)(A)(11)(i). And, the Final Rule of the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund established under the ARPA provides in relevant part: "The SLFRF program, and Treasury's interim final rule,

provide substantial flexibility to recipients to respond to pandemic impacts in their local community; this flexibility is designed to help state, local, and Tribal governments adapt to the evolving public health emergency and tailor their response as needs evolve and to the particular local needs of their communities." Coronavirus State and Local Fiscal Recovery Funds, 87 FR 4338-01.

While Plaintiff contends the Code of Federal Regulations is not indicative of Congressional intent, the Supreme Court has noted the interpretation of an agency responsible for the administration of a statute is entitled to substantial deference if it is a sensible reading of the statutory language if it is not inconsistent with the legislative history. Lawrence County, 469 U.S. at 262. Further, Congress specifically delegated to the Secretary of the Treasury "the authority to issue such regulations as may be necessary or appropriate to carry out this section." 42 U.S.C.A. Section 803(f). However, none of the regulations explicitly allow ARPA funds to be used in a way that violates state law.

A key factor that distinguishes this case from a case like Lawrence County is that the statute involved in Lawrence County set forth a positive requirement, i.e., a county must distribute money in this way, while the statute in this case involves a negative prohibition, i.e., Defendant cannot use the funding for this purpose. Generally, the American legal system favors negative prohibitions as is evidenced by, among other things, the Bill of Rights, which includes numerous prohibitions on the government's power, e.g. "Congress shall make no law . . .." There are not a lot of examples of positive requirements. For example, our laws do not provide inalienable rights that require the government to provide healthcare, housing, food, or education. Because of this general preference, it is more difficult for a negative constraint to violate the Supremacy Clause than it is for a positive requirement, as in Lawrence County.

In addition, the Court must examine whether ARPA preempts state laws in the realm of traditional police powers. When addressing questions of express or implied pre-emption, the Court begins its analysis with the assumption that the historic police powers of the States are not to be superseded by the federal act unless that was the clear and manifest purpose of Congress. Id. at 77.

The police powers have been described as follows:

> [P]ower which the state did not surrender when becoming a member of the Union under the Constitution. Although this court has refrained . . . from any attempt to define the limits of that power, yet it has distinctly recognized the authority of a state to enact quarantine laws and 'health laws of every description;' indeed, all laws that relate to matters completely within its territory and which do not by their necessary operation affect the people of other states. According to settled principles, the police power of a state must be held to embrace, at least, such reasonable regulations established directly by legislative enactment as will protect the public health and the public safety.

Jacobson v. Commonwealth of Massachusetts, 197 U.S. 11, 24–25 (1905). Moreover, the Constitution does not prohibit the citizens of each State from regulating or prohibiting abortion. Dobbs v. Jackson Women's Health Org., 142 S. Ct. 2228, 2284 (2022).

Here, BB61's use of ARPA funds could violate Section 188.205 RSMo's prohibition of "performing or assisting an abortion" or "encouraging or counseling a woman to have an abortion" depending on the breadth of the interpretation of those terms. However, under the circumstances outlined above, it would seem Section 188.205 RSMo does not invariably violate the Supremacy Clause and Plaintiff's petition survives dismissal on this issue.

c. Overbreadth and Vagueness Under the First Amendment to the U.S. Constitution.

Defendants contend Sections 188.205-215 RSMo are impermissibly vague and overbroad under the First Amendment to the U.S. Constitution.

Defendants assert that Sections 188.200-215 RSMo are unconstitutionally vague because they provide no rule or standard as to their enforcement. It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined. Grayned v. City of Rockford, 408 U.S. 104, 108 (1972). Vague laws offend several important values. Id. First, because we assume one is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that such person may act accordingly. Id. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them, and a vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application. Id. at 108-09. Third, but related, where a vague statute confronts sensitive areas of basic First Amendment freedoms, it operates to inhibit the exercise of such freedoms. Id. In other words, uncertain meanings inevitably lead citizens to steer far wider of the unlawful zone than if the boundaries of the forbidden areas were clearly marked. Id. Thus, under the void-for-vagueness doctrine, a law is unconstitutional if it fails to provide a person of ordinary intelligence fair notice of what is prohibited, or is so lacking in standards that it authorizes or encourages seriously discriminatory enforcement." Musser v. Mapes, 718 F.3d 996, 1000 (8th Cir. 2013). Further, for a party to have standing to challenge the statute as vague, the statute must be unconstitutional as applied to his specific conduct at issue. Id.

As to overbreadth, Defendants maintain Sections 188.205-215 RSMo's prohibition of performing or assisting or encouraging or counseling of abortions substantially exceeds the legitimate sweep of the State to regulate abortions within Missouri. They assert that the broad

range of protected activity potentially implicated by enforcement of Sections 188.205-215 RSMo far exceeds the legitimate sweep of the State's regulatory power over abortion.

Unlike vagueness, the First Amendment doctrine of overbreadth is an exception to the typical rule regarding the standards for facial challenges. Id. at 1001. The overbreadth doctrine permits the facial invalidation of laws that inhibit the exercise of First Amendment rights if the impermissible applications of the law are substantial when judged in relation to the statute's plainly legitimate sweep. Id. The facial overbreadth doctrine is restricted in its application, however, and is not recognized outside the limited context of the First Amendment. Id.

Defendants raise these claims in their motion to dismiss, and the Court notes they are also raised in their counterclaim, though the merits of the counterclaim are not currently before the Court. Plaintiff contends Defendants cannot bring these claims in their motion to dismiss because by doing so, they circumvent the requirement that they must show they have standing to bring the claim.

Generally, a suing party establishes standing by showing a personal stake in the litigation that arises from a "threatened or actual injury." Roberts v. BJC Health Sys., 391 S.W.3d 433, 438 (Mo. banc 2013). A plaintiff must show they have "some legally protectable interest in the litigation so as to be directly and adversely affected by its outcome. Id.

Plaintiff claims Defendants have not and cannot demonstrate how they have been injured since the First Amendment does not regulate government conduct or speech. See Pleasant Grove City, Utah v. Summum, 555 U.S. 460, 467 (2009) ("The Free Speech Clause restricts government regulation of private speech; it does not regulate government speech.").

However, it has long been recognized that the First Amendment needs breathing space and that statutes attempting to restrict or burden the exercise of First Amendment rights must be

narrowly drawn and represent a considered legislative judgment that a particular mode of expression has to give way to other compelling needs of society. Broadrick v. Oklahoma, 413 U.S. 601, 611–12 (1973). As a corollary, the Court has altered its traditional rules of standing to permit—in the First Amendment area—attacks on overly broad statutes with no requirement that the person making the attack demonstrate that his own conduct could not be regulated by a statute drawn with the requisite narrow specificity. Id. at 612. Litigants, therefore, are permitted to challenge a statute not because their own rights of free expression are violated, but because of a judicial prediction or assumption that the statute's very existence may cause others not before the court to refrain from constitutionally protected speech or expression. Id.

The Court finds that Defendants have properly raised their First Amendment challenges to Sections 188.205-215 RSMo in the instant Motion to Dismiss. Whether those statutes are impermissibly vague or overly broad under the First Amendment largely depends on the interpretation of the terms "for the purpose of performing or assisting an abortion" and "for the purpose of encouraging or counseling a woman to have an abortion." When the Court interprets those terms broadly, it seems likely that prohibitions on constitutionally protected conduct will result. On the other hand, a narrow interpretation likely falls short of reaching constitutionally protected conduct. Because the matter of interpretation is an open question, the Court finds that Plaintiff's Petition survives dismissal.

d. Sections 188.205-215 RSMo as Applied to BB61 under the Missouri Constitution.

Lastly, Defendants contend that Sections 188.205-215 RSMo as applied to BB61 are unconstitutional under Article VI, Sections 16 and 19(a) of the Missouri Constitution. Article VI, Section 16 provides as follows:

> Any municipality or political subdivision of this state may contract and cooperate with other municipalities or political subdivisions thereof, or with other states or

> their municipalities or political subdivisions, or with the United States, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service, in the manner provided by law.

Article VI, Section 19(a) provides as follows:

> Any city which adopts or has adopted a charter for its own government, shall have all powers which the general assembly of the state of Missouri has authority to confer upon any city, provided such powers are consistent with the constitution of this state and are not limited or denied either by the charter so adopted or by statute. Such a city shall, in addition to its home rule powers, have all powers conferred by law.

Defendants contend that the City has a constitutionally conferred power to cooperate with the United States to provide public services such as those contemplated by BB61. Moreover, they argue that Sections 188.205-215 RSMo cannot prohibit the provision of travel-cost subsidy programs, as the State has offered no allegations indicating the United States lacks power to fund such activity by partnering with the City, and, regardless, such activity does not amount to impermissible encouragement or assistance of abortions. Thus, Defendant maintains as applied to BB61, Sections 188.205-215 RSMo are an unconstitutional intrusion of the City's Charter powers.

Among other things, Plaintiff responds that Article VI, Sections 16 and 19(a) do not permit Defendant to violate state law. Article VI, Section 16 allows Defendant to "contract and cooperate" "in the manner provided by law." This language makes it clear that Defendant must still abide by state laws. Plaintiff also contends grant funds used to provide access to abortion through logistical support clearly are "expended for the purpose of...assisting an abortion" and for "encouraging" abortion as contemplated by Section 188.205 RSMo because they "support or aid" or "help" women to procure abortions. Plaintiff further contends that public employees who issue these funds for these purposes "encourage" abortions through monetary support in violation of Section 188.210, and when Defendant uses its equipment and buildings to implement BB61, it uses that equipment and those buildings for the purpose of encouraging and assisting abortion.

While Defendants acknowledge that there are circumstances in which an ordinance may be invalidated on the basis that it conflicts with state statute, they argue that BB61 is not one. Because the question about statutory interpretation remains open, the Court cannot definitively say that BB61 does not conflict with Sections 188.200-215 RSMo Accordingly, the Court cannot dismiss Plaintiff's claim.

For the foregoing reasons stated in Section II. a.- d. of this Order, the Court finds that Plaintiff's Petition survives dismissal. Now the Court will transition to address Plaintiff's motion for a preliminary injunction.

III. PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION

Missouri Supreme Court Rule 92.02 governs the issuance of preliminary injunctions. A trial court is authorized to issue three types of orders granting relief in an injunction proceeding: (1) a temporary restraining order, (2) a preliminary injunction, and (3) a permanent injunction. St. Louis Concessions, Inc. v. City of St. Louis, 926 S.W.2d 495, 497 (Mo. App. E.D. 1996). The purpose of the first two is to preserve the status quo until the trial court adjudicates the merits of the claim for a permanent injunction. St. Louis County v. Village of Peerless Park, 726 S.W.2d 405, 410 (Mo. App. E.D. 1987). Injunctive relief is discretionary and is granted to prevent likely irreparable harm. Id.

A court, in weighing a motion for a preliminary injunction, should weigh (1) the plaintiff's probability of success on the merits, (2) the threat of irreparable harm absent the injunction, (3) the balance between such harm and the injury inflicted by the injunction on other interested parties, and (4) the public interest. State ex rel. Director of Revenue v. Gabbert, 925 S.W.2d 838, 839 (Mo. banc 1996). The analysis applicable to preliminary relief is not the same as that applicable to the

issue of permanent relief after a full hearing. Furniture Mfg. Corp. v. Joseph, 900 S.W.2d 642, 647 (Mo. App. W.D. 1995). Trial courts are allowed broad discretion as to preliminary injunctive relief. Id.

Plaintiff asserts that analysis of the circumstances under the four Gabbert factors favor a preliminary injunction. Plaintiff maintains it is likely to succeed on the merits because it is likely to be able to establish Defendants are violating Sections 188.205, 188.210, and 188.215 RSMo. Defendants contend the Court should deny Plaintiff's request for a preliminary injunction because it is unlikely to succeed on the merits and because an injunction would harm the public interest by unreasonably and unlawfully preventing City from using federal funds to assist with the impacts of COVID-19 as those impacts relate to reproductive healthcare.

Section 188.205 RSMo provides: "[i]t shall be unlawful for any public funds to be expended for the purpose of performing or assisting an abortion, not necessary to save the life of the mother, or for the purpose of encouraging or counseling a woman to have an abortion not necessary to save her life." Further, Section 188.200(3) defines "public funds" as "any funds received or controlled by this state or any agency or political subdivision thereof, including, but not limited to, funds derived from federal, state or local taxes, gifts or grants from any source, public or private, federal grants or payments, or intergovernmental transfers."

Section 188.210 provides:

> [i]t shall be unlawful for any public employee within the scope of his employment to perform or assist an abortion, not necessary to save the life of the mother. It shall be unlawful for a doctor, nurse or other health care personnel, a social worker, a counselor or persons of similar occupation who is a public employee within the scope of his public employment to encourage or counsel a woman to have an abortion not necessary to save her life.

Section 188.200(1) defines a "public employee" as "any person employed by this state or any agency or political subdivision thereof."

Section 188.215 provides: "[i]t shall be unlawful for any public facility to be used for the purpose of performing or assisting an abortion not necessary to save the life of the mother or for the purpose of encouraging or counseling a woman to have an abortion not necessary to save her life." Section 188.200(2) defines "Public facility" as "any public institution, public facility, public equipment, or any physical asset owned, leased, or controlled by this state or any agency or political subdivisions thereof."

On July 21, 2022, the City enacted BB61. Plaintiff's concerns with BB61involve Sections I-III. Supra. Initially, the Court notes it is clear that the ARPA funds at issue here unquestionably meet the definition of "public funds" in Section 188.200(3). Further, "public employees" as defined in Section 188.200(1) and "public facilities" as defined in Section 188.200(2) would be implicated in carrying out the activities contemplated by BB61. The next question is whether the purpose for which the City has attempted to allocate these resources is violative of Sections 188.205, 188.210, 188.215.

In construing statutes, the Court's goal is to ascertain the legislature's intent and give effect thereto by considering the plain meaning of the words used in the statute. See Doe v. St. Louis Community College, 526 S.W.3d 329, 336 (Mo. App. E.D. 2017). Where the language of a statute is unambiguous, there is nothing to construe and courts will give effect to the language as written without resorting to rules of statutory construction. Id. Only in those cases where the language of the statute is ambiguous or where its plain meaning would lead to an illogical result, will courts look past the plain and ordinary meaning of a statute. Id. A statute or regulation is ambiguous when the legislative intent cannot be determined from the plain meaning of the language. Id. The standard is whether the meaning of the statute is plain and clear to one of ordinary intelligence.

Id. When a statute is ambiguous, the Court turns to principles of statutory construction to resolve any ambiguity. Id.

Under the principles of statutory construction, courts should first consider the ambiguous language in the context of the other words listed in a statutory provision to help it discern which of multiple possible meanings the legislature intended. Id. This principle is known by the maxim *noscitur a sociis*—a word is known by the company it keeps. Doe, 526 S.W.3d at 337. Second, the court should read one provision of a statute in harmony with the entire section. Id. Third, if the statutory language is unclear from consideration of the statute alone, a court "should interpret the meaning of the statute in *pari materia* with other statutes dealing with the same or similar subject matter." Id. Finally, courts may turn to legislative history to review the earlier versions of the law, examine the whole act to discern its evident purpose, or consider the problem that the statute was enacted to remedy. Id. In construing the meaning of an ambiguous enactment, a court should only adopt reasonable interpretations, disregarding constructions that would lead to absurd results. Id.

As noted above, of Sections 188.205, 188.210, 188.215 are concerned with public funds, public employees, and public facilities being utilized for "the purpose of performing or assisting an abortion" and "the purpose of encouraging or counseling a woman to have an abortion." Each of these statutes contain similar language illustrating that these are the categories of conduct they are making unlawful.

The Court will focus on the language of Sections 188.205, 188.210, 188.215 because it is unclear how narrowly or expansively the legislature intended the terms "performing," "assisting," "encouraging," and "counseling" to be construed.

The language of BB61 allocates funds "dedicated to logistical support," and it specifically notes "[t]hese grants will not be used to fund or assist abortion procedures nor shall funds be used to encourage or counsel an individual to have an abortion." Section One of BB61 provides, in pertinent part, "Grant funds will be used to provide access to abortion through logistical support including but not limited to the funding of childcare, transportation, and other logistical support needs."

Thus, it would seem on its face BB61 avoids violating the statutes, depending on the construction of the words for "the purpose of performing or assisting an abortion" and "the purpose of encouraging or counseling a woman to have an abortion." Does using ARPA funds to provide access to abortion through logistical support constitute "performing" an abortion? Probably not. Does it constitute "assisting" an abortion? That depends on how narrowly or broadly the term "assisting" is construed. The same could be said in response to the question of whether it "encourages" an abortion. As for whether using ARPA funds to provide access to abortion through logistical support constitutes "counseling" someone to have an abortion, the Court believes it probably does not. Thus, the key terms here are "assisting" and "encouraging."

It is clear that if using ARPA funds to provide access to abortion through logistical support constitutes "assisting" or "encouraging" a woman to have an abortion, it does so in an attenuated, indirect way. Essentially, the funding might make it economically possible for an impoverished woman to seek an abortion. Is that enough to violate Sections 188.205, 188.210, 188.215? One would have to construe those terms broadly to definitively answer yes. In other words, one would have to decouple "assisting" from "performing," which it is linked to in the statute, and give it its own separate and independent meaning.

On the other hand, a narrower construction would limit the prohibited activity to direct assistance, and this construction might be suggested by the statutes' plain language which links "performing or assisting" and "encouraging or counseling." Such plain language suggests a more narrow, direct assistance is what the statutes contemplate.

Another consideration, however, is if the Court interprets the meaning of the statute in *pari materia* with other statutes dealing with the same or similar subject matter, the Court would have to consider Section 1.205.1(1), which provides that: "[t]he life of each human being begins at conception." In addition, "Unborn children have protectable interests in life, health, and wellbeing." Section 1.205.1(2). Also, "the laws of this state shall be interpreted and construed to acknowledge on behalf of the unborn child at every stage of development, all the rights, privileges, and immunities available to other persons, citizens, and residents of this state . . .." Section 1.205.2. Thus, perhaps an expansive interpretation of "assisting" and "encouraging" is warranted.

When the Court considers an expansive interpretation of the statutes as applied to the activities for which funding has been sought or inquired into, the Court can conceive of how certain of those activities could violate the statutes. Conversely, when the Court considers a narrow interpretation, it appears unlikely that those activities would violate the statutes.

Since BB61 was enacted on July 21, 2022, Defendant has issued a Notice of Funding Availability and Application Requirements ("NOFA"). The NOFA seeks applications for funding under the Reproductive Equity Fund. The NOFA application states "[u]nder no circumstances shall funds awarded pursuant to this NOFA be used to fund, perform, or assist abortion procedures[3], nor shall funds be used to encourage or counsel an individual to have an abortion." Prior to the award of any ARPA funds under the NOFA, an applicant will be required to enter into

[3] It is not lost on the Court that BB61 and the NOFA refer to "assist[ing] abortion procedures," while the Statutes refer to "of performing or assisting an abortion."

a contract with Defendant and such contract will be reviewed by the City Counselor's Office and will require approval by the City's Board of Estimate and Apportionment.

According to the Third Amended Affidavit of Mr. Schmid, as of June 8, 2023, the following organizations have requested funding from the Reproductive Equity Fund:

1. Parents as Teachers National Center, Inc. ("PTNC") for doula services, lactation services, and Parents as Teachers evidence-based model, including access to mental health care and coordination of services for patients and their families.
2. St. Louis Doula Project ("STLDP") to secure physical space, hire personnel, pay for insurance, support new and existing programming and software and telecommunications services. Further, according to its application, STLDP also seeks funding to allow continued employment of its abortion doula program coordinator and to expand her scope of work as well as hire two full-time and three part-time abortion doulas, who are full spectrum doulas trained to understand miscarriages, pregnancy complications, and the needs of a person experiencing an abortion or miscarriage. STLDP further seeks funding to offer adolescent and adult classes on reproductive anatomy, pregnancy prevention, and fertility tracking. In addition, STLDP seeks to hire staff, host more programming, and establish a doula program and a childbirth education, lactation, and doula program for people who are currently incarcerated. Further, the application states a portion of funding will be allocated toward funding the salary of the Executive Director, as well as hiring another coordinator for programs and birthworkers, four part-time birthworkers/doulas, two full-time birthworkers/doulas, one lactation support specialist, one part-time therapist specializing in perinatal mental health, and a part-time certified nurse midwife.

3. St. Louis Area Diaper Bank for up to 5,500 period supply kits to partner organizations to provide services to support reproductive healthcare access in the region.
4. Dr. Dixie Meyer, who conducts a program at Saint Louis University School of Medicine that provides mental health care for perinatal patients.
5. Midwest Doula Fund ("MDF") for logistical support for abortion access and funding for pregnancy support and doula care coordination. According to its application, MDF intends to coordinate client connections to abortion doulas, fund doula services directly, and provide clients with logistical support funds to ensure access to care appointments. MDF states that it does not provide funds to pay for medical care, but instead provides direct aid to support logistical access to care, including transportation, childcare, and lodging. MDF states that it will also coordinate care with doula services for prenatal, birthing, and postpartum care.
6. Midwest Access Coalition ("MAC") seeks funding to help individuals with travel coordination and costs to access abortion services, lodging, food, pain medicine, and child care. MAC also intends to distribute free emergency contraception kits.
7. Almost Home ("AH") seeks funding to assist mothers from ages 16-21 and their children from ages 0-5 by providing them a safe, stable home for up to two years while receiving therapy, education, career preparation, and parenting support. AH also seeks funds to expand its partnership with She Creates, LLC to expand doula and lactation services.
8. Mo Ho Justice Coalition ("MHJC") seeks funding to provide: supportive relationships for individuals seeking abortion care; financial relief for indirect costs of abortion care; support and aftercare follow-up; pregnancy prevention and early detection of pregnancy.

9. SSM Health Foundation – St. Louis ("SSMHF") seeks funding to provide doula services and to launch a program for a doula partnership with On Up, which provides in-person and virtual doula care.

10. Saint Louis University School of Medicine Family & Community Medicine submitted and then withdrew their application within a twelve-day span.[4]

It is unclear whether certain activities for which inquiring organizations seek funding would violate Sections 188.205, 188.210, and 188.215 RSMo. As noted above, the answer depends on how expansive or how narrow the statutes are interpreted. On the current record, the Court judges the likelihood of success on the merits to be uncertain, at best.

The next factor to consider is the threat of irreparable harm absent the injunction. Plaintiff contends the threat of irreparable harm favors its position. Plaintiff argues that Missouri, through its General Assembly, has identified its interests in protecting unborn children, pregnant women, and medical professionals. Section 188.026.5. Its interests include encouraging childbirth over abortion, respecting all human life from contraception to natural death, and protecting unborn children from harm. Sections 188.010 and 1.205. Plaintiff contends BB61 irreparably harms the State's interests by undermining the State's enacted policy.

As noted above, it is unclear from the current record whether certain activities would violate Sections 188.205, 188.210, and 188.215 RSMo. Further, there is no evidence before the Court indicating that the City intends to grant funds for the certain activities that could violate the statutes. As a result, the Court judges the threat of irreparable harm to be fairly low currently.

[4] The Court notes the City filed amended affidavits after the hearing in October detailing these inquiries. At the time of the hearing, there had been no inquiries. Further, the Court believes the City understands it is under a continuing duty to provide updates, which have been filed under this cause of action. As a result, the Court believes it has a current account of inquiries or applications.

The next factor is the balance between such harm and the injury inflicted by the injunction on other interested parties. The Court finds this factor weighs in favor of the City. While certain pending requests for funds give the Court pause and will require further factual development, the Reproductive Equity Fund seems to be set up to avoid running afoul of the relevant statutes.

Lastly, the Court finds that the public interest can be served by preventing the Reproductive Equity Fund from using it funds in ways that would violate Missouri law. It is clear that BB61 can create and operate the Reproductive Equity Fund in a manner that is not in violation of Missouri law. As such, the Court is not inclined to grant the current request for a broad preliminary injunction preventing the Reproductive Equity Fund from operating at all. Instead, the Court believes that injunctions issued on a case-by-case basis is warranted when broadly construing the relevant statutes.

The question of whether some types of logistical support might violate Sections 188.205, 188210, and 188.215 remains an open question. For example, if an agency seeks funding from the Reproductive Equity Fund to purchase bus tickets for women who seek to travel somewhere to get an abortion, would such activity violate Sections 188.205, 188.210, and 188.215? Assuming an expansive interpretation of the statutes for the sake of the instant request for an injunction, the Court will grant Plaintiff's request in part and enjoin the City from granting funds to:

- St. Louis Doula Project for its activities related to abortion doulas;
- Midwest Doula Fund for its activities related to abortion doulas;
- Midwest Access Coalition for its activities related to travel coordination and costs to access abortion services; and
- Mo Ho Justice Coalition for its roll providing supportive relationships for individuals seeking abortion care; financial relief for indirect costs of abortion care.

THEREFORE, IT IS ORDERED AND DECREED that:

I. Defendants' Amended Motion to Dismiss is hereby denied; and

II. Plaintiff's Motion for Preliminary Injunction is hereby granted in part. The Court hereby temporarily enjoins the City from granting funds to:

- St. Louis Doula Project for its activities related to abortion doulas;
- Midwest Doula Fund for its activities related to abortion doulas;
- Midwest Access Coalition for its activities related to travel coordination and costs to access abortion services; and
- Mo Ho Justice Coalition for its role providing supportive relationships for individuals seeking abortion care and financial relief for indirect costs of abortion care.

SO ORDERED:

JASON SENGHEISER, Judge

Dated: June 30, 2023