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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

16 CITY AND COUNTY OF SAN
17 FRANCISCO,

18 Plaintiff,

19 v.

20 DONALD J. TRUMP, President of the United
States, UNITED STATES OF AMERICA,
21 JOHN F. KELLY, Secretary of United States
Department of Homeland Security,
22 JEFFERSON B. SESSIONS, Attorney
General of the United States, DOES 1-100,

23 Defendants.
24

Case No. 3:17-cv-00485-WHO

**BRIEF OF NONPROFIT ASSOCIATIONS AS
25 AMICI CURIAE IN SUPPORT OF
26 PLAINTIFF'S MOTION FOR PRELIMINARY
27 INJUNCTION**

Date: April 14, 2017
Time: 2:00 p.m.
Dept. Courtroom 2
Judge: Hon. William H. Orrick

Date Filed: January 31, 2017

Trial Date: Not Yet Set

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1 **I. SUMMARY OF ARGUMENT & INTEREST OF *AMICI CURIAE***

2 On January 25, 2017, the President of the United States signed an Executive Order that
 3 empowers the federal government to withhold federal funds from jurisdictions that are deemed
 4 “sanctuary” jurisdictions. Exec. Order 13,768, 82 Fed. Reg. 8799 (Jan. 25, 2017) (the “Executive
 5 Order”).¹ The uncertainty created by the Executive Order causes real and imminent harm to
 6 nonprofits serving the communities the Order may affect, and to the communities. *Amici* are
 7 associations of community-based nonprofit organizations in the health and human services sector
 8 that are uniquely situated to articulate the Executive Order’s harm to nonprofit organizations and the
 9 community.²

10 The Executive Order is causing extreme financial uncertainty for *amici*’s members and other
 11 nonprofit organizations. Many nonprofits depend on federal funding that states, counties, and
 12 municipalities receive and pass through to them to provide services. With that funding in question,
 13 nonprofits have to alter their budget planning processes and spend time and resources on
 14 contingency planning. Organizations face the prospect of cutting vital services, at the very time that
 15 demand for services will be increasing due to cuts to county and municipal services. Nonprofits are
 16 not only feeling the effects of the Executive Order on their own planning and programming, but also
 17 seeing negative effects on the vulnerable community members they serve, who are expressing fear
 18 and anxiety about accessing both government and nonprofit services. The community at large
 19 suffers irreparable harm when some members of the community cannot access important health and
 20 safety resources. The immediate harms to both the nonprofits and the communities they serve

21 _____
 22 ¹ The Executive Order does not clearly define what a “sanctuary” jurisdiction is, so communities are
 23 left to guess whether their jurisdictions will be designated as such (although at a minimum, the Order
 applies to jurisdictions that do not comply with 8 U.S.C. § 1373, which requires local jurisdictions to
 detain individuals beyond their incarceration periods for immigration enforcement).

24 ² *Amici curiae* include thirteen nonprofit associations: API Council of San Francisco, California
 25 Association of Nonprofits, Coalition of Agencies Serving the Elderly, Council of Community
 26 Housing Organizations, HIV/AIDS Provider Network, Homeless Emergency Service Providers
 27 Association, Long Term Care Coordinating Council, San Francisco Human Services Network, San
 28 Francisco Interfaith Council, San Francisco Latino Parity and Equity Coalition, San Francisco
 Mental Health Contractors Association, Silicon Valley Council of Nonprofits, and Supportive
 Housing Providers Network. The San Francisco *amici* associations include as members a substantial
 number of the nearly 300 nonprofits that contract with the City to provide services. Descriptions of
amici are provided in Appendix A.

1 warrant a nationwide preliminary injunction, to prevent further harm to the public interest while the
2 legality of the Executive Order is adjudicated.

3 **II. ARGUMENT**

4 **A. Legal Context**

5 To secure a preliminary injunction, a plaintiff must establish that (1) it “is likely to succeed
6 on the merits;” (2) it “is likely to suffer irreparable harm in the absence of preliminary relief;”
7 (3) “the balance of equities tips in [its] favor;” and (4) “an injunction is in the public interest.”
8 *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). *Amici* present information on the
9 nature of the irreparable harms at issue and the reasons an injunction serves the public interest.

10 Nonprofits are already suffering irreparable harm due to extreme financial uncertainty caused
11 by expected loss of multiple funding streams. And the community members they serve are afraid to
12 access services and afraid of losing essential services upon which they rely. Uncertainty, itself, can
13 constitute irreparable harm. *See Angotti v. Rexam, Inc.*, No. C 05-5264 CW, 2006 WL 1646135, at
14 *3, *15-16 (N.D. Cal. June 14, 2006) (granting injunction where retirees faced “the irreparable harm
15 of anxiety” after benefits were threatened, when they believed they would receive certain lifetime
16 benefits and therefore did not budget for supplemental expenses); *see also California Ass’n of*
17 *Health Care Facilities v. Dep’t of Health Servs.*, No. Civ. S-90-1086 RAR GGH, 1990 WL 282598,
18 at *1 (E.D. Cal. Oct. 1, 1990) (finding that “inadequate and untimely assurances about the levels of
19 [federal] payment currently in effect” created a “possibility” that health facilities providing services
20 to Medicaid beneficiaries “will suffer immediate and irreparable harm”). Neither nonprofits nor
21 community members should be subjected to such harms while waiting for the court to resolve legal
22 challenges to the Executive Order. *See Susan B. Anthony List v. Driehaus*, 134 S. Ct. 2334, 2342
23 (2014) (“[W]here threatened action by government is concerned,” a plaintiff need not “expose
24 himself to liability before bringing suit to challenge the basis for the threat.” (citation omitted)).

25 **B. The Executive Order Causes Irreparable Harm to Nonprofit Organizations and** 26 **Those They Serve Because of the Substantial Budgetary Uncertainty It Creates.**

27 Nonprofit organizations in the health and human services sector provide crucial services to
28 the most vulnerable members of the community, distinct from those services provided by the

1 government. Nonprofits are often located in the communities they serve, hire people who live in
 2 those communities, and enjoy a special level of trust. Their employees often have particular
 3 expertise (such as language ability) and cultural understanding that aids their ability to develop
 4 strong relationships with community members. *See, e.g.*, San Francisco Human Services Network,
 5 *A Comprehensive Profile of San Francisco's Nonprofit Human Service Providers*, SAN FRANCISCO
 6 URBAN INST. 10-11 (2002), [http://www.sfhsn.org/downloads/documents/survey/hsn_iss_sur_report_](http://www.sfhsn.org/downloads/documents/survey/hsn_iss_sur_report_04-18-02.pdf)
 7 [04-18-02.pdf](http://www.sfhsn.org/downloads/documents/survey/hsn_iss_sur_report_04-18-02.pdf). As a result, nonprofits across the country play a critical role in their communities, and
 8 provide an essential safety net for many who do not otherwise have access to vital services.

9 Many nonprofits rely on government funding to support their life-saving and life-sustaining
 10 services. They are concerned that, as a result of the Executive Order, federal funding passed through
 11 county and municipal governments will disappear³; that direct county and municipal funding will
 12 need to be reallocated to other areas to cover the shortfall from the loss of federal funding; and that
 13 their ability to raise funds from private sources (many of which match government funding sources)
 14 will also be reduced.⁴ As a result of this severe budgetary uncertainty, nonprofit organizations are
 15 now developing contingency plans and considering cutting services that are desperately needed in
 16 the communities they serve, right when those services are needed most.

17 **1. Nonprofits rely on federal and local funding that is now in jeopardy.**

18 Most nonprofits are funded with a blend of government, foundation, and other private
 19 funding streams, with about a third of total revenue coming from government contracts. *Toward*
 20 *Common Sense Contracting*, NAT'L COUNCIL OF NONPROFITS, 5 (2014),
 21 [https://www.councilofnonprofits.org/sites/default/files/documents/toward-common-sense-](https://www.councilofnonprofits.org/sites/default/files/documents/toward-common-sense-contracting-what-taxpayers-deserve.pdf)
 22 [contracting-what-taxpayers-deserve.pdf](https://www.councilofnonprofits.org/sites/default/files/documents/toward-common-sense-contracting-what-taxpayers-deserve.pdf). Those government sources may be federal, state, or local
 23 governments, or a combination thereof. *2015 State of the Nonprofit Sector Survey*, NONPROFIT
 24

25 ³ The government argues that the Executive Order threatens “federal grants” only, not *all* federal
 26 funding. (Dkt. 35 at 8.) However, because “federal grants” is undefined and vague in the context of
 the Order, nonprofits must make difficult decisions about downsizing programs, services, and staff.

27 ⁴ Counsel for *amici* have interviewed and received information from the associations of nonprofit
 28 organizations that are filing this brief. Information throughout the brief that relates to the
 associations and their members was obtained through these interviews and requests for information.

1 FINANCE FUND, 12 (May 2015), http://www.nonprofitfinancefund.org/sites/default/files/docs/2015/2015survey_natl_full_results.pdf. Federal funding is often provided to
2 counties or other local governments for particular purposes, and then “passed through” to nonprofits
3 to actually provide the services. The City and County of San Francisco (“San Francisco” or the
4 “City”) paid \$654.3 million to nonprofits in the 2015-2016 fiscal year, including federal pass-
5 through dollars and direct City funding. City and County of San Francisco, Office of the Controller,
6 SFOpenBook, <http://openbook.sfgov.org/> (last visited Mar. 21, 2017) (report for vendor payments to
7 nonprofits in fiscal year 2015-16). The contracts with nonprofits vary in size, with some over \$20
8 million, and cover social services, behavioral health services, housing programs, and more. *See id.*

9
10 The interrelation of nonprofit and government budgets means that a determination that a
11 state, county, or city is a “sanctuary” jurisdiction (and will therefore lose federal funding pursuant to
12 the Executive Order) will be devastating for the many nonprofits that rely on funding from those
13 jurisdictions. Nonprofits will lose federal funding for their programs that is passed through those
14 jurisdictions. Then, “sanctuary” jurisdictions will necessarily need to reallocate money to cover
15 essential services, likely resulting in additional cuts to nonprofit funding streams from those
16 jurisdictions’ general funds. To the extent that many nonprofits are funded by other cities or
17 counties that may also be designated “sanctuary” jurisdictions, the Executive Order places even
18 larger portions of their budgets at risk.

19 The San Francisco nonprofit community will feel these losses acutely. The City formulated
20 its 2016-2017 budget based on the expectation that it would receive \$1.2 billion in federal funds.
21 City of San Francisco, Office of the Controller, *FY 2016-17 Six-Month Budget Status Report*, at 6,
22 [http://sfcontroller.org/sites/default/files/Documents/Budget/FY%202016-17%206-](http://sfcontroller.org/sites/default/files/Documents/Budget/FY%202016-17%206-Month%20Report.pdf)
23 [Month%20Report.pdf](http://sfcontroller.org/sites/default/files/Documents/Budget/FY%202016-17%206-Month%20Report.pdf). The vast majority of these funds support programs in San Francisco’s
24 Human Services Agency and Department of Public Health. (Declaration of City and County of San
25 Francisco Controller Ben Rosenfield, Dkt. 22, ¶ 10.) If the City loses access to federal funds, it will
26 have to make “drastic service cuts.” (*Id.* ¶¶ 36-37.) Indeed, the financial uncertainty caused by the
27 Executive Order is *already* forcing the City to consider reducing its general fund expenditures.
28

1 (Declaration of Mayor’s Budget Director for the City and County of San Francisco Melissa
2 Whitehouse, Dkt. 23, ¶¶ 10-11 (“Whitehouse Decl.”).)

3 If federal funding is cut, nonprofits will not be able to simply recoup the budgetary shortfall
4 using contributions from private sources such as foundations. Foundation grants account for less
5 than two percent of nonprofit revenue. *Toward Common Sense Contracting*, NAT’L COUNCIL OF
6 NONPROFITS at 5. Moreover, foundations have their own missions and funding priorities, which may
7 not coincide with filling the gaps created by government funding cuts. *Id.* at 6. Many nonprofits
8 already rely on private funding, including but not limited to foundation grants, to supplement limited
9 government funding for particular programs. *Id.* at 14. If government funding for particular
10 programs is lost, the private funding for those programs may dry up as well, especially if the private
11 component alone is not sufficient to keep the programs afloat.

12 The possibility of losing federal, county, municipal, and some private funding simultaneously
13 in the near future is causing extreme budget uncertainty and harm to nonprofits immediately, as they
14 scramble to ascertain the extent of the possible effect on their organizations, develop contingency
15 plans, consider freezing hiring, and take other measures to plan for the likelihood of decreased
16 funding. These stresses on already understaffed and under-resourced organizations impact their
17 ability to fulfill their missions even before any cuts are made.

18 **2. Nonprofits are considering cutting services due to the severe budget**
19 **uncertainty caused by the Executive Order.**

20 Uncertainty, itself, can harm nonprofit organizations and inhibit their ability to provide
21 necessary programming. Most nonprofits already operate with tight budget constraints and strain to
22 meet community needs. In fact, most nonprofits have no more than three months of operating funds
23 in the bank. *Id.* at 5. Organizations in jurisdictions that may be deemed “sanctuary” jurisdictions
24 now face severe budget uncertainty because of the scope of the funding threatened by the Executive
25 Order. They must immediately curtail development of new programs and services and begin
26 deciding how they will cut existing programs if the Order is implemented.

27 Even delayed funding can have a significant effect on nonprofits, given their tight budgets.
28 When government funding is late (no less eliminated, as the Executive Order threatens), “many

1 nonprofits are forced to divert efforts away from their missions as they scramble to . . . pay their
2 employees, rent and utilities, and other operating costs by raising funds from other sources such as
3 private donations or bridge loans, or by taking extraordinary actions like curtailing operations and
4 laying off employees.” *A Dozen Common Sense Solutions to Government-Nonprofit Contracting*
5 *Problems*, NAT’L COUNCIL OF NONPROFITS (Dec. 5, 2013), [https://www.councilofnonprofits.org/](https://www.councilofnonprofits.org/sites/default/files/documents/white-paper-common-sense-solutions.pdf)
6 [sites/default/files/documents/white-paper-common-sense-solutions.pdf](https://www.councilofnonprofits.org/sites/default/files/documents/white-paper-common-sense-solutions.pdf). The impact of the potential
7 loss of federal funds can be likened to the impact of the economic downturn in late 2008 and early
8 2009, when nonprofits likewise lost significant funding. A survey of nonprofits found that 57% had
9 to reduce services, 45% enacted a salary freeze, 37% enacted a hiring freeze, and 30% made layoffs.
10 Chuck McLean & Carol Brouwer, *The Effect of the Economy on the Nonprofit Sector: October*
11 *2008–February 2009*, GUIDESTAR, 9 (2009),
12 <https://www.guidestar.org/ViewCmsFile.aspx?ContentID=3909>.

13 Nonprofits are already feeling the effects of the financial uncertainty caused by the Executive
14 Order. Organizations with a fiscal year ending on June 30 face the prospect of reducing staff and
15 services in the near future due to the threat of San Francisco losing federal funding. For instance,
16 GLIDE, an organization that provides batterers’ intervention programs, victims’ recovery programs,
17 food security programs, and HIV and Hepatitis C prevention programs, has already created a task
18 force to examine how the proposed cuts would affect its programs. That group concluded that
19 several of GLIDE’s programs may have to close if the City loses federal funding. GLIDE’s food
20 security programs are particularly vulnerable, as GLIDE receives significant resources from the
21 federally-funded San Francisco Food Bank. As a result, if the federal government withholds federal
22 funds from San Francisco, GLIDE’s efforts to combat hunger and the spread of infectious disease
23 will be impaired.

24 Similarly, nonprofit mental health service providers will have to make drastic cuts if
25 government funding is cut—including cutting programs and staff. One such organization, Citywide
26 Case Management Programs, serves mentally ill adults on their release from hospitals and jails. If
27 San Francisco’s federal funding is cut, Citywide will be forced to stop providing or drastically
28 reduce services to these high-risk clients. Programs offered by Conard House, which provides

1 supportive housing and services to adults with mental health disabilities, will also be in jeopardy—
 2 both because of reduced government funding for its programs and because it relies on government
 3 funding to demonstrate to potential private donors the program’s long-term viability. Providers are
 4 concerned that programmatic cuts will result in more homeless people—especially those with mental
 5 illness—on the streets. Federal funding cuts also imperil programs providing HIV/AIDS prevention
 6 services—leading to an increase in health care costs and potential increase in HIV/AIDS
 7 transmission.

8 Operating under these concerns, nonprofits have already been forced to take time away from
 9 realizing their missions to create contingency plans due to the uncertainty caused by the Executive
 10 Order. Budgetary uncertainty itself is impairing the ability of these organizations to fulfill their
 11 missions to provide vital services to the neediest members of their communities.

12 **3. Nonprofits will face more demand for their services and for new services**
 13 **as government services are cut.**

14 At the same time that nonprofits are planning for possible service cuts due to the likelihood
 15 of lost funding, they are anticipating increased demand for these services. History has shown that
 16 when government funds are cut, the needs of the community increase. But if nonprofit organizations
 17 themselves lose funding, they will not be able to step in to fill those new gaps in services, and the
 18 most vulnerable members of their communities will be without the assistance they need.

19 These pressures and demands are not speculative. “[R]educing government budgets doesn’t
 20 lower the number of people in need of social services; it just adds more pressures on nonprofits to
 21 keep up with ever-growing demands.” Tim Delaney & David L. Thompson, *Nonprofits Need to*
 22 *Stand Together to Push for Smart Public Policies*, CHRON. OF PHILANTHROPY (Jan. 4, 2017),
 23 <https://www.philanthropy.com/article/Opinion-Nonprofits-Need-to/238802>. Government funding
 24 cuts result in more people who need nonprofit services, but less funding for the nonprofits to deliver
 25 those services. Emily Navarro, *Government Funding for Charities: When It Declines, the Charities*
 26 *Lose Twice*, CHARITY NAVIGATOR (May 1, 2005), [https://www.charitynavigator.org/index.cfm?bay](https://www.charitynavigator.org/index.cfm?bay=content.view&cpid=281)
 27 [=content.view&cpid=281](https://www.charitynavigator.org/index.cfm?bay=content.view&cpid=281). This increased demand is difficult, if not impossible, for nonprofits to
 28 meet without additional resources. When government nutrition programs are cut, “people still need

1 to eat, so they're running to the food banks, they're running to any nonprofit that distributes food or
 2 resources. At the same time, the nonprofits have not increased their supply." John Brothers,
 3 *Nonprofits Begin Coping with Government Shutdown*, NONPROFIT QUARTERLY (Oct. 2, 2013),
 4 <https://nonprofitquarterly.org/2013/10/02/nonprofits-begin-coping-with-government-shutdown>.

5 If San Francisco loses federal funding, it would "likely be forced to cut social service safety
 6 net programs such as senior meal programs, services for low-income children, violence prevention
 7 services and programs for domestic violence survivors," among other programs for vulnerable
 8 members of the community. (Whitehouse Decl. at ¶ 17.) San Francisco nonprofits will be unable to
 9 meet the increased need generated by these cuts. GLIDE, for example, is already struggling to
 10 figure out how it would meet the increased need if federal funding to San Francisco is cut.
 11 Historically, GLIDE has struggled to cope with increased need when the City cannot provide
 12 necessary services. In the recession of 2008-2010, despite increased need in the community, GLIDE
 13 was forced to cap the number of hot meals it served to contain the rising food costs for the program.
 14 If San Francisco loses federal funding and GLIDE loses its City-provided pass-through funds, it will
 15 have to close some of the very programs that could have helped those turned away by the City.
 16 Other organizations that provide vital services in these areas are concerned they, too, will be unable
 17 to meet the increased need. These anticipated budgetary pressures, simultaneous with the threat of
 18 the loss of major funding streams, are creating a precarious situation for nonprofits.

19 **C. The Executive Order Causes Fear in the Community About Accessing Public**
 20 **Services, Which Harms the Public Interest.**

21 The fear the Executive Order has caused in the community endangers public health and
 22 safety because it provides a disincentive for vulnerable community members to access programs and
 23 services that contribute to individual and public health and well-being (such as medical and mental
 24 health clinics, senior and child nutrition programs, education, services for those with disabilities, and
 25 support for survivors of domestic violence or trauma). In light of the Executive Order, some
 26 immigrants are afraid to seek services from governmental entities and even from nonprofit
 27 organizations. This reluctance to access crucial services puts these individuals at risk and also
 28 causes harm to the community at large. A preliminary injunction would prevent further harm while

1 the legality of the Executive Order is adjudicated and thus would be in the public interest.

2 Experience demonstrates that increased immigration enforcement causes anxiety in the
3 immigrant community, leading in turn to reduction in utilization of healthcare programs and other
4 vital services. For example, in 1994, California passed Proposition 187, which required some
5 service providers, including medical professionals, to report individuals suspected of being
6 undocumented. California Proposition 187 §§ 6-8 (1994) (found unconstitutional by a federal
7 district court); *League of United Latin Am. Citizens v. Wilson*, Nos. 94-7569 MRP, 1998 WL
8 141325, at *1 (C.D. Cal. Mar. 13, 1998). Studies have found that Proposition 187 had at least a
9 temporary deterrent effect on use of health care services, and that “lack of documentation—and the
10 fear associated with it—is a powerful deterrent to people obtaining care they believe they need.”
11 Marc L. Berk & Claudia L. Schur, *The Effect of Fear on Access to Care Among Undocumented*
12 *Latino Immigrants*, 3 J. IMMIGR. HEALTH 151, 155 (2001). Community reaction to Arizona Senate
13 Bill 1070 (2010) is also instructive. SB 1070 affirmatively allowed law enforcement to demand
14 proof of immigration status. Ariz. Rev. Stat. Ann. § 11-1051 (2010). Researchers found that “the
15 enactment of Arizona’s SB 1070 was associated with decreases in the utilization of public assistance
16 and routine, preventive health care.” Russell B. Toomey et al., *Impact of Arizona’s SB 1070*
17 *Immigration Law on Utilization of Health Care and Public Assistance Among Mexican-Origin*
18 *Adolescent Mothers and Their Mother Figures*, 104 Am. J. Pub. Health S1, S31 (2014).

19 In the wake of the Executive Order, there is similar evidence of anxiety leading to
20 immigrants declining to utilize public services. In a recent survey of twenty nonprofits serving
21 immigrants around the country, seventeen reported “legally eligible families declining to enroll or
22 even unenrolling from programs including SNAP, Medicaid, the Children’s Health Insurance
23 Program, free school lunches, and the Women, Infants, and Children program.” Annie Lowrey,
24 *Trump’s Anti-Immigrant Policies Are Scaring Eligible Families Away from the Safety Net*, THE
25 ATLANTIC (Mar. 24, 2017), [https://www.theatlantic.com/business/archive/2017/03/trump-safety-net-](https://www.theatlantic.com/business/archive/2017/03/trump-safety-net-latino-families/520779/?utm_source=nl-atlantic-weekly-032417)
26 [latino-families/520779/?utm_source=nl-atlantic-weekly-032417](https://www.theatlantic.com/business/archive/2017/03/trump-safety-net-latino-families/520779/?utm_source=nl-atlantic-weekly-032417). Members of the California
27 Association of Nonprofits (a statewide membership organization for nonprofits across a range of
28 sectors) likewise report that many nonprofit clients are declining to seek health care due to fear since

1 the election. One member organization actually shut down for a couple of months because so many
2 of its clients were scared to be in public and to access services.

3 Mayor Ed Lee of San Francisco held a press conference in January 2017 to address anxiety in
4 the community, affirming that San Francisco would “not allow its immigrant residents ‘to live in
5 fear’” and would continue to observe the City’s sanctuary city policy. Emily Green and Kevin
6 Fagan, *SF Mayor Lee Stands Up to Trump, Says City Remains a Sanctuary*, SAN FRANCISCO
7 CHRONICLE (Jan. 25, 2017), [http://www.sfchronicle.com/bayarea/article/SF-Mayor-Lee-stands-up-](http://www.sfchronicle.com/bayarea/article/SF-Mayor-Lee-stands-up-to-Trump-says-city-10883956.php?t=044af31a8e&cmpid=premartcl)
8 [to-Trump-says-city-10883956.php?t=044af31a8e&cmpid=premartcl](http://www.sfchronicle.com/bayarea/article/SF-Mayor-Lee-stands-up-to-Trump-says-city-10883956.php?t=044af31a8e&cmpid=premartcl). Despite these assurances,
9 though, anxiety in immigrant communities in and around San Francisco remains high. Peter Walsh,
10 a San Francisco Police Commander, notes that “SFPD is noticing a reluctance to talk to law
11 enforcement and fear and confusion surrounding SFPD’s relationship with the United States
12 Immigration and Customs Enforcement.” (Declaration of Peter Walsh, Dkt. 25, ¶ 8.)

13 Many of the *amici* organizations are receiving inquiries from immigrant clients about
14 whether it is safe to access public services. The fear is not limited to those who are undocumented—
15 queries are also coming from clients with valid immigration status. *Amicus* organization San
16 Francisco Mental Health Contractors Association has received reports from its members that
17 undocumented clients are avoiding seeking medical care, going to the emergency room, and
18 contacting the police (even to report crimes) because of concerns of deportation. Likewise, a
19 member organization of *amicus* Silicon Valley Council of Nonprofits that serves domestic violence
20 survivors reports that more clients are avoiding law enforcement and court appearances. The
21 problem is compounded because many immigrant families are “mixed status”—they include some
22 family members who are documented (including U.S. citizens), and some who are not. Many
23 documented members of mixed-status families fear disclosing any information about the household
24 and accessing services, regardless of their own valid immigration status.

25 The anxiety in the community goes beyond fear of accessing government services. Many
26 clients are not aware of which programs and services are run by governmental agencies and which
27 are run by independent nonprofits. As a result, some clients have expressed anxiety about sharing
28 personal information and accessing services even at nonprofit organizations. After receiving

1 multiple inquiries, one member organization felt compelled to post signs onsite to reassure clients
2 that their organization does not report the legal status of clients to the government. The need to take
3 such steps in light of the Executive Order adds to the burdens placed on nonprofits, discussed above.
4 Efforts to inform the community about the safety of accessing public and nonprofit services cost
5 time and money, taking away from activities more closely related to the nonprofits' missions.

6 When individuals are too scared of immigration consequences to seek essential services, the
7 risks for individual and public safety increase. Indeed, low-income immigrants targeted by
8 immigration enforcement measures are among the most vulnerable in the population. *See* Toomey at
9 S30-S31. In many jurisdictions, policies not to ask individuals about immigration status have had
10 the stated purpose of encouraging *victims* of crimes such as domestic violence to seek assistance—
11 and they have been successful. Bill Ong Hing, *Immigration Sanctuary Policies: Constitutional and*
12 *Representative of Good Policing and Good Public Policy*, 2 UC Irvine L. Rev. 247, 254-55 (2012).
13 The community as a whole is safer when violent crimes are reported and the criminals apprehended.
14 *See id.* at 304.

15 There are similar risks to individual and public health due to anxiety about accessing
16 healthcare. Individuals may not seek preventive care, vital prescriptions, or care for acute conditions
17 until they experience an emergency. Indeed, in Arizona, researchers found that some of the most
18 vulnerable members of the community, adolescent mothers, were the most likely to refrain from
19 seeking preventive care for themselves and their children as a result of SB 1070. Toomey at S30-
20 S31. This finding is alarming because preventive care, including immunizations, is critical for
21 public health. *Id.* at S32. Keeping up with preventive care also decreases emergency room visits,
22 lowering health care costs for communities. *See, e.g.,* Barbara Starfield et al., *Contribution of*
23 *Primary Care to Health Systems and Health*, 83(3) MILBANK QUARTERLY 457, 473 (2005).

24 This concern is exemplified by the experience of *amicus* HIV/AIDS Provider Network's
25 members—many immigrant clients of its member organizations fled horrendous persecution in their
26 home countries due to HIV+ status or sexual orientation. These clients are often reluctant to seek
27 medical care for fear of being deported back to dangerous situations, and additional anxiety around
28 being deported can lead to avoidance of treatment and prevention services. This avoidance poses

1 obvious risks not only to individual health but to public health. The health of the community as a
 2 whole is at risk from the spread of disease when a significant portion of the community cannot
 3 access either preventive services or treatment. *See* Kristen Underhill, *Paying for Prevention:
 4 Challenges to Health Insurance Coverage for Biomedical HIV Prevention in the United States*, 38(4)
 5 *Am. J. Law Med.* 607, 611-13 (2012).

6 In communities around the country like San Francisco that have significant immigrant
 7 populations, the uncertainty caused by the Executive Order affects a large segment of the
 8 community, and the community as a whole. Current levels of anxiety endanger the progress that the
 9 community has made over time toward encouraging public health through access to health and
 10 nutrition services. A preliminary injunction blocking the implementation of the Executive Order
 11 will prevent irreparable harm to the *amici*'s member organizations, to the clients those organizations
 12 serve, and to the community, and is in the public interest.

13 III. CONCLUSION

14 On behalf of their member organizations, their clients and the communities they serve, *amici*
 15 *curiae* urge this Court to grant a nationwide preliminary injunction and prevent further harm and
 16 damage to the public interest while the status of the Executive Order is adjudicated.

17 Dated: March 29, 2017

18 COOLEY LLP &
 19 LAW FOUNDATION OF SILICON VALLEY

20 _____
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