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No. 25-4988

IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

SAN FRANCISCO AIDS FOUNDATION, et al., *Plaintiffs-Appellees*,

v.

DONALD J. TRUMP, et al.,

Defendants-Appellants.

On Appeal from the United States District Court for the Northern District of California, No. 4:25-cv-01824-JST Hon. Jon S. Tigar, United States District Judge

BRIEF OF AMICI CURIAE TWELVE CITIES AND COUNTIES IN SUPPORT OF PLAINTIFFS-APPELLEES AND AFFIRMANCE OF THE DISTRICT COURT'S PRELIMINARY INJUNCTION

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INTRODUCTION

Local governments throughout the country rely on trusted nonprofit partners to deliver critical healthcare services to their communities. This collaboration makes sense. Nonprofits often are trusted entities with deep relationships in the communities they serve. This allows them to reach communities that face significant barriers to accessing quality medical care and services. Together local governments and health-related nonprofits work hand-in-glove to foster healthier communities. Indeed, in 2022, 97% of local health departments reported working with community-based nonprofits, ¹ relying on them as central partners to deliver healthcare services.

This partnership is critical to protecting public health. Local governments and their nonprofit partners work on the front lines combating infectious diseases like HIV and STIs. This includes the health-related appellee nonprofits in this case that collectively serve tens of thousands of patients each year. They ensure their patients get tested for HIV and STIs, receive care and prevention, and are connected to social services. And they deliver lifesaving care to vulnerable populations.

The three Executive Order provisions at issue here threaten to cripple this partnership, thereby harming the ability of local governments to deliver critical healthcare services. The Equity Termination Provision, DEI-1 Order § 2(b)(i), directs agencies, department or commission heads to terminate "equity-related" grants or contracts to the maximum extent allowed by law.² The Gender

¹ National Association of County and City Health Officials, *2022 National Profile of Local Health Departments*, at 30 (2022), https://www.naccho.org/uploads/downloadable-resources/NACCHO-2022-Profile-Report.pdf [https://perma.cc/U4FP-NJPT].

² ER-4 (June 13, 2025 Preliminary Injunction Order).

Termination Provision, Gender Order § 3(e), commands agencies to "take all necessary steps, as permitted by law, to end the Federal funding of gender ideology." And the Gender Promotion Provision, Gender Order § 3(g), states that federal funds shall not be used to promote "gender ideology" and requires agencies to assess grants to ensure they do not promote "gender ideology." All three provisions direct federal agencies to blindly cut off funding to nonprofits engaged in disfavored activities and speech. If enforced, these provisions will hit nonprofits like appellees that provide a spectrum of health services including HIV, Hepatitis C, and STI prevention and treatment, and behavioral health services, particularly hard since best practices require them to consider equity-related factors to reach and serve communities.

Local governments, including *amici*, will be harmed if appellees and other nonprofits lose federal funding. Localities will lose trusted partners that work with communities impacted by high concentrations of infectious diseases, including hard-to-reach communities. Some patients previously served by these non-profits may seek services through local health departments, which will further burden local jurisdictions at a time when they are already facing significant budget deficits. Others may forgo—or be unable to access—services altogether, which will negatively impact individual and public health in *amici* jurisdictions and throughout the country.

The district court in this case properly enjoined enforcement of the challenged provisions. This Court should affirm the district court's preliminary injunction and ensure local communities continue to receive critical healthcare unabated.

 $^{^{3}}$ Id.

⁴ *Id*.

INTEREST OF AMICI CURIAE⁵

Amici are twelve cities and counties⁶ that collaborate with nonprofit community partners, including appellees, to provide critical healthcare and other services to their residents. Allowing the challenged Executive Orders' provisions to take effect would substantially impact amici jurisdictions by cutting off federal funding that allows appellees to provide critical services to amici's residents. Should nonprofit partners, including appellees, lose federal funding, amici jurisdictions would be unable to replace the critical healthcare services the nonprofits currently provide. Given significant budget deficits faced by many local jurisdictions, amici are not in a position to cover the lost funding or services. And local governments cannot easily replicate the trust and deep connections nonprofits often enjoy with the communities they serve. As a result, communities across the country would face adverse health outcomes, such as increased STI infection rates, including HIV. Amici highlight these local, real-world impacts on individuals and communities across the country.

⁵ This brief is filed pursuant to Federal Rule of Appellate Procedure 29 and is filed with the consent of all parties. No party's counsel authored the brief in whole or in part or contributed money intended to fund preparing or submitting the brief. No person, other than *amici*, their members, or their counsel, contributed money intended to fund preparing or submitting the brief.

⁶ The list of *amici curiae* cities and counties is included at Appendix A.

ARGUMENT

I. Local Governments Rely on Nonprofits as Critical Partners in Protecting Individual and Public Health

Local public health departments are the backbone of the public health system. They provide a wide range of health services such as immunizations, screenings for and treatment of infectious diseases, including STIs, HIV, and Hepatitis C, among many other services. And they serve vulnerable patients including groups at higher risk for poor health outcomes, such as low-income individuals, racial and ethnic minorities, LGBTQIA individuals, the elderly, people with disabilities, and the uninsured.

The San Francisco City Clinic, which is run by the San Francisco Department of Public Health (SFDPH), exemplifies the critical direct services local health departments offer. City Clinic provides confidential sexual health services, including testing and on-site treatment for all STIs and HIV, PrEP and PEP¹⁰, and

⁷ Public Health Law Center, *State & Local Public Health: An Overview of Regulatory Authority*, https://www.publichealthlawcenter.org/resources/state-local-public-health-overview-regulatory-authority [https://perma.cc/MSS3-U35N].

⁸ Eileen Salinsky, *Governmental Public Health: An Overview of State and Local Public Health Agencies*, The George Washington University, No. 77 at 15-16, (Aug. 18, 2010),

https://hsrc.himmelfarb.gwu.edu/cgi/viewcontent.cgi?article=1237&context=sphhs centers nhpf [https://perma.cc/VV2H-E5HY].

⁹ SFDPH, San Francisco Sexually Transmitted Infection Annual Summary, 2021, at 118 (published June 2024), https://www.sf.gov/sites/default/files/2024-07/Annual%20Summary%202021.pdf [https://perma.cc/Z79J-ZKW8].

¹⁰ PrEP stands for pre-exposure prophylaxis, a medicine people at risk of being infected with HIV can take to prevent transmission. *See* https://www.hiv.gov/hiv-basics/hiv-prevention/using-hiv-medication-to-reduce-risk/pre-exposure-prophylaxis [https://perma.cc/T6W6-M2YJ]. PEP stands for post-exposure prophylaxis, which is medicine taken soon after possible HIV exposure to prevent the virus from taking hold. *See* https://www.hiv.gov/hiv-basics/hiv-prevention/using-hiv-medication-to-reduce-risk/post-exposure-prophylaxis [https://perma.cc/AW4K-FHVD].

pap smears, diagnosis and treatment of vaginal infections and contraception for women. In 2024, City Clinic treated over 6,100 unique patients and completed over 12,000 visits.¹¹

But local jurisdictions cannot do this essential work alone. Nonprofits "represent a critical component of service provision in the United States." ¹² Nationally, two-thirds of nonprofits receive at least one government grant or contract each year. ¹³ And in 2022, 97% of local health departments worked with community-based nonprofits in some way. ¹⁴ This collaboration is essential in contexts where distrust between government and the public served may be high. ¹⁵ Local governments rely on nonprofits with deep roots in their communities and

¹¹ San Francisco City Clinic, Presentation to San Francisco Health Commission, at 10 (published Sept. 15, 2025), https://media.api.sf.gov/documents/HC-2025-SEP_15_-_v6-20250910 cleaned 1.pdf [https://perma.cc/E2BN-HDR2].

¹² Robert W. Ressler, et al., *Nonprofits: A Public Policy Tool for the Promotion of Community Subjective Well-being*, Vol. 31, No. 4 Journal of Public Administration Research and Theory, 822, 832 (2021), https://pmc.ncbi.nlm.nih.gov/articles/PMC8482971/pdf/muab010.pdf [https://perma.cc/5JJP-BXMH].

¹³ Hannah Martin, et al., *Government Grants and Contracts for Nonprofits in 2023*, Urban Inst., at 1 (Feb. 7, 2025), https://www.urban.org/sites/default/files/2025-02/Government%20Grants%20and%20Contracts%20for%20Nonprofits%20in%20 2023_Data%20Tables%20from%20Nonprofit%20Trends%20and%20Study_0.pdf [https://perma.cc/Q69T-4JQU].

¹⁴ 2022 National Profile of Local Health Departments, supra note 1 at 30.

¹⁵ Jack Clinton Byham, et al., When Government Is Not the Solution: The Role of Community Organizations in Outreach, Journal of Public and Nonprofit Affairs, Vol. 9, No. 1, at 21 (Jan. 30, 2023) https://jpna.org/index.php/jpna/article/view/654/485 [https://perma.cc/SGY5-52KM] ("Distrust is also likely to be high when the compliance demanded by the law concerns sensitive personal issues, like health care, in a time characterized by ideological polarization and hyper partisanship.")

leverage that existing trust when providing critical healthcare.¹⁶ This is particularly true in HIV prevention and care, where trust and cultural competency are crucial.¹⁷ In many communities, the long-standing stigma against those with HIV unfortunately persists which can make service delivery difficult.¹⁸ Nonprofits, including appellees, often employ staff with personal and professional experiences with HIV in marginalized communities to try and build authentic relationships and trust with the people they serve, which helps facilitate service delivery.¹⁹ This collaboration allows local jurisdictions to provide constituents far more services than they could alone. *Amici* are no exception.

San Francisco contracts annually with numerous nonprofits,²⁰ including two of the appellees: the San Francisco AIDS Foundation (SFAF) and the San

¹⁶ See, e.g., Id. at 17.

¹⁷ SER-1001-SER-1002 (Declaration of Tyler Termeer, Chief Executive Officer of the San Francisco AIDS Foundation, In Support of Plaintiff's Complaint and Motion for Preliminary Injunction (TerMeer Decl.)) at ¶¶ 16, 19; *When Government Is Not the Solution, supra* note 15, at 21.

¹⁸ SER-1011 (TerMeer Decl.) at ¶ 43; *see*, *e.g.*, *Dealing with Discrimination When You Have HIV*, John Hopkins Medicine, https://www.hopkinsmedicine.org/health/conditions-and-diseases/hiv-and-aids/dealing-with-discrimination-when-you-have-hiv [https://perma.cc/4Z4N-5WV2]; *Let's Stop HIV Together*, U.S. Center for Disease Control and Prevention, https://www.cdc.gov/stophivtogether/hiv-stigma/index.html [https://perma.cc/2FE3-327H]; SER-1024-SER-1028 (Declaration of Lance Toma of San Francisco Community Health Center, In Support of Plaintiff's Complaint and Motion for Preliminary Injunction (Toma Decl.)) at ¶¶ 13-20.

¹⁹ Alyssa Robillard, et al., *Structural Inequities, HIV Community-Based Organizations, and the End of the HIV Epidemic*, American Journal of Public Health, Vol. 112, No. 3, 417, 421 (March 2022), https://pubmed.ncbi.nlm.nih.gov/35196039/ (last accessed Oct. 7, 2025); SER-1002-SER-1003 (TerMeer Decl.) at ¶ 19.

²⁰ DataSF, Open Data Portal, *Citywide Nonprofit Spending* (last updated Oct. 7, 2025), https://data.sfgov.org/dataset/Citywide-Nonprofit-Spending/qkex-vh98/data_preview (last accessed Oct. 8, 2025).

Francisco Community Health Center (SFCHC). SFAF deploys the funding it receives to provide behavioral health care, sexual health care, HIV prevention and care, including offering PrEP and PEP, and community engagement initiatives, including supporting older adults living with HIV. SFAF provides over 70,000 people with free HIV and STI testing and serves approximately 27,000 patients annually throughout the San Francisco Bay Area. SFCHC provides genderaffirming hormone therapy, mental health support, HIV treatment and prevention, navigation and referrals to gender-affirming surgery, case management, primary medical care, behavioral care, and dental health care.

Similarly, the Baltimore City Health Department relies on local nonprofits and community groups like appellee Baltimore Safe Haven (BSH) to provide critical health services. Baltimore City (Baltimore) is a majority minority city, with about 30 percent of its over 568,000 residents living below the poverty level.²⁴ Approximately 10,000 Baltimore residents live with HIV or AIDS.²⁵ With a focus on unhoused individuals, persons recently released from incarceration, the transgender community, and sex workers, BSH provides vital health services, including HIV testing and prevention counseling and access to care for those who

²¹ SER-996, SER-999, SER-1003-SER-1004 (TerMeer Decl.) at ¶¶ 4, 11, 22.

 $^{^{22}}$ SER-996-SER-997, SER-1010-SER-1011 (TerMeer Decl.) at $\P\P$ 4, 7, 41-42.

²³ SER-1020-SER-1024, SER-1027 (Toma Decl.) at ¶¶ 12, 19.

²⁴ Data USA, https://datausa.io/profile/geo/baltimore-city-md (last visited Oct. 8, 2025).

²⁵ 2023 Baltimore City Annual HIV Epidemiological Profile, Maryland Department of Health (2023), https://health.maryland.gov/phpa/OIDEOR/CHSE/SiteAssets/Pages/statistics/Balti more-City-Annual-HIV-Epidemiological-Profile-2023.pdf [https://perma.cc/3ATR-MYKS].

test positive. BSH also houses a clinic that provides access to PrEP to prevent the spread of HIV and tests for other STIs. And it serves the community in other ways, including providing housing navigation services to individuals, organizing peer groups, and providing case management services.

These collaborations are working. Thanks, in part, to the services provided by SFAF and SFCHC, San Francisco has made significant progress towards its "Getting to Zero" goal of becoming the first jurisdiction in the country with zero new HIV infections, zero HIV stigma, and zero preventable deaths among people living with HIV.²⁶ To date, Getting to Zero's achievements include: a 71% decrease in HIV diagnoses since 2006; in 2022, 90% of people newly diagnosed with HIV were connected to care within one month of diagnosis; and 80% of those newly diagnosed were virally suppressed within one year.²⁷ These significant gains could not have been achieved without nonprofit partnerships.

II. Losing Nonprofit Partners Will Harm Local Governments by Increasing the Burden on Our Healthcare Systems and Adversely Impacting Public Health

The three enjoined provisions at issue here jeopardize the vital healthcare services nonprofits provide. SFCHC, for example, would "be forced to reduce services, shutter programs, and turn away clients who rely on [them] for essential care." BSH faces "an existential threat to [its] ability to keep [their] doors open and continue providing" lifesaving resources and services to the LGBTQIA

²⁶ Getting to Zero San Francisco, https://www.sf.gov/information--getting-zero-san-francisco-gtz-sf [https://perma.cc/X89X-QP5N].

²⁷ San Francisco's Integrated Ending the Epidemics Plan: 2024-2026 Strategies and Activities, SFDPH, at 6 (2024), https://media.api.sf.gov/documents/SF_Integrated_ETE_Plan_2024-2026_FINAL_1_0.pdf [https://perma.cc/DR7D-WY24].

 $^{^{28}}$ SER-1030-SER-1031 (Toma Decl.) at ¶ 23.

community.²⁹ This decrease in available nonprofit services will have several negative consequences.

A. Local Governments Will Incur Additional Costs for Providing Health Care Services

The decrease in nonprofit services will drive some patients to seek care elsewhere, including with local health departments. This will put pressure on local governments to try and absorb people previously served by nonprofits into existing healthcare systems. Further, since nonprofits often provide critical health services in non-clinical settings, their costs tend to be lower. The resulting increased costs on local governments would cause irreparable harm. *See*, *e.g.*, *City and Cnty. San Francisco v. United States Citizenship and Immigration Service*, 981 F.3d 742, 762 (9th Cir. 2020) (holding that a city demonstrates irreparable harm when it is likely to bear financial costs resulting from the withdrawal of federal assistance).

This will be particularly challenging for local governments right now since many are currently facing serious budget deficits, and local governments also depend on federal funding—which is now uncertain—to provide health services.³⁰ San Francisco, for example, faces a deficit approaching \$1 billion.³¹ And SFDPH's

²⁹ SER-299 (Supplemental Declaration of Iya Dammons, Executive Director of Baltimore Safe Haven Corp, In Support of Plaintiffs' Motion for Preliminary Injunction) at ¶19.

³⁰ Matt McKillop & Dara Alpert Lieberman, *The Impact of Chronic Underfunding on America's Public Health System: Trends, Risks, and Recommendations*, Trust for America's Health, at 29 (August 2024) https://www.tfah.org/wp-content/uploads/2024/08/2024-PublicHealthFunding-FINAL.pdf [https://perma.cc/HES3-TWJ4].

³¹ Budget Information Fiscal Year 2025-26, San Francisco Board of Supervisors, https://sfbos.org/supervisor-chan-budget-information
[https://perma.cc/W63V-NS6U]; San Francisco's Integrated Ending the Epidemics Plan, supra note 27, at 5. ("An added challenge is that declines in the local and state economies and a large budget deficit are leading to reductions in funding for social services.")

budget for the next two fiscal years assumes substantial funds from the state and federal governments, which are now threatened.³² Similar funding challenges are playing out in local governments throughout the country, particularly because of threatened federal funding cuts.³³

B. Patients May Be Unwilling or Unable to Access Essential Healthcare Services Causing Harm to Individual and Public Health

Even worse, some patients may forgo or be unable to access healthcare services, leading to increased infections and poor health outcomes.

1. Local Governments Cannot Replicate Nonprofits'
Programs and Relationships, and Lack the Staffing and
Infrastructure to Fully Meet Increased Patient Demand

As an initial matter, local governments cannot replicate the trust and relationships nonprofits have spent years developing. As a result, individuals who distrust government may not be comfortable seeking care at government-run facilities from new providers with whom they have no connection or existing relationship.

Other people may be willing to consult a new provider, but unable to access services. As noted above, localities have limited resources and are currently facing serious budget deficits. Given these funding issues, they may be unable to provide through public healthcare systems all services patients previously received from

³² S.F., Cal. Budget and Appropriation Ordinance 119-25 at 175-88; Jacqueline Howard, *Local Health Departments Worry About Government Shutdown's Effects on Staffing, Disease Outbreaks and Nutrition Services*, CNN (Oct. 2, 2025), https://www.cnn.com/2025/10/02/health/government-shutdown-vaccines (last accessed Oct. 7, 2025).

³³ See, e.g., Scott Maucione, Baltimore Mayor Says Hard Conversations Ahead Over Loss of Federal Grant Funds (Apr. 28, 2025), https://www.wypr.org/wypr-news/2025-04-28/baltimore-mayor-says-hard-conversations-ahead-over-loss-of-federal-grant-funds [https://perma.cc/M9UF-LE6H]; See, e.g., Massachusetts et al. v. Kennedy et al., 25-cv-10814 (D. Mass.) (challenge to federal funding cuts to health-related programs).

nonprofits. Moreover, many localities do not have the physical space and staff to provide more services. In San Francisco, for example, City Clinic has operated out of a former firehouse since 1982 with limited capacity to expand clinical services in its current location. And City Clinic and SFAF's Magnet clinic are the only locations in the city that provide certain diagnostic and treatment services for syphilis and other sexually transmitted infections at scale. Any impact on SFAF's ability to provide these services would therefore increase SFDPH's burden. Nor can local governments easily replicate all the services currently provided by nonprofits. SFAF's programming for older adults is an example. At a time when people living with HIV are growing older because of improvements in disease treatment, caring for those adults as they age is essential. In San Francisco in 2024, for example, 75% of people living with HIV were aged 50 and up and 48% were aged 60 and up.³⁴ SFAF is well-situated to provide these services because of the trust they have developed over decades—trust that cannot be immediately achieved by new providers without longstanding relationships.

In short, taking nonprofits out the service delivery ecosystem makes it likely that some people will not receive the critical healthcare they need. Individual and public health will inevitably suffer as a result.

2. The Public Health Consequences from Decreased Healthcare Services Would Be Considerable

Local governments' partnerships with nonprofits providing healthcare services have yielded much progress—progress that will be endangered if nonprofits are no longer able to provide healthcare services to *amici*'s residents.

³⁴ *HIV Epidemiology, Annual Report 2024*, SFDPH at ix (Sep. 2025), https://media.api.sf.gov/documents/AnnualReport2024_Green_20250915FinalwCover.pdf [https://perma.cc/J9FZ-Z775].

In San Francisco, for example, there were 146 reported new HIV diagnoses in 2024.³⁵ Although this was a slight increase over the 140 reported new HIV diagnoses in 2023, that was still an over 70% decrease from 2006.³⁶ This success is due, in no small part, to San Francisco's heavy investment in universal and rapid use of antiretroviral drugs, including PrEP, and HIV testing.³⁷ However, the slight year-over-year increase in new HIV diagnoses between 2023 and 2024 demonstrates the need to at least maintain, not decrease, capacity to address the issue.

This significant progress, however, is threatened and would be threatened further by defunding nonprofit partners. The deleterious impact to *amici*'s public health programs will result in increased costs, more illness, and preventable deaths. A recent study considered how federal policy changes that would likely result in fewer publicly supported PrEP provision sites would impact HIV infection rates.³⁸ The study concluded that "even modest reductions in PrEP coverage would result in thousands of avoidable HIV infections and billions of dollars of increases in net health care costs."³⁹ Reducing the availability of PrEP makes little sense. All stakeholders, including local governments and nonprofits, must advance the progress made combatting HIV, not reverse it.

³⁵ *Id*.

³⁶ San Francisco's Integrated Ending the Epidemics Plan, supra note 27, at 6.

³⁷ *Id.* at 17.

³⁸ Patrick S. Sullivan, et al., Excess HIV Infections and Costs Associated with Reductions in HIV Prevention Services in the US, JAMA Network Open, at 1-2 (Sep. 11, 2025),

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³⁹ *Id.* at 1.

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CONCLUSION

Losing health-related nonprofit partners would burden local governments by driving patients to avoid healthcare or to seek it from local health systems that cannot absorb them, either consequence would lead to adverse health outcomes in communities nationwide. For the foregoing reasons, *amici* respectfully request that this Court affirm the District Court's preliminary injunction.

Dated: October 9, 2025 Respectfully submitted,

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APPENDIX A - List of Amici Curiae

Local Governments

Alameda County, California

City of Alexandria, Virginia

Allegheny County, Pennsylvania

City of Baltimore, Maryland

City of Chicago, Illinois

City of Columbus, Ohio

King County, Washington

City of New York, New York

City of Portland, Oregon

City of San Diego, California

City and County of San Francisco

County of Santa Clara, California

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UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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This brief contains 3128 words, excluding the items exempted by Fed. R.
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CERTIFICATE OF SERVICE

I, BIANCA E. ROJO, hereby certify that I electronically filed the following document with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on October 9, 2025.

BRIEF OF AMICI CURIAE TWELVE CITIES AND COUNTIES IN SUPPORT OF PLAINTIFFS-APPELLEES AND AFFIRMANCE OF THE DISTRICT COURT'S PRELIMINARY INJUNCTION

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Executed October 9, 2025, at San Francisco, California.

/s/ Bianca E. Rojo, BIANCA E. ROJO