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 CITY AND COUNTY OF SAN FRANCISCO

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 14  
 15 UNITED STATES DISTRICT COURT  
 16 NORTHERN DISTRICT OF CALIFORNIA

17 CITY AND COUNTY OF SAN  
 FRANCISCO,

18 Plaintiff,

19 vs.

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

24 Defendants.

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

**DECLARATION OF BEN ROSENFELD IN  
 SUPPORT OF CITY AND COUNTY OF SAN  
 FRANCISCO'S MOTION FOR  
 PRELIMINARY INJUNCTION**

Date: April 12, 2017  
 Time: 2:00 p.m.  
 Judge: Honorable William H. Orrick  
 Dept: Courtroom 2

Date Filed: January 31, 2017

Trial Date: Not set

1 I, Ben Rosenfield, declare as follows:

2 1. I am a resident of the State of California. I have personal knowledge of the facts set  
3 forth in this declaration and, if called as a witness, could and would testify competently to the matters  
4 set forth below.

5 2. I am employed by the City and County of San Francisco (the “City”) as Controller. I  
6 have held this position since March 2008. Prior to my appointment to this position, I was the Deputy  
7 City Administrator from 2005 to 2008. Prior to that position, I served as the Mayor’s Budget Director  
8 for Mayors Willie L. Brown, Jr. and Gavin Newsom, for the period from 2001 to 2005. Prior to that  
9 position, I served as a Project Manager in the Controller’s Office (2000-2001) and as a Financial and  
10 Policy Analyst and as a Deputy Director in the Mayor’s Budget Office (1997-2000). I have worked in  
11 a variety of budget, financial planning, public finance, and general administrative positions during my  
12 18 years of work for the City.

13 3. I am familiar with Executive Order 13768, dated January 25, 2017, and titled  
14 “Enhancing Public Safety in the Interior of the United States” (the “Executive Order”).

15 **A. San Francisco Relies On Federal Funding For Essential Public Services.**

16 4. San Francisco is home to about 865,000 residents and has a total daytime population of  
17 about 1,250,000. People who live in, work in or visit San Francisco rely on—in addition to other  
18 public services—law enforcement provided by the San Francisco Police Department; public  
19 infrastructure projects such as roads, bridges and public transit; and the availability of high quality  
20 emergency care from San Francisco General Hospital. Residents also rely on public health programs  
21 such as Medi-Cal and public assistance programs like CalWORKS. While San Francisco has  
22 benefitted from a recent economic boom, over 12% of San Franciscans live in poverty, and depend on  
23 public assistance to make ends meet and put food on the table.

24 5. San Francisco contributes disproportionately to national economic growth and job  
25 creation. Between 2010 and 2015, San Francisco ranked second among all U.S. counties in percentage  
26 change in employment, generating over 125,000 new jobs, a growth rate of 28%. A significant portion  
27 of this growth has been in the technology sector, a source of high wage jobs with important multiplier  
28 effects and potential for future growth.

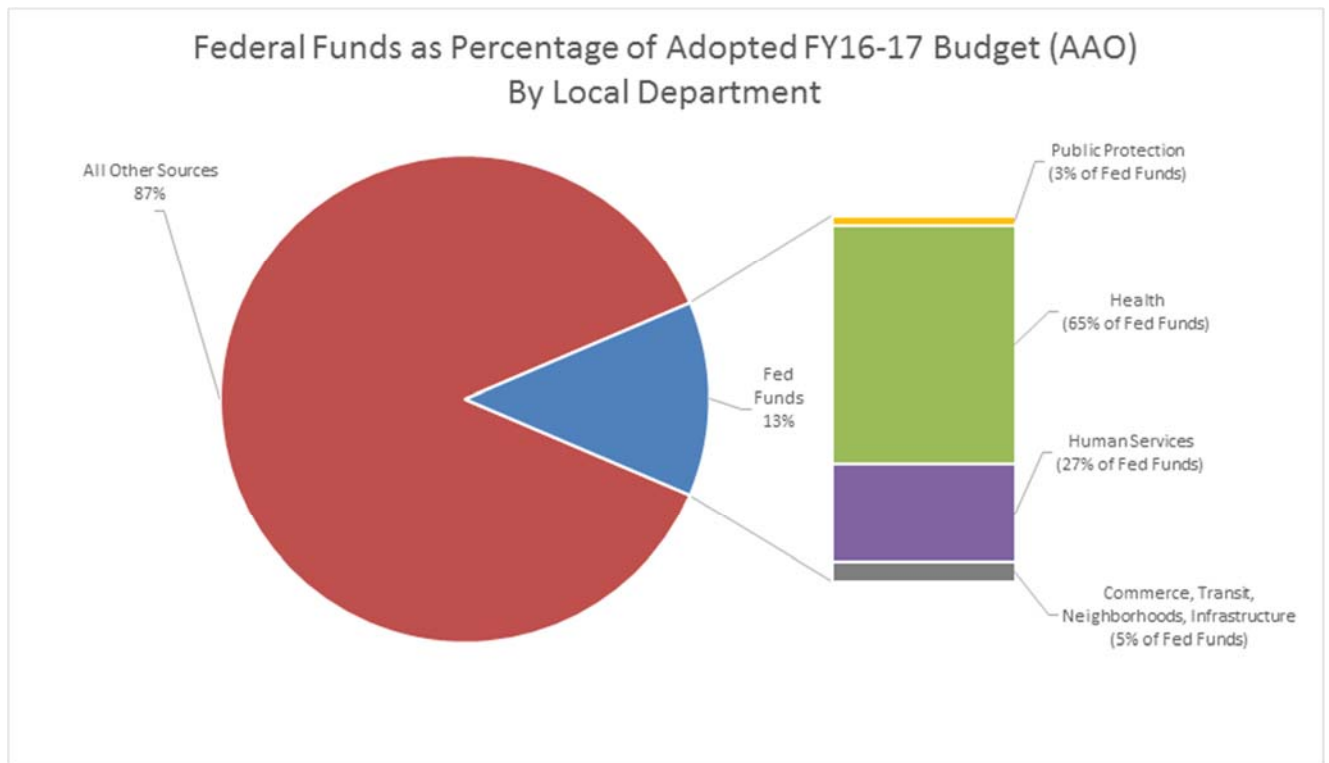
6. The State of California, including San Francisco, pays more to the Federal government in taxes than it receives in federal spending. In 2014, California residents and businesses paid a total of \$369.2 billion in federal business and personal income, estate, gift, and excise taxes to the Internal Revenue Services and were the beneficiaries of \$355.8 billion in federal expenditures. California ranked 38th among states in the ratio of federal spending to collections.

7. In turn, San Francisco relies on federal funding to provide essential services and build and maintain public infrastructure projects.

8. San Francisco budgets for a fiscal year that runs from July 1 to June 30. The current fiscal year began July 1, 2016, and will end June 30, 2017 (“FY16-17”). The next fiscal year will run from July 1, 2017 to June 30, 2018 (“FY17-18”).

9. San Francisco’s annual operating budget for FY16-17 includes over \$1.2 billion in federal funds. As shown in Figure 1, below, this is approximately 13% of the total annual operating budget of \$9.6 billion.

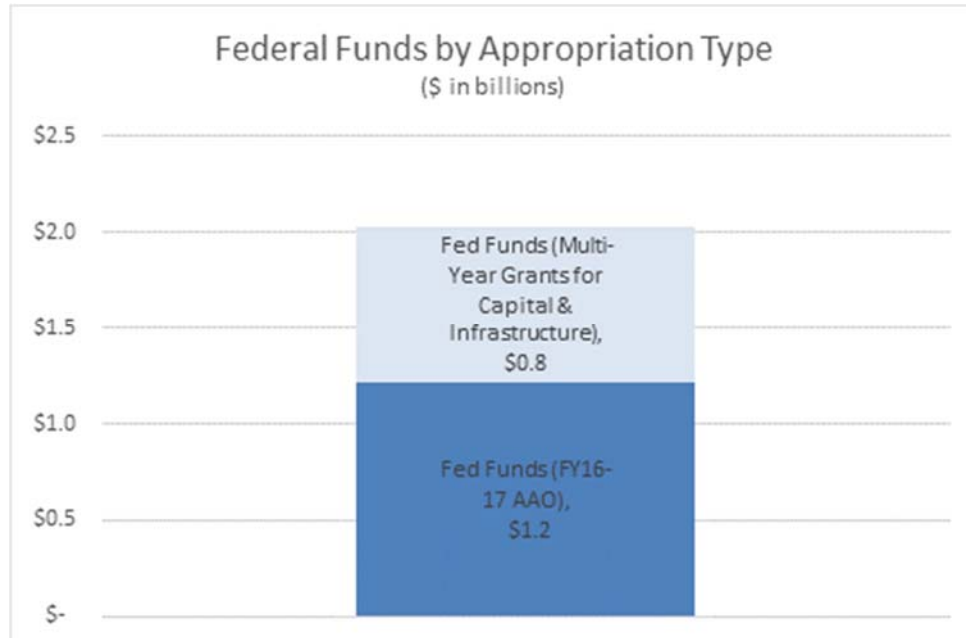
**Figure 1**



10. The vast majority of federal funds in the annual operating budget—approximately 92%—support programs in the San Francisco’s Human Services Agency and Department of Public Health. Most of this funds entitlement programs such as Medicaid and Medicare, Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program, Foster Care, and various child welfare programs. Only a small percentage of federal funds—approximately 3%—goes to local law enforcement agencies. There is no connection between the purpose of the funds and federal immigration enforcement for all or almost all federal funds received by the City.

11. On top of the federal funds allocated in the annual operating budget, San Francisco expects to receive an additional \$800 million in federal multi-year grants, largely for public infrastructure projects such as building bridges, roads, and public transportation investments. As shown in Figure 2, below, federal funds currently committed to San Francisco total approximately \$2 billion.

**Figure 2**



12. The programs, projects, and services described below are just a few examples of how San Francisco uses federal funds.

## 1                   **1.     Human Services Agency**

2           13.     The San Francisco’s Human Services Agency (“HSA”) provides critical services to  
3 San Francisco’s most vulnerable residents. It works with over 200,000 residents each year to provide  
4 needed nutrition assistance, income support, and child welfare services, among other support services.  
5 Approximately one in four San Franciscans is a client of HSA. HSA also manages numerous  
6 programs that serve young children and their families, older adults, and individuals with disabilities.  
7 HSA relies on federal funding to provide these services.

8           14.     For example, the In-Home Supportive Services (“IHSS”) program enables about 23,000  
9 low-income elderly, disabled, or blind San Franciscans to live safely in their own homes and  
10 communities. For some recipients, the IHSS program reduces acute health care and institutional long-  
11 term care costs that would otherwise be incurred by the state and Federal governments through Medi-  
12 Cal. About 19,000 individuals work as independent providers for IHSS recipients. For FY16-17, the  
13 County’s IHSS program is budgeted to receive approximately \$64 million in federal funds, accounting  
14 for nearly 40% of the program’s budget. Virtually all of these funds are provided as reimbursements.  
15 This amount does not include the approximately \$200 million of federal funds that the State of  
16 California pays directly to independent IHSS providers.

17           15.     HSA also provides financial assistance and services to San Francisco’s neediest  
18 residents, including children and families living in poverty. For example, through California Work  
19 Opportunity and Responsibility to Kids (CalWORKS), HSA provides financial assistance, family  
20 stabilization, case management, vocational counseling, job readiness assistance, behavioral health  
21 treatment, transportation, and other services designed to help parents of low-income families meet  
22 welfare-to-work requirements, secure and retain employment, and become self-sufficient.  
23 San Francisco’s CalWORKS program is budgeted to receive approximately \$58 million in federal  
24 funding in FY16-17, accounting for over 50% of the County’s CalWORKS and Welfare-to-Work  
25 FY16-17 budget. Virtually all of these funds are provided as reimbursements.

26           16.     HSA offers numerous other social services, including child welfare programs and  
27 services, early childhood care and education services, adult protective services and a County Veteran’s  
28 Service Office that helps veterans and their families receive benefits to which they are entitled.

1 17. In FY16-17, HSA expects to receive a total of approximately \$286 million in federal  
2 funding. This represents approximately 33% of its FY16-17 budget.

3 18. HSA directly employs nearly 2,000 employees. It also funds hundreds of additional  
4 jobs through contracts to service providers. Loss of federal funds would threaten many of these jobs,  
5 as well as the underlying services, that depend on HSA funds.

6 **2. Department of Public Health**

7 19. The Zuckerberg San Francisco General Hospital (“ZSFGH”) is a licensed general acute  
8 care hospital owned and operated by San Francisco’s Department of Public Health (“DPH”). ZSFGH  
9 has 284 beds and provides a full complement of inpatient, outpatient, emergency, skilled nursing,  
10 diagnostic, mental health, and rehabilitation services for adults and children. ZSFGH is the largest  
11 safety net provider in San Francisco and is the designated trauma center for the 1.5 million residents of  
12 San Francisco and northern San Mateo County. In FY16-17, ZSFGH expects to receive  
13 approximately \$450 million in federal funding for Medi-Cal and Medicare patient services. This  
14 accounts for over half of the ZSFGH FY16-17 budget of nearly \$840 million. Virtually all of these  
15 funds are provided as reimbursements.

16 20. Laguna Honda Hospital provides a full range of skilled nursing services to adult  
17 residents of San Francisco who are disabled or chronically ill, including specialized care for those with  
18 wounds, head trauma, stroke, spinal cord and orthopedic injuries, HIV/AIDS, and dementia. In FY16-  
19 17, Laguna Honda Hospital expects to receive approximately \$160 million in federal funding for  
20 Medi-Cal and Medicare patient services, accounting for nearly 60% of its budget. Virtually all of  
21 these funds are provided as reimbursements.

22 21. DPH also provides direct services through its primary care clinics, HIV/AIDS health  
23 services, mental health and substance abuse treatment, housing and homelessness assistance, maternal  
24 and child healthcare, and jail health services.

25 22. Additionally, the DPH Population Health Division addresses public health concerns,  
26 including consumer safety, health promotion, and disease prevention. DPH also monitors threats to  
27 public health.

1           23. Overall, in FY16-17, DPH expects to receive approximately \$800 million in federal  
2 funding. This represents almost 40% of the Department’s FY16-17 budget.

3           24. DPH has approximately 6,800 full-time equivalent employees, and it funds hundreds of  
4 additional jobs through contracts to service providers. Loss of federal funds would threaten many of  
5 the thousands of jobs that depend on DPH funds, as well as the services that DPH provides.

6                           **3. Department of Emergency Management**

7           25. The Department of Emergency Management (“DEM”) leads San Francisco in planning,  
8 preparedness, communication, response, and recovery for daily emergencies, large scale citywide  
9 events, and major disasters. DEM is the vital link in emergency communication between the public  
10 and first responders.

11           26. One of the programs DEM administers is the Bay Area Urban Areas Security Initiative  
12 (“UASI”), which sustains and improves regional capacity to prevent, mitigate, respond to, and recover  
13 from terrorist attacks and catastrophic disasters. UASI funds training exercises and regional  
14 emergency management and disaster response. This program is funded entirely by federal funds.

15           27. In FY16-17, DEM anticipates receiving about \$25 million in federal funding, mostly  
16 supporting the UASI program. This represents nearly 30% of the Department’s FY16-17 budget.

17                           **B. Federal Funding Streams**

18           28. San Francisco receives federal funds directly from the Federal government, as well as  
19 indirectly through the State of California and other pass-through entities. For FY16-17,  
20 San Francisco’s budget includes over \$1.1 billion in pass-through funds, the vast majority of which is  
21 passed through the State of California. If Defendants nonetheless cut off federal funds to California,  
22 this could result in the loss of pass-through funds to San Francisco.

23           29. San Francisco receives federal funds as payments for entitlement programs, as well as  
24 through grants. These entitlement programs include Medicare, Medicaid (known as Medi-Cal in  
25 California), Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program,  
26 Foster Care, and various child welfare programs. Medicare is funded entirely with federal funds.  
27 Undocumented immigrants are not eligible to receive benefits from Medicare and most other  
28

1 entitlement programs. Approximately 80% of the federal funds budgeted for FY16-17 are for  
2 entitlement programs.

3 30. San Francisco receives most federal funds—for both grants and entitlement programs—  
4 as reimbursements. San Francisco is currently providing services and benefits that the Federal  
5 government has agreed to reimburse. San Francisco is also building major transit expansions and other  
6 public infrastructure projects, as well as running programs across a variety of San Francisco agencies,  
7 based on the Federal governments' commitment to pay for these projects and programs. The Executive  
8 Order calls into question whether the Federal government will in fact reimburse San Francisco for  
9 these funds.

10 31. Since the Executive Order issued, San Francisco has received inquiries from credit  
11 rating agencies about the impact of the Executive Order on San Francisco's finances, given the  
12 importance of federal funds on the City's provision of public services.

13 32. The City requests a rating from credit rating agencies each time bonds are issued. A  
14 rating is assigned based on the security or repayment source, general finances, the economy, debt and  
15 long-term liabilities, and financial management.

16 33. San Francisco's next bond issuance is scheduled for the first week of May 2017. If  
17 credit rating agencies downgrade their assessment of San Francisco, it will increase San Francisco's  
18 borrowing costs and thereby reduce funds available for direct public services.

### 19 **C. Coercive Effect Of The Executive Order**

20 34. San Francisco currently faces the prospect of sweeping cuts in necessary federal  
21 funding. The Executive Order threatens not to pay San Francisco over \$2 billion in federal funds that  
22 is money already spent by San Francisco, money San Francisco is spending today, and money San  
23 Francisco has reasonably relied on receiving.

24 35. The concern about losing federal funds is so acute that the Board of Supervisors has  
25 established the Budget and Finance Federal Select Committee, a new committee that will consider  
26 issues related to the possible loss of federal funds as a result of the Executive Order and other federal  
27 action. This is the first new select committee that the Board of Supervisors has established during the  
28 last decade.



1 36. It would be catastrophic for San Francisco to lose all federal funds. It would not be  
2 possible for San Francisco to backfill the loss of \$1.2 billion with local revenue sources.

3 37. San Francisco's existing reserves are insufficient to cover the loss of all federal funds.  
4 San Francisco currently has contingency reserves of approximately \$350 million, in a Rainy Day Fund  
5 and a Stabilization Fund, which were created and funded over the last decade for the purpose of  
6 managing local tax revenue volatility created by economic conditions. These reserve levels, totaling  
7 less than 8% of general fund revenues, remain below levels recommended by the Government Finance  
8 Officers Association for local governments and the 10% target established by San Francisco law.  
9 There are restrictions on the use of these reserves, and even if entirely depleted, their levels would be  
10 inadequate to cover a shortfall in federal funds for even a single year. To fully absorb the loss of all  
11 federal funds for even a single year, San Francisco would also have to deplete these reserves, suspend  
12 capital projects needed to maintain the City's aging infrastructure, and make drastic service cuts in  
13 order to maintain a balanced budget, as it is legally required to do. All of these actions would result in  
14 significant job losses and the abandonment of key safety net services.

15 I declare under penalty of perjury that the foregoing is true and correct and that this declaration  
16 was executed on March 6, 2017 at San Francisco, California.

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BEN ROSENFELD, Controller