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TDW SERVICES, INC.

7
8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

10 TDW SERVICES, INC., an Oklahoma
11 corporation,

12 Plaintiff,

13 v.

14 SACRAMENTO MUNICIPAL UTILITY
15 DISTRICT,

16 Defendant.

Case No. 2:13-CV-02335-KJM-CKD

**ASSIGNED TO JUDGE KIMBERLY J.
MUELLER, COURTROOM 3, FOR ALL
MATTERS EXCEPT DISCOVERY**

STIPULATED PROTECTIVE ORDER

Complaint Filed: November 12, 2013
Trial Date: Not Yet Set

17 AND RELATED COUNTERCLAIM
18

19 **RECITALS**

20 The parties to this matter hereby wish to enter into a stipulated protective order whereby
21 certain confidential documents exchanged by and between the parties may not be used or disseminated
22 beyond the strict confines of this litigation. In order to effectuate that goal, the parties have crafted the
23 below-articulated stipulation and proposed order thereon.

24 **STIPULATION**

25 The following provisions shall govern production, disclosure, use, and dissemination of
26 confidential information in this matter, including any such information found in any documents
27 produced in the course of discovery (including by third parties in response to a subpoena), any
28 answers to interrogatories, any answers to requests for admission, and any deposition testimony:

1 (A) Designation of confidential information must be made by placing or affixing on the
2 document in a manner that will not interfere with its legibility the word "CONFIDENTIAL." One
3 who provides material may designate it as "CONFIDENTIAL" only when the person in good faith
4 believes it contains trade secrets or nonpublic technical, commercial, financial, personal, or business
5 information. Except for documents produced for inspection at the party's facilities, the designation of
6 confidential information must be made prior to, or contemporaneously with, the production or
7 disclosure of that information. In the event that documents are produced for inspection at the party's
8 facilities, such documents may be produced for inspection before being marked confidential. Once
9 specific documents have been designated for copying, any documents containing confidential
10 information will then be marked confidential after copying but before delivery to the party who
11 inspected and designated the documents. There will be no waiver of confidentiality by the inspection
12 of confidential documents before they are copied and marked confidential pursuant to this procedure.

13 (B) Portions of depositions of a party's present and former officers, directors, employees,
14 agents, experts, and representatives must be deemed confidential only if they are designated as such
15 when the deposition is taken.

16 (C) Information or documents designated as confidential under this Order must not be used
17 or disclosed by the parties or counsel for the parties or any persons identified in subparagraph (D) for
18 any purposes whatsoever other than preparing for and conducting the litigation/trial in which the
19 information or documents were disclosed (including appeals).

20 (D) The parties and counsel for the parties must not disclose or permit the disclosure of any
21 documents or information designated as confidential under this Order to any other person or entity,
22 except that disclosures may be made in the following circumstances:

23 (i) Disclosure may be made to employees of counsel for the parties who
24 have direct functional responsibility for the preparation and trial of the lawsuit.
25 Any such employee to whom counsel for the parties makes a disclosure must
26 be advised of, and become subject to, the provisions of this rule requiring that
27 the documents and information be held in confidence.

28 (ii) Disclosure may be made only to employees of a party required in good
faith to provide assistance in the conduct of the litigation in which the
information was disclosed who are identified as such in writing to counsel for
the other parties in advance of the disclosure of the confidential information.

1 (iii) Disclosure may be made to court reporters engaged for depositions and
2 those persons, if any, specifically engaged for the limited purpose of making
3 photocopies of documents. Before disclosure to any such court reporter or
4 person engaged in making photocopies of documents, such reporter or person
5 must agree in writing to be bound by the terms of this Order.

6 (iv) Disclosure may be made to consultants, investigators, or experts
7 (collectively “experts”) employed by the parties or counsel for the parties to
8 assist in the preparation and trial of claims. Before disclosure to any expert,
9 the expert must be informed of and agree in writing to be subject to the
10 provisions of this Order requiring that the documents and information be held
11 in confidence.

12 (E) Except as provided in subparagraph (D), counsel for the parties must keep all
13 documents designated as confidential secure within their exclusive possession and must place such
14 documents in a secure area.

15 (F) All copies, duplicates, extracts, summaries, or descriptions (hereinafter referred to
16 collectively as “copies”) of documents or information designated as confidential under this Order, or
17 any portion thereof, must be immediately affixed with the word “CONFIDENTIAL” if that word does
18 not already appear.

19 (G) A party may challenge the designation of confidentiality by motion. The movant must
20 accompany such a motion with the statement required by Civil L. R. 251. The party prevailing on any
21 such motion is entitled to recover as motion costs its actual attorney fees and costs attributable to the
22 motion.

23 (H) At the conclusion of the litigation, all material not received in evidence and treated as
24 confidential under this Order must be returned to the originating party. If the parties so stipulated, the
25 material may be destroyed.

26 (I) The provisions of this Order shall apply to all document production and other
27 information provided by third parties in response to subpoena. Should any party wish to designate any
28 information disclosed by third parties as confidential, the party shall, within ten days of receipt of said
information, inform counsel for all other parties that it is designating the information as confidential,
whereupon each party shall mark the information as such in accordance with Paragraph (F), above,
and the production, disclosure, use, and dissemination of said information shall be governed by the

1 provisions of this Order to the same extent as confidential information produced or disclosed by the
2 parties. During the ten-day period following a party's receipt of any information provided by a third
3 party in response to subpoena, all parties shall treat the information as presumptively confidential, and
4 the provisions of this Order shall govern the production, disclosure, use, and dissemination of that
5 information during that period.

6 (J) Should any party seek to file any document marked as "CONFIDENTIAL" by the
7 other party with the Court, the party seeking to make the filing shall provide advance notice to the
8 other party of said filing, and the parties will meet and confer with respect to the necessity of making a
9 sealed filing, or whether lesser measures of protection, such as redaction of the document, will suffice.
10 If the parties are unable to agree regarding the need for a sealed filing, the parties shall jointly contact
11 the Court for guidance as to the propriety of/need for a sealed filing.

12 IT IS SO STIPULATED.

13 DATED: December 22, 2014

WILKE, FLEURY, HOFFELT,
GOULD & BIRNEY, LLP

14
15 By: /s/ Daniel L. Baxter
16 DANIEL L. BAXTER
17 Attorneys for Plaintiff/Cross-Defendant
TDW SERVICES, INC.

18 DATED: December 22, 2014

LEWIS BRISBOIS BISGAARD & SMITH LLP

19
20 By: /s/ Matthew M. Randle
21 MATTHEW M. RANDLE
22 Attorneys for Defendant/Cross-Complainant
SACRAMENTO MUNICIPAL UTILITY
DISTRICT

23 IT IS SO ORDERED.

24 Dated: January 6, 2015


25 CAROLYN K. DELANEY
26 UNITED STATES MAGISTRATE JUDGE
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