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11 IN THE UNITED STATES DISTRICT COURT  
 12 FOR THE EASTERN DISTRICT OF CALIFORNIA  
 13 SACRAMENTO DIVISION  
 14

15  
 16 **THE UNITED STATES OF AMERICA,**  
 17 Plaintiff,  
 18 v.  
 19 **THE STATE OF CALIFORNIA; EDMUND**  
 20 **GERALD BROWN, JR., Governor of**  
 21 **California, in his official capacity; and**  
 22 **XAVIER BECERRA, Attorney General of**  
 23 **California, in his official capacity,**  
 Defendants.

Case No. 2:18-cv-00490-JAM-KJN

**STIPULATED REQUEST TO UNSEAL DOCUMENTS**

Courtroom: 6  
 Judge: The Honorable John A. Mendez  
 Trial Date: None set  
 Action Filed: March 6, 2018

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1           The United States filed this lawsuit on March 6, 2018. On the same date, the United States  
2 filed a Motion for Preliminary Injunction. ECF No. 2. After the filing of the complaint, the  
3 parties engaged in limited, expedited discovery focused on irreparable harm, which included  
4 depositions and document productions. *See* ECF Nos. 28, 118. To facilitate the production of  
5 confidential and other sensitive information, the Court issued a Protective Order. ECF No. 53.

6           On May 3, 2018, the date before California’s opposition to the United States’ preliminary  
7 injunction motion was due, the United States produced the detention facility contracts (the  
8 “contracts”) referenced in paragraph 51 of the Amended Declaration of Thomas Homan filed in  
9 support of the United States’ preliminary injunction motion. At the time of production, the  
10 United States conferred a blanket confidentiality designation on the contracts to provide  
11 California with the documents in an expedited manner before California’s filing of its opposition.  
12 In light of the impending filing deadline, California did not object to the confidentiality  
13 designations for the contracts at that time, and the parties agreed to meet and confer regarding the  
14 designations at a later date if necessary.

15           California filed its opposition to the Motion for Preliminary Injunction on May 4, 2018, and  
16 attached the contracts as Exhibits N-S to the Amended Declaration of Cherokee Melton in  
17 Support of Defendants’ Opposition to Plaintiff’s Motion for Preliminary Injunction (“Melton PI  
18 Declaration”).<sup>1</sup> ECF No. 83-2, ¶¶ 18-23. California also filed a summary index of information  
19 contained in the contracts, attached as Exhibit M to the Melton PI Declaration. ECF No. 83-2,  
20 ¶ 17. Under the terms of the Court’s Protective Order and Local Rule 141, California filed  
21 Exhibits M-S provisionally under seal and submitted to the Court a Request to Seal containing the  
22 unredacted versions of the documents. ECF No. 76. The Court granted California’s Request to  
23 Seal on May 7, 2018. ECF No. 80.

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26           <sup>1</sup> The Declaration of Cherokee Melton in Support of Defendants’ Opposition to Plaintiff’s  
27 Motion for Preliminary Injunction was filed concurrently with California’s Opposition on May 4,  
28 2018. ECF No. 74-2. On May 14, 2018, California filed a Supplemental and Amended  
Declaration of Cherokee Melton in Support of Defendants’ Opposition to Plaintiff’s Motion for  
Preliminary Injunction. ECF No. 83. There were no changes made to Exhibits M through S  
attached to the amended declaration. *See* ECF No. 83-1, ¶ 4.

1           The parties agree that there are no compelling reasons to keep Exhibits M through S to the  
2 Melton Declaration sealed in their entirety. The contracts are public documents because they are  
3 agreements entered into by and between state and federal governmental entities. Also, the federal  
4 government has made contracts like the ones under seal here publicly available, with limited  
5 redactions, under the Freedom of Information Act. *See* Official Website of the Department of  
6 Homeland Security, U.S. Immigration and Customs Enforcement, FOIA Library,  
7 Intergovernmental Service Agreements <https://www.ice.gov/foia/library> (Oct. 4, 2018).

8           The parties further agree, however, that some of the exhibits do contain sensitive or private  
9 information which should be redacted. There are compelling reasons to keep this limited  
10 information confidential to protect (1) the privacy interests of an individual who is not a signatory  
11 identified in the contract; (2) sensitive law enforcement information; and (3) proprietary  
12 information to avoid competitive harm. Therefore, the parties stipulate and agree as follows:

- 13           1. Exhibits M and P should be unsealed without any redactions.
- 14           2. Exhibits N, O, Q, R, and S should be unsealed with the following redactions:
  - 15           • Exhibit S at p. 380<sup>2</sup> (Bates No. USvCA\_Homan\_Depo001361). The name, phone  
16           number, and email address for an individual who is not a signatory to this contract  
17           should be redacted. The parties agree that the privacy interests of the individual  
18           who is a non-signatory outweigh any public interest in this information.
  - 19           • Exhibit O at pp. 138-39 (Bates No. USvCA\_Homan\_Depo001242-1243); Exhibit Q  
20           at p. 251 (Bates No. USvCA\_Homan\_Depo001017-1018); and Exhibit S at p. 385  
21           (Bates No. USvCA\_Homan\_Depo001366). Portions of these contracts contain  
22           sensitive law enforcement information regarding firearms, body armor, and security  
23           and should be redacted.
  - 24           • Exhibit N at pp. 37-38, 40<sup>3</sup>; Exhibit R at pp. 253-54, 258, 297-379 (Bates No.  
25           USvCA\_Homan\_Depo001421-001422, 001432, 001590). Portions of these  
26           contracts contain proprietary information, the disclosure of which may cause

27           <sup>2</sup> The page numbers referenced in connection with each exhibit refers to the page numbers  
28 reflected on the original documents submitted to the Court under seal on May 4, 2018.

<sup>3</sup> This contract was produced without a corresponding Bates number.

1 competitive harm to the owner of that information. Specifically, this information  
2 relates to occupancy rates with unit pricing and a contract proposal that should be  
3 redacted. The parties further agree that the proposed redactions should be limited to  
4 the specific number and prices in the contract and not, for example, a block  
5 redaction of an entire paragraph or page containing that information.

6 Dated: October 12, 2018

Respectfully Submitted,

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