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9 **UNITED STATES DISTRICT COURT**
 10 **NORTHERN DISTRICT OF CALIFORNIA**

11
 12 TIMOTHY RAY RICHARDSON

13 Plaintiff,

14 v.

15 FLUOR CORPORATION; FLUOR
 MAINTENANCE SERVICES, INC.; DOES 1
 16 THROUGH 10, INCLUSIVE,

17 Defendant.

Case No. CV-13-1908-SBA (MEJ)

**ADMINISTRATIVE MOTION TO FILE
 DOCUMENTS UNDER SEAL PURSUANT
 TO PROTECTIVE ORDER;
 ORDER GRANTING MOTION**

Complaint Filed: April 25, 2013
 Trial Date: October 15, 2014

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APPLICATION TO FILE DOCUMENTS UNDER SEAL

Pursuant to Local Rules 7-11, 79-5, and the parties’ Protective Order (Dkt. No. 63), defendants Fluor Maintenance Services, Inc. (“FMS”) and Fluor Corporation file this administrative motion to file Exhibit 1 to the declaration of Curt Lefferts in support of defendants’ upcoming motion for summary judgment under seal. (Declaration of Jill V. Cartwright ¶ 2, Ex. A). Exhibit 1—titled Appendix B, HBPP Scope of Work—was disclosed in discovery and labeled “confidential” in accordance with the parties stipulated protective order. Exhibit 1 is subject to a non-disclosure agreement with Pacific Gas & Electric Company (PG&E”) and defendants are contractually required to keep Exhibit 1 confidential. (Declaration of Curt Lefferts in Support of Administrative Motion to File Documents Under Seal, ¶¶ 2-6, Ex. A). Therefore, defendants request the Court allow them to file Exhibit 1 to Curt Leffert’s Declaration in Support of Defendants’ Motion for Summary Judgment under seal.

DATED: June 17, 2014

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

By: /s/ Jill V. Cartwright
Thomas M. McInerney
Jill V. Cartwright

Attorneys for Defendants
FLUOR CORPORATION and
FLUOR MAINTENANCE SERVICES, INC.

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1 **MEMORANDUM OF POINTS AND AUTHORITES**

2 **I. PRELIMINARY STATEMENT**

3 By this administrative motion, defendants Fluor Maintenance Services, Inc. (“FMS”) and
4 Fluor Corporation (collectively “defendants”) seek an order that certain documents marked
5 “confidential” pursuant to the terms of the Protective Order (Dkt No. 63) be filed under seal.
6 Defendants seek this order in connection with their upcoming Motion for Summary Judgment,
7 which will be timely filed and set for hearing on July 29, 2014 according to the Court’s pretrial
8 order. Defendants will rely upon part of the contract with Pacific Gas & Electric Company
9 (“PG&E”) governing FMS’s work at Humboldt Bay Power Plant in support of their summary
10 judgment motion, and this contract is covered by a nondisclosure agreement with PG&E.
11 Therefore, defendants seek this order to file the relevant portions of the contract under seal.

12 **II. STATEMENT OF FACTS PERTINENT TO THIS MOTION**

13 Plaintiff Timothy Richardson is a union ironworker who worked for Fluor Maintenance
14 Services, Inc. (“FMS”) for a brief two-month period at the Humboldt Bay Power Plant (“HBPP”),
15 located south of Eureka, California. FMS provides construction related services for the
16 decommissioning of the nuclear power plant at HBPP. FMS’s work at HBPP is governed by a
17 contract with the project owner PG&E, which is subject to a nondisclosure agreement between
18 FMS and PG&E. (Declaration of Curt Lefferts ¶¶ 2-3, Ex. A). In accordance with the
19 nondisclosure agreement, FMS sought a protective order, and then produce the portions of the
20 contract relevant to this lawsuit under the protective order. (Dkt No. 63; Declaration of Jill V.
21 Cartwright ¶ 3). The relevant portions of the contract produced to Richardson were marked
22 “confidential” in accordance with the terms of the protective order. (Cartwright Dec. ¶¶ 2-3, Ex.
23 A).

24 By June 24, 2014, defendants will file a summary judgment motion and would like to offer
25 the Court a portion of the contract with PG&E in support of its motion. (Cartwright Dec. ¶ 4).
26 Exhibit 1 to the declaration of Curt Lefferts in support of summary judgment will contain the
27 relevant portion of the contract with PG&E that are subject to the non-disclosure agreement with
28 PG&E. (Cartwright Dec. ¶ 2, Ex. A). Because of the non-disclosure agreement with PG&E, and

1 because defendants designated these documents as “confidential” under the protective order,
2 defendants seek to file Exhibit 1 to the declaration of Curt Lefferts in support of summary
3 judgment under seal (Cartwright Dec. ¶ 2, Ex. A).

4 Pursuant to Local Rule 79-5, defendant has lodged copies of the document at issue in a
5 sealed envelope marked “DOCUMENTS SUBMITTED UNDER SEAL.”

6 **III. GOOD CAUSE EXISTS FOR THE DOCUMENTS AT ISSUE TO BE FILED**
7 **UNDER SEAL**

8 Pursuant to Civil Local Rule 79–5(a), orders to seal “may issue only upon a request that
9 establishes that the document, or portions thereof, is privileged or protectable as trade secret or
10 otherwise entitled to protection under the law.” *Apple, Inc. v. Samsung Electronics Co., Ltd.*, 11-
11 CV-01846-LHK, 2012 WL 694745 (N.D. Cal. Mar. 1, 2012).

12 Defendants have established good cause to permit filing Exhibit 1 to the declaration of Curt
13 Lefferts in support of summary judgment under seal through the declaration of Curt Lefferts in
14 support of this administrative motion. Defendants are under a contractual obligation with PG&E
15 not to disclosure the terms or contents of the contract with PG&E regarding the decommissioning
16 of HBPP. (Lefferts Dec. ¶¶ 2-6, Ex. A). Because of the contractual obligations, defendants must
17 seek to file the relevant portions of the contract under seal. (Lefferts Dec. ¶¶ 2-6, Ex. A). It is
18 FMS’s policy not to breach its contractual obligations with its clients. (Lefferts Dec. ¶ 5).
19 Accordingly, defendants respectfully requests that the Court order that Exhibit 1 to Curt Lefferts
20 declaration in support of summary judgment be filed under seal.

21 Defendants met and conferred with plaintiff before filing this motion in compliance with
22 the Court’s Standing Order. Counsel for plaintiff has stated that plaintiff will not oppose this
23 administrative motion. (Cartwright Dec. ¶¶ 6-7, Ex. B-C).

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1 **IV. CONCLUSION**

2 For all the foregoing reasons, defendants respectfully requests the Court issue an order that
3 Exhibit 1 to the Declaration of Curt Lefferts in support of defendants' summary judgment motion
4 be filed under seal.

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6 DATED: June 25, 2014

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

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By: /s/ Jill V. Cartwright

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Thomas M. McInerney
Jill V. Cartwright

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Attorneys for Defendants
FLUOR CORPORATION and
FLUOR MAINTENANCE SERVICES, INC.

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1 **ORDER**

2 Defendants Fluor Maintenance Services, Inc. (“FMS”) and Fluor Corporation have filed an
3 Administrative Motion to File Documents Under Seal (“Administrative Motion). The
4 Administrative Motion requests that the document titled “Appendix B, HBPP Scope of Work,”
5 attached as Exhibit A to the declaration of Jill V. Cartwright, be filed under seal in support of
6 Defendants’ upcoming motion for summary judgment because it is subject to a nondisclosure
7 agreement with Pacific Gas & Electric Company.

8 Defendants have filed the declarations required under Civil L.R. Rules 7-11, 79-5 and
9 General Order 62 to provide evidence of good cause for this Court to permit filing under seal.
10 Those declarations establish that the information contained in the below document is confidential
11 and therefore sealable.

12 Accordingly, for good cause shown, the Court ORDERS the following documents shall be
13 filed under seal:

- 14 • Exhibit A to the Declaration Jill V. Cartwright in support of defendants’
15 administrative motion to file documents under seal, which is a document titled
16 “Appendix B, HBPP Scope of Work”

17 **IT IS SO ORDERED**

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19 Date: 6/24/2014


United States District Judge

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