

**PROTECTIVE AGREEMENT
BETWEEN
IDAHO POWER COMPANY AND
IDAHO PUBLIC UTILITIES COMMISSION STAFF
(AND OTHER PARTIES AS APPLICABLE)
CASE NO. IPC-E-24-23**

In the Matter of Idaho Power Company’s Application for Approval of Amendments to the Energy Services Agreements with Micron and Brisbie and Request for Updated Pricing Elements Based on 2023 IRP

This Protective Agreement is entered into this 30th day of May, 2024 by Idaho Power Company (“Idaho Power”) and the Idaho Public Utilities Commission Staff, and other parties as applicable.

Recitals:

1. **WHEREAS**, Idaho Power and the Idaho Public Utilities Commission Staff anticipate that parties to this proceeding may make requests to provide, or make available for review, certain information, considered by its custodian to be of a trade secret, privileged or confidential nature (as defined in *Idaho Code* §§ 74-107 through 74-109 and 48-801).

2. **WHEREAS**, Idaho Power and the undersigned parties agree that entering into a Protective Agreement will expedite the production of documents; will afford the necessary protection to Idaho Power’s and the undersigned parties’ employees and/or representatives in Case No. IPC-E-24-23 who might review the information and subsequently be requested to reveal its contents by setting forth clear cut parameters for use of Confidential Information, and will protect Confidential Information which might be provided during the course of the proceedings, now therefore.

IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. (a) **Confidential Information**

All documents, data, information, studies and other materials furnished pursuant to any requests for information, subpoenas or other modes of discovery (formal or informal), and including depositions, that are claimed to be of trade secret, proprietary or confidential nature (herein referred to as “Confidential Information”) shall be so marked by the party or entity providing the information by stamping the same with a designation indicating its trade secret, proprietary or confidential nature and printed on “yellow” paper. IDAPA 31.01.01.067. Any claim of confidentiality must be accompanied by an attorney’s certificate that the material is protected by law from public disclosure and cite the specific legal authority to support the claim. IDAPA 31.01.01.233.

(b) Protection of Confidential Information

Access to and review of Confidential Information shall be strictly controlled by the terms of this Agreement. Unless otherwise ordered, Confidential Information, including transcripts of depositions containing information to which a claim of confidentiality is made, shall remain under seal, shall continue to be subject to the protective requirements of this Agreement, and shall not be disclosed to individuals who have not executed the nondisclosure agreement set forth in Exhibit “A.”

(c) Use of Confidential Information

All persons who may be entitled to review, or who are afforded access to any Confidential Information by reason of this Agreement shall neither use nor disclose the Confidential Information for purposes of business or competition, or any purpose other than the purpose of preparation for and conduct of the proceedings, and then solely as contemplated herein, and shall keep the Confidential Information secure as trade secret, confidential or proprietary information and in accordance with the purposes and intent of this Agreement.

(d) Persons Entitled to Review

Access to Confidential Information shall be limited to counsel of the undersigned parties, employees, experts, agents or representatives of the undersigned parties who have executed an Exhibit “A” to this Agreement. Such information will be clearly marked and protected from unauthorized public disclosure.

(e) Non-disclosure Agreement

Confidential Information shall not be disclosed to any person who has not signed a non-disclosure agreement on this form, which is attached hereto as Exhibit “A” and incorporated herein. The non-disclosure agreement or Exhibit “A” shall require the person to whom disclosure is to be made to read a copy of this Protective Agreement and to certify in writing that he or she has reviewed the same and has consented to be bound by its terms. The Agreement shall contain the signatory’s full name, permanent address and employer. Such agreement shall be delivered to counsel for the providing party, before disclosure is made.

2. Copies

No copies or transcriptions of the Confidential Information shall be made by the recipient except as necessary to make the information available to individuals who have executed an Exhibit “A” to this Protective Agreement.

3. Non-waiver of Objection to Admissibility

The furnishing of any document, information, data, study or other materials pursuant to this Protective Agreement shall in no way limit or waive the right of the providing party to object to its relevance or admissibility in any proceedings before this Commission.

4. Challenge to Confidentiality

(a) Initial Challenge

This Protective Agreement establishes a procedure for the expeditious handling of information that a party claims is confidential. Any party may challenge the characterization of any information, document, data or study claimed by the providing party to be a trade secret, proprietary or confidential information. A party seeking to challenge the confidentiality of any information shall first contact counsel for the providing party and attempt to resolve any difference by stipulation. Resolution may include removing the confidential classifications, creating a non-confidential summary, reformatting the information, etc.

(b) Subsequent Challenge

In the event that the parties cannot agree as to the character of the information challenged, any party challenging the confidentiality may petition the Commission to rule upon the disputed information. The Petition shall be served upon the Commission and all parties to the case who have signed an Exhibit "A" as provided in this Protective Agreement. The Petition shall designate with specificity the document or material challenged and state the grounds upon which the subject material are deemed to be non-confidential by the challenging party.

(c) Challenge Hearing

The challenging party shall request that the Commission conduct an *in camera* proceeding where only those persons duly authorized to have access to such challenged materials under this Protective Agreement shall be present. This hearing shall be commenced no earlier than five (5) business days after serving the Petition on the providing party and the Commission. The record of the *in camera* hearing shall be marked "**CONFIDENTIAL – Subject to Protective Agreement.**" To the extent necessary, the transcript of such hearing shall be separately bound, segregated, sealed, and withheld from public inspection by any person not bound by the terms of this Agreement.

(d) Determination

The parties will ask the Commission to issue an Order determining whether any challenged information or material is not properly deemed to be exempt from public disclosure pursuant to the

Idaho Public Records Act (*Idaho Code* §§ 74-101 through 74-126). If information is found to be not exempt from disclosure, no party shall disclose such challenged material or use it in the public record, or otherwise outside the proceedings for at least five (5) business days unless the providing party consents to such conduct. This procedure enables the restrictions of this Agreement from material claimed to be confidential. Such relief may be sought from the Commission or a court of competent jurisdiction.

5. (a) Receipt Into Evidence

Provision is hereby made for receipt into evidence in this proceeding of materials claimed to be confidential in the following manner:

(1) If the requesting party intends to use Confidential Information or to make substantive reference to Confidential Information supplied to it under this Agreement, it shall give reasonable prior notice of such intention to the providing party and shall provide copies of the used Confidential Information or substantive reference to Confidential Information only to the providing party, and such other parties, if any, who have executed an Exhibit “A” to this Protective Agreement.

(2) One (1) copy of the used Confidential Information or substantive reference to Confidential Information or substantive reference to Confidential Information described in paragraph 5(a)(1) shall be placed in the sealed record.

(3) The copy of the documents to be placed in the sealed record shall be tendered by counsel for the providing party to the Commission, and shall be maintained in accordance with the terms of this Protective Agreement.

(b) Seal

While in the custody of the Commission, materials containing Confidential Information shall be marked “**CONFIDENTIAL – SUBJECT TO ATTORNEY’S CERTIFICATE OF CONFIDENTIALITY**” and shall not be examined by any person except under the conditions set forth in this Agreement, if applicable.

(c) In Camera Hearing and Transcripts

Any Confidential Information that must be orally disclosed at a hearing in the proceedings shall be offered at an *in camera* hearing, attended only by persons authorized to have access to the information under this Protective Agreement. Similarly, any transcription of any examination or other reference to Confidential Information (or that portion of the record containing Confidential Information) shall be marked and treated as provided herein for Confidential Information.

(d) Access to Record

Access to sealed testimony, records, and information shall be limited to the Commission and persons who have signed an Exhibit “A” as provided in this Protective Agreement, unless such information is released from the restrictions of this Agreement either through agreement of the parties or after notice to the parties and hearing, pursuant to the order of the Commission and/or the final order of a court having final jurisdiction.

(e) Appeal

Should an appeal from the proceeding be taken, sealed portions of the record may be forwarded to any court of competent jurisdiction for purposes of an appeal, but under seal as designated herein for the information and use of the court. If a portion of the record is forwarded to a court under seal for the purposes of an appeal, the providing party shall be notified which portion of the sealed record has been designated by the appealing party as necessary to the record on appeal.

6. Use in Pleadings

Where references to Confidential Information in the sealed record or with the custodian is required in pleadings, briefs, arguments, or motions (except as provided in Paragraph 5), it shall be by citation to title or exhibit number or some other description that will not disclose the substantive Confidential Information contained therein. Any use of or substantive references to Confidential Information shall be placed in a separate section of the pleading or brief and submitted to the Commission pursuant to Paragraph 5. This sealed section shall be served only on counsel of record who have signed the nondisclosure agreements set forth in Exhibit “A” attached to this Protective Agreement, and may, in turn, be disclosed by them only to individuals who likewise signed Exhibit “A”.

DATED this 30th day of May 2024.

IDAHO POWER COMPANY

By: _____

Donovan E. Walker
Idaho Power Company
1221 West Idaho Street
Boise, Idaho 83702

Attorney Representing Idaho Power Company

IDAHO PUBLIC UTILITIES COMMISSION STAFF

By: _____

Deputy Attorney General
Idaho Public Utilities Commission
11331 W. Chinden Blvd., Bldg 8,
Suite 201-A (83714)
PO Box 83720
Boise, Idaho 83720-0074

Attorney Representing the
Idaho Public Utilities Commission Staff

EXHIBIT "A"

I have reviewed the foregoing Protective Agreement dated May 30, 2024, in Case No. IPC-E-24-23 and agree to be bound by the terms and conditions of such Agreement.

Signature

Printed Name

Employer or Firm

Business Address

Party

Date