

**EXHIBIT E to NOTICE OF INVITATION TO BID – CONFIDENTIALITY
AGREEMENT**

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (the Agreement) is entered into as of _____, 2023 (the Agreement Date) by _____, a[n] [insert [State name] [corporation] [limited liability company] [other]] (the Recipient) for the benefit of Greenfield Environmental Multistate Trust LLC, a Delaware limited liability company, not individually but solely in its representative capacity as Trustee of the Multistate Environmental Response Trust (the Multistate Trust).

WHEREAS, the Multistate Trust and the Recipient are engaged in a bidding process pursuant to a certain Notice of Invitation to Bid for Portion of Former Kerr-McGee Chemical Corp–Navassa Superfund Site and Adjacent Property in Navassa, North Carolina dated as of _____, 2021 (the Invitation to Bid); and

WHEREAS, the Multistate Trust has agreed to make available to the Recipient certain confidential information concerning the Multistate Trust and the Property in furtherance of the Invitation to Bid on the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Multistate Trust and the Recipient agree as follows:

1. **Confidential Information.** Except as otherwise provided herein, "Confidential Information" shall mean all electronic, hard copy and oral information, data, drawings, writings, notes, photographs, maps, financial statements or data, environmental reports, assessments, work plans and studies, technical and regulatory documents, or other information, materials, or documents in whatever form or media, and communications, meetings, and conversations that have been specifically designated as "Privileged and Confidential" by notation on the document or written advice to the Recipient. Confidential Information shall not include any information to the extent that such information (a) is already known to the Recipient as of the Agreement Date; (b) is already in possession of the public or becomes available to the public other than through the act or omission of the Recipient; or (c) is acquired independently from a third party that represents that it has the right to disseminate such information at the time it is acquired by the Recipient without any obligation of confidentiality to the Multistate Trust or their respective affiliated companies.

2. **Obligations of Confidentiality and Non-disclosure.** Recipient agrees that it will receive and maintain Confidential Information delivered to it by the Multistate Trust in confidence. In no event shall the Recipient or any of its officers, directors, shareholders, partners, employees, members, agents, contractors, consultants, and representatives (collectively, the Representatives) be deemed to have acquired any right, title, license or interest of any kind in or to the Confidential Information. The Recipient agrees to keep the Confidential Information strictly confidential and not to directly or indirectly disclose, allow access to, transmit or transfer any Confidential

Information to any person or entity without the Multistate Trust's express prior written consent; provided that the Recipient may disclose Confidential Information to those of its Representatives who have a bona fide need to have access to such Confidential Information and who have agreed to be likewise bound by the provisions of this Agreement. The Recipient shall be responsible and liable for any breaches of the terms of this Agreement by its Representatives. Nothing contained herein shall be deemed to prevent disclosure of any of the Confidential Information if such disclosure is legally required to be made under any applicable law, consent decree, settlement, or trust agreement, legal authority (such as a rule, subpoena or order of a court, tribunal, authority or regulatory body of competent jurisdiction); provided, however, that Recipient shall give the Multistate Trust at least ten (10) days' prior written notice (unless less time is permitted by the applicable law, legal authority, policy, rule or regulation) before disclosing any of the Confidential Information and, in making such disclosure, the Recipient shall disclose only that portion thereof required to be disclosed and shall make all commercially reasonable efforts to preserve the confidentiality thereof. The Multistate Trust may seek, at its sole cost and expense, a protective order or other appropriate remedy to ensure that confidential treatment will be accorded to the Confidential Information, which order or remedy the Recipient shall not oppose unless Recipient is a named party in such action.

3. No Obligation, Representations or Warranties. The Multistate Trust specifically disclaims and makes no representation or warranty, express or implied, as to the accuracy, completeness, usefulness or reliability of any Confidential Information, and the Recipient shall use the Confidential Information at its own risk. The Multistate Trust is under no obligation to notify the Recipient nor provide any further information to the Recipient if the Multistate Trust becomes aware of any inaccuracy, incompleteness or change in the Confidential Information. The Recipient agrees that the Multistate Trust shall have no liability to the Recipient or any of its Representatives relating to or resulting from the use of the Confidential Information or any errors therein or omissions therefrom.

4. Ownership of Confidential Information. The Confidential Information shall remain the property of the Multistate Trust, and the Multistate Trust may demand the return and/or destruction and/or erasure of it upon giving written notice to the Recipient. Upon receipt of such notice, the Recipient shall forthwith return all of the Confidential Information and all copies in its possession or control to the Multistate Trust or, upon the instruction of the Multistate Trust, the Recipient shall destroy and/or erase or procure the destruction/erasure of all electronic versions or copies of the Confidential Information in its possession or control, and will not retain, and will procure that none of its Representatives retains, any copies, extracts or other reproductions, in whole or in part, of the Confidential Information.

5. Copies of Confidential Information. The Recipient shall, and shall ensure that its Representatives shall, only make such copies of any Confidential Information as are reasonably necessary for the purpose and shall take reasonable steps to ensure that any such copies and the originals are protected against theft or unauthorized access.

6. Term. Subject to the terms of Paragraph 18, this Agreement and the Recipient's obligations hereunder shall terminate and expire three (3) years after the date of execution of this Agreement, provided that the obligation to maintain information as Confidential Information and the rights and

Tel: _____

Email: _____

Each party may change its notice address(es) by providing notice of the new address to the other party.

10. Amendments. No amendments, changes or modifications to this Agreement shall be valid except if the same are in writing and signed by a duly authorized representative of each of the parties to it.

11. Entire Agreement. This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes all negotiations, prior discussions, or prior agreements and understandings relating to such subject matter. Neither this Agreement nor the parties' performance hereunder shall be deemed to create any special relationship or obligations between the parties other than those expressly set forth herein. Nothing in this Agreement shall create a fiduciary relationship between the Multistate Trust and the Recipient.

12. Governing Law. This Agreement shall be interpreted and the rights and obligations of the parties shall be determined in accordance with the substantive law, but not the rules pertaining to the choice of law, of the State of New York.

13. Severability. In the event that any provision of this Agreement is determined by a court of competent jurisdiction to be illegal, invalid or otherwise unenforceable under applicable law, such provision shall be deemed severed from this Agreement, and all remaining provisions shall remain binding, enforceable, and in full force and effect.

14. Nonwaiver. The failure of either party to insist upon strict performance of any term of this Agreement shall not be, or be construed to be, a waiver of any rights or remedies that such party may have for any preceding or succeeding breach, default, or nonperformance of the same or of any other provision of this Agreement.

15. Counterparts; Business Days. This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. For all purposes, a facsimile or scanned PDF file of the signature page hereto shall be treated by the parties hereto as equivalent to a manually signed signature page. If any date, time period or deadline hereunder falls on a weekend or a state or federal holiday, then such date shall be extended to the next-occurring business day.

16. Successors and Assigns. This Agreement shall be binding upon the parties hereto and, except as otherwise prohibited, their respective successors and assigns. Except for the Recipient and the Multistate Trust, and their permitted successors and assigns, nothing in this Agreement, express or implied, is intended to confer upon any other entity or person any benefits, rights, or remedies.

17. Survival. The terms of Paragraphs 2, 4, 5, 8, 11, 12, 13, and 14 shall survive the expiration

or earlier termination of this Agreement.

[Signature on following page]

IN WITNESS WHEREOF, the Recipient has executed this Agreement as of the date first appearing above.

RECIPIENT:

[Name of Bidder]

By: _____

Name: _____

Title: _____