

## CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

**THIS CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT** (this “**Agreement**”) is made and entered into as of August 1, 2024, by and between Deschutes County, on the one hand (“**Organization**”) and \_\_\_\_\_, on the other hand (“**Receiving Party**”) (each, a “**Party**” and collectively, the “**Parties**”).

1. **Purpose.** Organization wishes to disclose to Receiving Party certain information that is confidential to Organization, in order to evaluate a potential engagement or for other purposes as determined by Organization in its sole and absolute discretion, in connection with the RFP “MDR MSSP RFP” (the “**Project**”). Organization is willing to make such disclosures subject to the terms and conditions of this Agreement.

2. **Confidential Information.** “**Confidential Information**” shall include, without limitation, any and all confidential, non-public or proprietary information concerning the Organization, its affiliates and/or related entities, including, without limitation, their respective business, operations, security, assets, liabilities and other financial information, whether or not in connection with the Project, verbally or in writing, whether or not marked confidential, whether disclosed directly or indirectly by Organization or third parties, and all notes, compilations, analyses or other documents prepared by Receiving Party or its Representatives (as defined below) which contain or are based upon the information provided by Organization pursuant hereto. Confidential Information shall not, however, include any information which Receiving Party can establish by clear and convincing proof (i) was publicly known and made generally available in the public domain prior to the time of disclosure to Receiving Party by Organization; (ii) becomes publicly known and made generally available after disclosure to Receiving Party by Organization through no action or inaction of Receiving Party; (iii) is in the possession of Receiving Party, without confidentiality restrictions, at the time of disclosure by Organization as shown by Receiving Party’s files and records immediately prior to the time of disclosure; or (iv) is developed by Receiving Party without reference to or use of any portion of Organization’s Confidential Information, as shown by Receiving Party’s files and records created contemporaneously with such development.

3. **Non-Use and Non-Disclosure.** Receiving Party agrees to use the Confidential Information solely for the purpose of the Project. Receiving Party agrees not to disclose such Confidential Information to any person other than Receiving Party’s officers, employees and advisors (including legal, technology, financial and accounting advisors) (collectively, the “**Representatives**”) who need such Confidential Information for the purpose of the Project. Receiving Party represents that each Representative is or will be formally apprised of his or her obligations concerning the confidentiality of the Confidential Information and that Receiving Party shall be responsible for any disclosure of Confidential Information by a Representative that would constitute a breach of this Agreement if made by Receiving Party.

4. **Maintenance of Confidentiality.** Receiving Party agrees that it shall take all reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information. Without limiting the foregoing, Receiving Party shall take at least those measures that Receiving Party takes to protect Receiving Party’s own most highly confidential information. Receiving Party shall not make any copies of Confidential Information unless the same are previously approved in writing by Organization. Receiving Party shall reproduce Organization’s proprietary rights notices on any such approved copies, in the same manner in which such notices were set forth in or on the original. Receiving Party shall immediately notify Organization in the event of any unauthorized use or disclosure of Organization’s Confidential Information.

5. **Non-Disclosure of Existence of Negotiations.** Without the prior written consent of Organization, neither Receiving Party nor any person or entity acting on its behalf shall disclose to any other person that it has received the Confidential Information or that discussions are taking place between the Parties concerning the Project, including the status of such discussions.

6. **Subpoena or Court Order.** In the event that Receiving Party or its Representatives receives a request to disclose all or part of the Confidential Information or the information described in Section 5 above under the terms of a subpoena or other order issued by a court of competent jurisdiction or by another governmental agency, Receiving Party shall (i) promptly notify Organization of the existence, terms and circumstances surrounding

such request, (ii) consult with Organization on the advisability of taking steps to resist or narrow such request, (iii) if disclosure of such information is deemed advisable by Receiving Party's legal counsel, furnish only such portion that is advised by its legal counsel as legally required to be disclosed, and (iv) cooperate with Organization, at Organization's sole cost and expense, in its efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to such information that is required to be disclosed.

7. **No Warranty.** All Confidential Information is provided "as is". Organization makes no warranties, express, implied or otherwise, regarding, its accuracy, completeness or performance.

8. **Return of Materials.** All documents and other tangible objects containing or representing Confidential Information and all copies thereof which are in the possession of Receiving Party shall be and remain the property of Organization and shall be promptly returned to Organization (or destroyed) upon Organization's request or upon termination of any discussions hereunder.

9. **No License.** Nothing in this Agreement is intended to grant any rights to Receiving Party under any intellectual property right, including, without limitation, patent, trademark, trade name, trade secret, or copyright or any other right of Organization's, nor shall this Agreement grant Receiving Party any rights in or to Organization's Confidential Information.

10. **Term.** This Agreement shall survive until such time as all Confidential Information disclosed hereunder becomes publicly known and made generally available through no action or inaction of Receiving Party, or upon the fifth anniversary of this Agreement, whichever occurs first.

11. **Remedies.** The Parties agree that any violation or threatened violation of this Agreement by Receiving Party may cause irreparable injury to Organization, entitling Organization to seek injunctive relief in addition to all other legal remedies available to Organization. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon applicable to agreements entered and to be wholly performed therein. Any controversy or claim arising out of or relating to this Agreement or the validity, construction or performance of this Agreement, or the breach or violation thereof, shall be resolved by confidential binding arbitration. Any proceeding held pursuant to this section shall be conducted in Bend, Oregon. The prevailing party in any action brought to enforce this Agreement shall be entitled to recover reasonable attorney's fees and costs from the non-prevailing party.

12. **Miscellaneous.** This Agreement shall bind and inure to the benefit of the Parties hereto and their successors and assigns. This document contains the entire agreement between the Parties with respect to the subject matter hereof. Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision hereof. This Agreement may not be amended, nor any obligation waived, except by a writing signed by both Parties hereto.

**AGREED AND ACCEPTED:**

[ ] x: \_\_\_\_\_

Name:

Title: