

1 **AGREEMENT BETWEEN THE COUNTY OF LAKE AND**
2 **ASHBRITT, INC.**
3 **FOR REDWOOD VALLEY FIRE DEBRIS DISPOSAL AND**
4 **REIMBURSEMENT OF COSTS**
5 **AT THE EASTLAKE SANITARY LANDFILL**

6 THIS AGREEMENT, is entered into this _____ day of _____, 2017
7 by and between the County of Lake, hereinafter "COUNTY" and ASHBRITT, Inc., hereinafter
8 "ASHBRITT".

9 **RECITALS**

10 WHEREAS, between October 8, 2017, and October 9, 2017, the Redwood Valley Fire
11 began burning in Mendocino County, destroying an estimated 545 structures; and

12 WHEREAS, Mendocino County was declared a disaster area by the President due to the
13 effects of the fire; and

14 WHEREAS, the disposal of hazardous and non-hazardous solid waste and debris
15 resulting from the fire is of the utmost importance for the protection of public health and the
16 environment; and

17 WHEREAS, the Federal Emergency Management Agency has assigned the U.S Army
18 Corps of Engineers (USACE) responsibility for Redwood Valley Fire debris removal operations;
19 and

20 WHEREAS, USACE has entered into a contract with AshBritt, Inc. (ASHBRITT),
21 included as Exhibit "A" herein, to provide debris removal, hauling, and disposal from private
22 properties in Mendocino County; and

23 WHEREAS, ASHBRITT desires to dispose of certain debris from the Redwood Valley
24 Fire at COUNTY's Eastlake Sanitary Landfill in Clearlake, CA; and

25 WHEREAS, Chapter 9, Article II, Section 9-15A of the Lake County Code restricts
26 disposal at the Eastlake Landfill to either inhabitants outside of the County of Lake or from any
27 firm or corporation that does not have an established place of business in the County of Lake,
28 except as may be provided by contract or agreement with the Board of Supervisors; and

 WHEREAS, COUNTY has identified that the landfill contains adequate airspace
capacity and operational capabilities to accept no more than the quantity of debris described
herein, and established a specifically prohibited hauling route and appropriate charges which will
reimburse COUNTY for all costs related to the provision of these services, to accept the debris.

 NOW, THEREFORE, in consideration of the mutual covenants, agreements and
conditions herein, and other valuable consideration, COUNTY and ASHBRITT agree as follows:

I.

DEFINITIONS

1 The following terms shall have the following meanings:

- 2 a) "Acceptable Waste" means fire debris such as ash, contaminated soil, remnant structures,
3 and other debris authorized for disposal at the Eastlake Landfill under its land use
4 entitlements, approvals and permits as they now exist or may hereafter be amended.
5 b) "Affiliate" means any person, company, or firm under common control with ASHBRITT.
6 c) "Landfill" means the Eastlake Sanitary Landfill, located adjacent to the City of Clearlake,
7 California at 16015 Davis Street, Clearlake, CA.
8 d) "Unauthorized Waste" means all wastes that are radioactive, flammable, highly volatile,
9 explosive, toxic, or liquid materials, all wastes and substances defined as hazardous waste
10 under Title 42 of the United States Code, Section 6903(5), Sections 25117 and 25316 of
11 the California Health and Safety Code, or the regulations promulgated under such
12 statutes, as amended from time to time; all materials defined as medical waste in
13 California Health and Safety Code Section 25032.2, or the regulations promulgated
14 thereunder, as amended from time to time; tree stumps; pieces of concrete larger than two
15 feet in any dimension; industrial wastes; car and truck tires; electronic waste; white goods
(such as washers, dryers, refrigerators); cars; trailers; recreational vehicles; boats with
engines; and any other wastes that the Landfill is not authorized to accept for disposal
under its land use entitlements, approvals and permits as they now exist or may hereafter
be amended.

16 **II.**

17 **TERM**

18 The term of the Agreement shall begin on December 13, 2017 (the "Effective Date") and shall
19 end on June 30, 2018, or upon completion of the scope of work assigned to ASHBRITT from
USACE for the Redwood Valley Fire, whichever occurs first.

20 **III.**

21 **REPRESENTATIONS**

22 County warrants and represents to ASHBRITT that COUNTY owns and operates the Landfill,
23 and that the Landfill is a fully-permitted, Certified Sub Chapter "D" solid waste disposal landfill
and has permitted capacity sufficient to perform its obligation under this Agreement.

24 ASHBRITT represents and warrants to COUNTY that ASHBRITT is authorized to perform its
25 obligations under this Agreement

26 **IV.**

27 **OBLIGATIONS OF COUNTY**

28 Throughout the Term, and subject to the terms and conditions herein, COUNTY shall have the
following obligations:

- A. Receipt of Acceptable Waste.** COUNTY shall receive, accept, and safely and lawfully
dispose of, at the Landfill, all Acceptable Waste available for disposal from
ASHBRITT's Redwood Valley Fire debris disposal operation and delivered to the

1 Landfill during the Term, subject to the following conditions:

- 2 1) COUNTY shall accept no more than 75,000 tons of acceptable waste by United
3 States Army Corps of Engineers debris removal contractors.
- 4 2) Hours of operation for ASHBRITT to dispose of Acceptable Waste at the Landfill
5 shall be 7:00 am to 5:00 pm, Monday through Friday; and 7:30 am to 5:00 pm,
6 Saturday and Sunday.

7 **B. Disposition of Unauthorized Wastes.** COUNTY will refuse to accept Unauthorized
8 Waste delivered to the Landfill by ASHBRITT. Upon discovery of Unauthorized Wastes
9 delivered to the Landfill by ASHBRITT, ASHBRITT will be notified to remove and
10 dispose of any Unauthorized Wastes to another disposal or processing site permitted to
11 accept such wastes at ASHBRITT's sole expense in a timeframe that is acceptable to the
12 landfill operator and the Environmental Health Department acting as the Local
13 Enforcement Agency.

14 **C. Compliance with Laws.** COUNTY shall at all times substantially comply with all
15 applicable laws, permits and approvals pertaining to COUNTY's performance under this
16 Agreement, including, but not limited to environmental laws, permits and approvals
17 applicable to the Landfill as they may be enacted, issued or amended during the Term;
18 provided, however, that nothing in this section shall diminish or modify ASHBRITT'S
19 obligations regarding disposition, indemnification, or responsibility for damage or repairs
20 caused by the delivery of Unauthorized Waste to the Landfill.

21 V.

22 OBLIGATIONS OF ASHBRITT

23 Throughout the Term, and subject to the terms and conditions herein, COUNTY shall have the
24 following obligations:

25 **A. Transportation Route.** ASHBRITT shall not transport waste pursuant to this Agreement
26 using Highway 20 east of the intersection of State Highway 29 and west of State
27 Highway 53.

28 **B. Disposition of Unauthorized Waste.** Upon notification by COUNTY, ASHBRITT will
be responsible for the removal and disposal of any Unauthorized Wastes to another
disposal or processing sites permitted to accept such wastes at ASHBRITT's sole expense
in a timeframe that is acceptable to the landfill operator and the Environmental Health
Department acting as the Local Enforcement Agency. ASHBRITT shall be solely
responsible for any and all damages to the landfill facility and/or its assets and/or any
injuries to County employees or customers caused by the delivery of Unacceptable
Waste.

C. Reports. ASHBRITT shall provide to the County Public Services Director or his/her
designee weekly written reports listing the properties from which the debris originated,
quantities from each property, and a description of the type of debris disposed.

1 **VII.**

2 **DISPOSAL FEES**

3 ASHBRITT agrees to pay County the Gate Rate of \$67.62 per ton of Acceptable Waste delivered
4 by ASHBRITT to the Landfill and accepted for disposal by County. Every load with more than
5 25% volume recyclables, as determined by the Landfill Manager or his/her designee, shall be
6 subject to a non-recycling surcharge of double the cost of the load. Every unsecured load will be
subject to a \$100 unsecured load surcharge.

7 **VIII.**

8 **BILLINGS AND PAYMENTS**

9 ASHBRITT will provide to COUNTY a list of contractor names entitled to charge on the
10 ASHBRITT account. The driver of each vehicle will be required to provide a bill of lading with
11 the waste origin of their delivered load. COUNTY will issue a receipt to each driver who
12 delivers a waste load to the Landfill for charges made to the ASHBRITT charge account.
13 COUNTY shall submit to ASHBRITT a monthly statement for Acceptable Waste delivered by
14 ASHBRITT to the Landfill during the prior month. The statement will show the following
15 information: ticket number, date of each delivery; vehicle reference number; quantity of net tons
16 weighed; and total charge per load. Replacement individual tickets will be provided to upon
17 request. COUNTY's statements shall be deemed delinquent if not paid within thirty (30) days
18 from the statement date, and thereafter bear interest on the unpaid balance at a rate not to exceed
19 1.5% per month. Charges will be suspended automatically if any charges are 60 days or more
delinquent or if ASHBRITT exceeds the credit limit set for their charge account. Charging
privileges can be reinstated only if account balance is no more than 30 days delinquent and/or the
account balance is reduced to below the account credit limit. Charges more than 90 days
delinquent shall be deemed to constitute a breach of the agreement.

20 **IX.**

21 **INDEMNITIES**

22 **A. Unauthorized Waste Indemnification.** ASHBRITT shall indemnify, defend and hold
23 harmless County, its officers, employees and agents, from and against any and all costs,
24 charges, expenses (including reasonable attorneys' fees), suits, actions, claims, judgments
25 and liabilities directly or indirectly resulting from ASHBRITT's delivery of Unauthorized
26 Wastes to the Landfill. The foregoing indemnity is intended to operate as an agreement
27 pursuant to section 107(e) of the Comprehensive Environmental Response,
28 Compensation and Liability Act ("CERLA") to defend, protect, hold harmless, and
indemnify COUNTY and its officers and employees from liability. This indemnity shall
survive termination of this Agreement.

B. Landfill Indemnification. County agrees to indemnify, hold harmless and defend
ASHBRITT and their respective officers, employees and agents, from and against any
and all costs, charges, expenses (including reasonable attorneys' fees), suits, actions,

1 claims, judgments and liabilities directly or indirectly resulting from the delivery and
2 disposal of all Acceptable Wastes delivered to the Landfill by ASHBRITT, related to the
3 ownership, operation, remediation, closure or postclosure of such Landfill, including, but
4 not limited to, environmental impairment and liability under CERCLA, but excluding
5 liability for Unauthorized Wastes delivered by ASHBRITT to the Landfill, if any, or to
6 the extent caused by the negligence or willful misconduct of ASHBRITT or their officers,
7 employees, contractors, or agents. This indemnity shall survive termination of this
8 Agreement.

9 **X.**

10 **BREACH OF CONTRACT**

11 COUNTY may terminate its participation in the Agreement if ASHBRITT fails to fulfill its
12 obligations under the Agreement through no fault of COUNTY. However, no such
13 determination for cause may be effected unless ASHBRITT is given: (1) not less than thirty (30)
14 calendar days written notice (delivered by certified mail, return receipt requested) of the intent to
15 terminate, and (2) an opportunity for consultation with COUNTY and a reasonable opportunity
16 to correct the breach before termination.

17 **XI.**

18 **MODIFICATION**

19 This Agreement may only be modified by a written amendment hereto, executed by both parties.

20 **XIII.**

21 **ASSIGNMENT**

22 This Agreement shall not be assigned expressly, impliedly or by action of law without the prior
23 written consent of COUNTY by its Board of Supervisors. Any attempt at assignment of the
24 rights or obligations of the Agreement, except for those specifically consented to by COUNTY
25 shall be void.

26 **XIV.**

27 **NOTICES**

28 Any and all notices to be given under this agreement, or which either party may desire to give to
the other, shall be in writing and transmitted by personal delivery, nationally-recognized
overnight courier or registered or certified mail, return receipt requested, postage prepaid. Each
notice so transmitted shall be deemed received when delivered, or on the third day following
deposit in the United States mail as aforesaid. Notices shall be addressed as follows (unless a
different address is provided by notice in accordance with this Section):

If to County: Director
Public Services Department, County of Lake
333 Second Street
Lakeport, California 95453

1 If to ASHBTRITT: AshBritt
2 Attn: Dow Knight, cc Christina D’Emidio
3 Dow@ashbritt.com
4 565 E. Hillsboro Blvd., Deerfield Beach, FL

5 **XV.**

6 **FORCE MAJEURE**

7 Neither party shall be in default of its obligations under this Agreement in the event, and for so
8 long as, it is impossible or extremely impracticable for it to perform its obligations due to an “act
9 of God” (including, but not limited to, flood, earthquake or other catastrophic events), war,
10 insurrection, riot, acts of any government (including legislative, administrative, or judicial
11 action), strikes, work stoppages or slowdowns, sickouts, picketing, or other concerted job action,
12 or other similar causes which are not the fault of, and beyond the reasonable control of, the party
13 claiming excuse from performance. Notwithstanding the foregoing, labor strikes or unrest by a
14 party’s own employees shall not constitute acts of God forgiving performance hereunder. In the
15 event that the non-performing party does not re-commence performance within thirty (30) days
16 after the occurrence of the event which initially prevented such performance, the other party
17 shall be entitle to terminate this Agreement without further liability to the non-performing party.

18 **XVI.**

19 **OVERRIDING LAWS**

20 The obligations of the parties under this Agreement are subject to any and all controlling Federal
21 and state laws and regulations. Should any material obligation or covenant of either party under
22 this Agreement be determined by a court of competent jurisdiction to be unenforceable by reason
23 of any Federal or state law or regulation, then neither party shall be liable to the other party for
24 its failure to perform obligation or covenant; provided, however, that in such event, either party
25 may elect to terminate this Agreement without liability to the other party.

26 **XVII.**

27 **MISCELLANEOUS**

- 28
- 29 **A.** This Agreement shall bind, and inure to the benefit of, the respective successors and
30 assigns of each party; provided, however, that neither party shall assign its rights under
31 this Agreement without the prior written consent of the other party, which consent may
32 not be unreasonably withheld.
 - 33 **B.** The waiver by either party of any provision of this Agreement must be in writing, signed
34 by the party to be charged, and no waiver shall be deemed to be a waiver of any other
35 provision nor of any subsequent breach of violation of the same provision.
 - 36 **C.** Nothing in this Agreement, whether expressed or implied, is intended to confer any rights
37 on any persons other than the parties and their representatives, successors and permitted
38 assigns, except as expressly provided herein. Nothing contained in this Agreement shall
39 be construed to create, and the parties do not intend to create, any rights in or for the

benefit of third parties.

D. The Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements between the parties, wither written or oral, relating to such subject matter. If a court finds any provision of this Agreement invalid or unenforceable as applied to any circumstance, the remainder of this Agreement and the application of such provision to other persons or circumstances shall remain in effect. The parties further agree to replace such void or unenforceable provision with a valid and enforceable provision which will achieve, to the extent possible, the economic, business and other purposes of the void or unenforceable provision.

E. Time is of the essence of this Agreement

F. The headings contained in the agreement are for description purposes only. The Agreement shall not be construed for or against either party, it having been prepared by both parties.

G. This Agreement shall be governed by the laws of the State of California.

IN WITNESS THEREOF, the parties have executed this Agreement as of the date first above written.

COUNTY OF LAKE

ASHBRITT

By: _____
Chair, Board of Supervisors

By: B. Henry Perkins
Name: Brittany K. Perkins

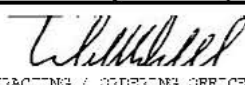
ATTEST: CAROL J. HUCHINGSON
CLERK OF THE BOARD
OF SUPERVISORS

APPROVED AS TO FORM:
ANITA GRANT
County Counsel

By: _____

By: Anita Grant

EXHIBIT A

ORDER FOR SUPPLIES OR SERVICES										PAGE 1 OF 39					
1. CONTRACT/PURCH. ORDER/ AGREEMENT NO. W912PB14D0033			2. DELIVERY ORDER/ CALL NO. W9123818F0032		3. DATE OF ORDER/CALL (YYYYMMDD) 2017 Dec 07		4. REQ./PURCH. REQUEST NO. W62N6M73268221			5. PRIORITY					
6. ISSUED BY USACE SACRAMENTO DISTRICT ATTN: CONTRACTING DIVISION 1325 J STREET SACRAMENTO CA 95814-2922				CODE W91238		7. ADMINISTERED BY (if other than 6) SEE ITEM 6				CODE					
9. CONTRACTOR ASHBRITT, INC. DBA: ASHBRI TT, INC. DEERFIELD BEACH FL 33441-3543				CODE 00Z46		FACILITY		10. DELIVER TO FOB POINT BY (Date) (YYYYMMDD) SEE SCHEDULE		11. MARK IF BUSINESS IS <input type="checkbox"/> SMALL <input type="checkbox"/> SMALL DISADVANTAGED <input type="checkbox"/> WOMEN-OWNED					
14. SHIP TO CONTRACTING DIVISION 1325 J STREET SACRAMENTO CA 95814-2922				CODE W91238		15. PAYMENT WILL BE MADE BY USACE FINANCE CENTER CIVIL FUNDED CONTRACTS 5722 INTEGRITY DRIVE ATTN: CEFC-FP MILLINGTON TN 38054-5005		12. DISCOUNT TERMS Net 30 Days		13. MAIL INVOICES TO THE ADDRESS IN BLOCK See Item 15					
16. TYPE OF ORDER				DELIVERY CALL <input checked="" type="checkbox"/>		This delivery order/call is issued on another Government agency or in accordance with and subject to terms and conditions of above numbered contract.									
PURCHASE				<input type="checkbox"/>		Reference your quote dated Furnish the following on terms specified herein. REF:									
ACCEPTANCE. THE CONTRACTOR HEREBY ACCEPTS THE OFFER REPRESENTED BY THE NUMBERED PURCHASE ORDER AS IT MAY PREVIOUSLY HAVE BEEN OR IS NOW MODIFIED, SUBJECT TO ALL OF THE TERMS AND CONDITIONS SET FORTH, AND AGREES TO PERFORM THE SAME.															
NAME OF CONTRACTOR				SIGNATURE				TYPED NAME AND TITLE				DATE SIGNED (YYYYMMDD)			
<input checked="" type="checkbox"/> If this box is marked, supplier must sign Acceptance and return the following number of copies: 1															
17. ACCOUNTING AND APPROPRIATION DATA/ LOCAL USE															
See Schedule															
18. ITEM NO.		19. SCHEDULE OF SUPPLIES/ SERVICES				20. QUANTITY ORDERED/ ACCEPTED*		21. UNIT	22. UNIT PRICE		23. AMOUNT				
SEE SCHEDULE															
*If quantity accepted by the Government is same as quantity ordered, indicate by X. If different, enter actual quantity accepted below quantity ordered and encircle.				24. UNITED STATES OF AMERICA TEL: 916 887 7467 EMAIL: esac@ce.dwe.usace.army.mil BY: LEM CALEWELL						25. TOTAL					
27a. QUANTITY IN COLUMN 20 HAS BEEN				<input type="checkbox"/> INSPECTED				<input type="checkbox"/> RECEIVED				<input type="checkbox"/> ACCEPTED, AND CONFORMS TO THE CONTRACT EXCEPT AS NOTED			
b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE						c. DATE (YYYYMMDD)		d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE							
e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE						28. SHIP NO.		29. DO VOUCHER NO.		30. INITIALS					
f. TELEPHONE NUMBER			g. E-MAIL ADDRESS			<input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL		32. PAID BY		33. AMOUNT VERIFIED CORRECT FOR					
36. I certify this account is correct and proper for payment.						31. PAYMENT		<input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL		34. CHECK NUMBER					
a. DATE (YYYYMMDD)		b. SIGNATURE AND TITLE OF CERTIFYING OFFICER								35. BILL OF LADING NO.					
37. RECEIVED AT		38. RECEIVED BY		39. DATE RECEIVED (YYYYMMDD)		40. TOTAL CONTAINERS		41. SR ACCOUNT NO.		42. SR VOUCHER NO.					

Section 00 10 00 - Solicitation

ITEMNO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	AshBritt - Debris Services (TO 4) FFP North California Wild Fire Debris Removal. Areas of Operation include: Sonoma, Lake, Mendocino, and Napa. Managing Disaster Generated Debris. See the incorporated PWS, and negotiated Price Schedule Line Items. This task order is issued in accordance with the terms and conditions of IDIQ Contract W912P8-14-D-0033. All CLIN Unit of Issue values are FFP; however contractor shall provide documentation for tonnage via ADMS as these values are paid on an actual bases. Contractor shall provide a realtime burn rate to the Contracting Officer every day. POP is established in the award documentation, which include holidays: twelve hours per day, 7 days per week, periods of work are detailed with the Statement of Work (SOW). FOB: Destination PURCHASE REQUEST NUMBER: W62N6M73268221	1	Job		

NET AMT

ACRN AA
CIN: W62N6M732682210001

DELIVERY INFORMATION

CLIN	DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
0001	POP 06-DEC-2017 TO 05-JAN-2018	N/A	CONTRACTING DIVISION 1325 J STREET SACRAMENTO CA 95814-2922 FOB: Destination	W91238

ACCOUNTING AND APPROPRIATION DATA

ACRN	CLIN/SLIN	CIN	AMOUNT
------	-----------	-----	--------