

Phase 1 Construction

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**CONSTRUCTION AND FEE REIMBURSEMENT AGREEMENT
FOR EMERGENCY LEVEE IMPROVEMENTS
(Plumas Lake Specific Plan Area)**

Yuba County Public Works

This Agreement, dated as of August 27th, 2004, by and between the County of Yuba, a political subdivision of the State of California (the "**County**"), and Nordic Industries, Inc., a Nevada corporation ("**Contractor**").

WITNESSETH:

WHEREAS, County has recently discovered the need for additional levee improvements necessary for flood control protection for properties within the Plumas Lake Specific Plan ("**PLSP**") Area in Yuba County (the "**Plan Area**") and other benefited properties. To finance these levee improvements, the County has adopted an interim levee fee (the "**Levee Fee**") and is in the process of forming a Mello-Roos Community Facilities District (the "**Levee District**") that will require the continued payment of the Levee Fee as and when final subdivision maps are recorded within the Plan Area;

WHEREAS, County urgently desires to have the levee improvements shown on the map attached hereto as Exhibit "A" (the "**Improvements**") installed immediately and is willing to proceed with such construction on an emergency basis to provide enhanced flood protection to the area prior to the commencement of the rainy season this winter. These Improvements are included within the list of levee improvements to be financed by the Levee Fee and Levee District. County desires to have the Improvements completed now, even though adequate funds to pay for the Improvements may not be currently available to the County and even though the County has limited time to negotiate and enter into a contract for the Improvements to be commenced and completed in advance of the rainy season. County is familiar with the levee repair work previously performed by Contractor;

WHEREAS, Contractor is willing to immediately commence construction of the Improvements upon County receipt of the necessary approvals and permits from the State of California (the "**State**"). Contractor is willing to proceed with this work in exchange for reimbursement from the County to be funded primarily from the Levee Fees paid and to be paid by development within the Plan Area;

WHEREAS, County has prepared final plans for the construction of the Improvements (the "**Final Plans**") and shall complete and finalize all necessary design and specification documents for the Improvements (which completed documents shall be referred to as the "**Final Plans and Specifications**"). County will also be responsible for obtaining all easements, permits, and approvals necessary for the construction and acceptance by all applicable local, state and federal entities of the Improvements in accordance with the Final Plans and Specifications;

WHEREAS, to facilitate the immediate construction of the Improvements, County and Contractor desire to enter into an agreement to reimburse Contractor solely from the Levee Fees previously paid and to be paid to County by development within the Plan Area for the costs of construction of the Improvements that would otherwise have been funded and paid by the Levee Fees and the Levee District;

WHEREAS, the allowable reimbursements for each element of the Improvements is indicated in Exhibit B of this agreement, which are based on the Final Plans and Specifications

and the costs anticipated for the Improvements under the financing plan being developed by the County in connection with its formation of the Levee District, and which shall be subject to change as provided herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and to address the County's present emergency and need to enhance flood protection for its residents this year, County and Contractor hereby agree as follows:

Section 1. Allowable Reimbursements

Subject to Contractor's compliance with all the other terms of this Agreement, County shall reimburse Contractor from the Levee Fees collected and to be collected from the Plan Area for the costs of the Improvements to be constructed by Contractor. Subject to adjustments and change orders as provided herein, the initial amount of the allowable reimbursement for construction of the Improvements described in Exhibit A shall be equal to the costs estimated therefor in Exhibit B, based on the Final Plans and Specifications. The amounts listed in Exhibit B are derived from the costs estimated for the Improvements under the pending financing plan for the Levee District, upon which the Levee Fees are currently being collected, all as approved and from time to time updated by County.

The amount of the allowable reimbursement shall also be subject to change orders, as, if and when approved by the parties in writing, as set forth in Section 4 below.

These reimbursements shall be deemed earned by Contractor as and when Contractor mobilizes the necessary materials and equipment and performs the work for the Improvements. Contractor shall submit a monthly invoice to the County setting forth the percentage completion of the elements of the work set forth in Exhibit "B" during the previous calendar month. Each monthly invoice shall be subject to County's review and approval, which approval shall not be unreasonably withheld and shall be completed within ten (10) business days after receipt thereof from Contractor. If County fails to disapprove an invoice within said 10-day period, then the invoice shall be deemed approved.

Section 2. Payment of Reimbursement

Within ten (10) business days of County approval or deemed approval of Contractor's monthly invoice for reimbursement, County shall pay such reimbursement to Contractor from the Levee Fees then collected by County from development within the Plan Area. The aggregate amount of such reimbursements shall not exceed the amount of Levee Fees then collected by the County or the Levee District from development within Plan Area. If the aggregate amount of allowable reimbursements then invoiced by Contractor exceeds the amount of Levee Fees then collected by County within the Plan Area, then County shall be obligated to pay the remaining reimbursement as and when additional Levee Fees are collected by the County or the Levee District, until the allowable reimbursement is paid in full to Contractor.

Section 3. Construction of Improvements

County anticipates obtaining the necessary approvals and permits for the Improvements from the applicable local, state and federal agencies by September 7, 2004. If County fails to finalize the Final Plans and Specifications and obtain the necessary permits and approvals by September 7, 2004, then this Agreement may be terminated by either party upon written notice to the other.

Upon County receipt of all necessary State and local approvals and permits for the Improvements in accordance with the Final Plans and Specifications and delivery of a written notice to Contractor to proceed with the work, Contractor shall promptly commence and thereafter use commercially reasonable efforts to complete construction of the Improvements by November 15, 2004, subject to any applicable Excusable Delay. Such work shall be performed in accordance with the Final Plans and Specifications. County shall be solely responsible for assuring that the Final Plans and Specifications conform with all applicable local, state and federal specifications and requirements related to the Improvements. Contractor shall comply in all respects with the State of California's prevailing wage laws to the extent applicable to the Improvements and shall provide certification of conformance therewith prior to the payment of any reimbursement or application of any credit hereunder.

Contractor understands and acknowledges that the terms and conditions contained in any contract that the Contractor has executed or may execute with any contractors or material suppliers regarding the construction of the Improvements have no force or effect upon this Agreement.

Section 4. Change Orders

Contractor agrees to make any changes in the construction of the Improvements as requested by County, subject to the terms of this Section 4. To be effective, any such change order shall be in writing, signed by authorized representatives of both Contractor and County. County acknowledges that any such changes may require appropriate changes in the amount of the reimbursements to be paid by County and in the time for completion of the Improvements by Contractor. Any such changes shall also be subject to Contractor's reasonable approval that the amount of Levee Fees collected or to be collected by the County within the Plan Area will likely be adequate to fund any cost increases associated with such change. County agrees to provide additional reimbursement for any and all changes made to the Final Plans and Specifications that are requested and approved in writing by County, subject to the parties' written agreement as to the amount of the increased costs associated with such change. If actual quantities exceed the amounts listed in Exhibit B, Contractor may request in writing that County provide additional reimbursements for such additional quantities of work. County shall not be obligated to provide additional reimbursements for costs that result from changes to the Final Plans and Specifications that are not approved in writing by County prior to construction.

Section 5. Inspection and Approvals

County, or its representatives, shall at all times have access to the construction site during construction and Contractor shall furnish County with all reasonable information necessary for ascertaining full knowledge of the Improvements with respect to the progress, workmanship and character of materials and equipment used and employed in the work.

County, or its representatives, shall be obligated to observe, monitor and inspect compliance of the construction of the Improvements with the Final Plans and Specifications and shall promptly notify Contractor of any defects in materials and workmanship discovered by County during such observation and monitoring. Any failure of County or County's representatives to adequately inspect the Improvements or to discover defects in material or workmanship during the course of construction shall be deemed to be conclusively binding upon County that Contractor has performed the elements of the Improvements work that could have then been observed in accordance with the Final Plans and Specifications. Accordingly, unless County or

County's representative discovers any defects in materials or workmanship during its required observations, monitoring and inspections of the work and directs Contractor to correct such work in accordance with the Final Plans and Specifications, upon completion of each element of the work that could have been observed and inspected by County, Contractor shall be relieved from any obligation to repair the completed element of the Improvements on the basis of any subsequently discovered defect in materials and workmanship related thereto.

Section 6. Insurance

Contractor shall furnish to County a certificate or certificates substantiating the fact that it has taken out the insurance hereinafter set forth for the period covered by this Agreement with an insurance carrier acceptable to County in a form satisfactory to County. Each certificate shall bear an endorsement precluding the cancellation or reduction in coverage of any policy covered by such certificate before the expiration of thirty (30) days after County shall have received notification of such cancellation or reduction by registered mail. The minimum insurance coverages to be obtained by the Contractor as hereinabove referred to are as follows:

Public liability and property damage insurance that includes, but is not limited to, protection against claims arising from personal injury; property damage; losses related to independent contractors, products and equipment; and explosion, collapse and underground hazards. The amount of the insurance coverage shall be not less than \$1,000,000.00 (combined single limit) for one or more persons injured and property damaged in each occurrence. The public liability and property damage insurance shall also name as an insured, on a primary basis, County and its officers and employees. This insurance shall directly protect County as well as the Contractor and its agents.

Contractor shall maintain Workman's Compensation as required by law.

Each policy of insurance shall specify that (1) the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured, and that (2) it acts as primary insurance and that no insurance held or owned by County shall be called upon to cover either in full or part any loss covered under the policy acquired by Contractor.

If the Contractor fails to maintain such insurance, County may purchase insurance to cover damages of the above mentioned classes for which County might be held liable on account of the Contractor's failing to pay such damages and may recover the amount of the premiums for such insurance from the Contractor or retain such amount from any monies due the Contractor under this Agreement. Failure of County to obtain such insurance shall in no way relieve the Contractor from any of its responsibilities under this Agreement.

Section 7. Liens, Claims, and Encumbrances

Upon completion of the Improvements in accordance with the Final Plans and Specifications, Contractor shall provide a written guarantee and assurance to County that there are no liens, claims, or encumbrances on the Improvements prior to final payment for the Improvements pursuant to Section 2 above, together with unconditional final releases from all contractors and material suppliers, and with copies of invoices and corresponding checks issued by the Contractor for all items for which credit or reimbursement is requested under this Agreement for the Improvements. Notwithstanding any other provision or term of this Agreement, County shall

have no obligation to pay the final reimbursement payment after completion of the Improvements until the Contractor has cleared any and all liens, claims and encumbrances from the Improvements, and provided the required documentation, guarantee and assurance in writing, to the satisfaction of County.

Section 8. No Third Party Beneficiary

By entering into this Agreement, County and Contractor enter into no express or implied contract or agreement with any general contractor, subcontractor, or other party nor is any general contractor, subcontractor, or other party a third party beneficiary of this Agreement, and County shall have no obligation to pay any general contractor, subcontractor, or other party for any work that such general contractor, subcontractor, or other party may do pursuant to the plans and specifications for the Improvements.

Section 9. No Warranty

Contractor covenants to construct the Improvements in accordance with the requirements of the Final Plans and Specifications, which shall be subject to County's observation and inspection during the construction of the Improvements. As provided in Section 5 above, County shall be responsible to confirm that the Improvements are being constructed in accordance with the Final Plans and Specifications during such construction. Accordingly, upon completion of the Improvements, including completion of any work required by the County during such observations and inspections to conform to the Final Plans and Specifications, the work shall be deemed to comply with the Final Plans and Specifications and Contractor shall have no responsibility to warrant or repair any portion of the Improvements thereafter.

Section 10. Indemnities

During construction of the Improvements, Contractor shall indemnify, defend and hold County and County's officers, supervisors, employees and agents harmless from any lien, loss, claim, liability, or expense, including attorneys' fees and costs, including without limitation, any claims for damage to property or injury or death to persons (collectively, "Claims"), arising out of or in connection with the construction activities of Contractor or Contractor's subcontractors, employees or agents related to the construction of the Improvements.

In consideration of County's design and provision to Contractor of the Final Plans and Specifications for the Improvements and the covenants of the County to observe, monitor, inspect and approve the work being performed by Contractor as being consistent with the Final Plans and Specifications, County shall indemnify, defend and hold Contractor, and Contractor's officers, shareholders, employees and agents harmless from any Claims arising out of or in connection with any failure of the Improvements, including without limitation, any flood damage due to any failure of the levees affected by the Improvements and/or any alleged deficiency in materials or workmanship with respect to the Improvements. Contractor is entering into this Agreement and agreeing to install the Improvements in material reliance on this indemnity from the County and, without this indemnity, Contractor would not have entered into this Agreement.

The foregoing indemnities from Contractor and County under this Agreement shall survive the completion of the Improvements and the payment of all reimbursements related thereto.

Section 11. Sources for County Reimbursement

The source for the County's payment of the reimbursement to Contractor under Section 2 above shall be from the Levee Fees collected and to be collected by the County and/or the Levee District. In this regard, County represents the following: (i) the use of the Levee Fees shall be limited to the construction of the levee improvements identified in the pending financing plan for the Levee District, including the Improvements; (ii) the County has not committed or pledged any portion of the Levee Fees collected or to be collected from the Plan Area for the construction of any levee improvements other than the Improvements; and (iii) County shall not pay or reimburse any other party for any levee improvements from the Levee Fees collected from the Plan Area prior to the payment to Contractor of its full reimbursement anticipated to be paid hereunder. In addition if the Levee Fees collected and to be collected from the Plan Area are not available and/or adequate to pay the required reimbursements (which may occur if, for example, the County fails to form the Levee District, is unable to continue collecting the Levee Fees and is further required to refund the previously collected Levee Fees), County will preserve the \$1,745,000. for levee improvements being made available to the County by the Yuba County Water Agency for the construction of levee improvements and will not spend or commit such funds for any other improvements prior to the payment in full of the reimbursements to Contractor hereunder.

Section 12. Covenant to Adopt Levee Fee and Form Levee District

In consideration of Contractor's agreement to be paid primarily from Levee Fees collected and to be collected within the Plan Area, County agrees to use its best efforts to complete the proceedings necessary to adopt and impose the permanent Levee Fee against, and create the Levee District to include, the properties within the Plumas Lake Specific Plan Area and all other areas served or benefited by the Improvements and to require all owners within such benefited areas to pay the Levee Fee and to annex their properties into the Levee District as a condition of any further development of their respective properties.

Section 13. Excusable Delay

The dates for completion of the Work shall automatically be extended by the period of any delay caused by acts or omissions of County or other public entity or agency, its employees, agents and/or contractors, by labor strikes, labor shortages, earthquake, fire, inclement weather or other acts of God, or for any other such reasons beyond Contractor's reasonable control ("**Excusable Delay**"). Contractor shall give County written notice of the occurrence of any event giving rise to any such Excusable Delay, together with a statement of the amount or estimated amount of delay anticipated thereby, within five (5) business days of the occurrence of such event (provided any delay in giving such notice shall not eliminate or result in any reduction of the Excusable Delay).

Section 14. Notice

Any notice, payment or instrument required or permitted by this Agreement to be delivered to any party shall be deemed to have been received when personally delivered to that party or seventy-two (72) hours following deposit of the same in any United States Post Office, first class, postage prepaid, addressed as follows:

County: Yuba County Public Works

915 8th St., Suite 125
Marysville, CA 95901
Attention: Kevin Mallen, Director

Contractor: Nordic Industries, Inc..
1437 Furneaux Road
Marysville, CA 95901
Attn: Jens Karlshoej

Any party hereto may, by notice given hereunder, designate a different address to which subsequent notices, payments, and instruments shall be delivered to it.

Section 15. Term

The term of this Agreement shall start as of the date first written above and shall remain in effect until all the terms and conditions contained in this Agreement have been satisfied.

Section 16. Captions

Captions to Sections of this Agreement are for convenience purposes only, and are not part of this Agreement.

Section 17. Severability

If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, such portion shall be deemed severed from this Agreement and the remaining parts shall remain in full effect as though such invalid or unenforceable provision had not been a part of this Agreement.

Section 18. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

Section 19. Governing Law; Venue

This Agreement is made under, and shall in all respects be interpreted, enforced, and governed by, the laws of the State of California. In the event of a dispute concerning the terms of this Agreement, the venue for any legal action shall be with the appropriate court in the County of Yuba, State of California.

Section 20. Entire Agreement

This Agreement contains the entire agreement between the parties with respect to the matters contained herein and may be amended only by subsequent written agreement signed by all parties.

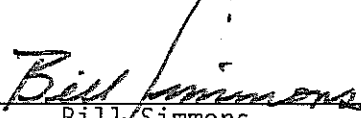
Section 21. Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day of the year first above written.


COUNTY:

COUNTY OF YUBA, a political subdivision
of the State of California

By: 
Name: Bill Simmons
Title: Chairman


CONTRACTOR:

NORDIC INDUSTRIES, INC.,
a Nevada corporation

By: 
Name: C. A. YARNELL, JR.
Title: VICE PRESIDENT

Contractors License No. 592271

Attest:


Clerk of the Board

Approved as to form:

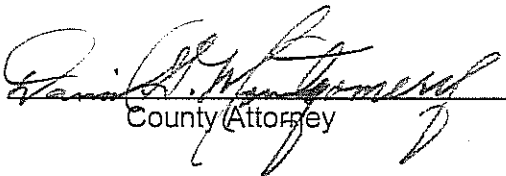
By: 
County Attorney

EXHIBIT "B"
BID SCHEDULE

| Item No. | Item Description | Spec Section | Quantity | Unit | Unit Price | Amount \$ |
|--|---|--------------|----------------------------------|------|--------------------|-----------|
| Underseepage Cutoff Wall, Sta. 4+05 - 26+00 | | | | | | |
| 1-1 | Mobilization and Demobilization | 02000 | 1 | LS | | 167000 - |
| 1-2 | Site Clearing, Stripping and Restoration | 02220 | 9.2 | AC | 4000 ⁰⁰ | 36800 - |
| 1-3 | Excavation (Levee Degrade) | 02315 | 23,400 | CY | 6 ⁰⁰ | 140400 - |
| 1-4 | Cutoff Wall | 02261A | 95,000 | SF | 10 ⁰⁰ | 950000 - |
| 1-5 | Levee Reconstruction (not including core) | 02333 | 19,400 | CY | 10 ⁰⁰ | 194000 - |
| 1-6 | Levee Reconstruction - Levee Core | 02333 | 5,300 | CY | 30 ⁰⁰ | 159000 - |
| 1-7 | Levee Road Aggregate Base | 02731A | 820 | CY | 40 ⁰⁰ | 32800 - |
| 1-8 | Levee Road Asphaltic Concrete | 02741N | 340 | TONS | 125 ⁰⁰ | 42500 - |
| 1-9 | Erosion Control Seeding | 02932 | 9.2 | AC | 2500 ⁰⁰ | 23000 |
| | Total Bid Schedule (Items 1-1 through 1-9) | | \$ 1,775,500⁰⁰ | | | |

Notes:

1. In the event that the product of a unit price and an estimated quantity does not equal the extended amount stated, the unit price will govern and the correct product of the unit price and the estimated quantity shall be deemed to be the bid amount.
2. Price bid for Mobilization and Demobilization shall not exceed five (5) percent of the total bid schedule price.