



**Elkhorn River Public Access Study
Ad-Hoc Consultant Selection Subcommittee
Meeting**

8901 S. 154TH ST.
OMAHA, NE 68138-3621
(402) 444-6222
FAX (402) 895-6543

**May 6, 2003
7:00 p.m.**

Agenda

Elkhorn River Public Access Study Ad Hoc Consultant Selection Subcommittee:

Rich Tesar, Chairperson
John Conley, Vice-Chairperson
Dick Connealy
Melissa Gardner
Barb Nichols

Staff Liaison: Dick Sklenar*
Marlin Petermann

1. Meeting Called to Order -- Chairperson Tesar
2. Quorum Call
3. Adoption of Agenda
4. Review and Recommendation on Professional Services Contract with Ciaccio Dennell Group –
Dick Sklenar
5. Other Items of Interest
6. Adjourn

Memorandum

To: Elkhorn River Public Access
From: Dick Sklenar, Project Coordinator
Date: April 28, 2003
Re: Professional Services Contract

Attached is the negotiated contract amount for professional engineering services regarding a feasibility study report on the development of public access sites along the Elkhorn River within our District.

It is recommended to the Subcommittee that the contract with Ciaccio Dennell Group, Inc., a maximum fee of \$54,036.45 be approved, and that the General Manager be authorized to execute said contract.

4. Develop preliminary concept **plan** for each site.

D. **TASK FOUR: Preliminary Plan Workshop with P-MRNRD**

1. Upon completion of the base maps, the in-field analysis, and the site analysis matrix meet with CLIENT in workshop session to review the information to date.
2. Discuss preliminary concept for the overall river access plan.
3. Determine optimal sites and facility content of each.
4. Discuss how to unveil the formal access plan to the public and landowners.

E. **TASK FIVE: Refined Preliminary Access Plan Preparation**

1. Prepare refined preliminary plan based upon input from the workshop session to illustrate the overall study area and the sites considered. The plan will illustrate the selected optimal sites and provide supportive data for selection.
2. Prepare enlarged site plan of each optimal river access site.
3. **OA** will determine property ownership for each optimal site. **OA** will prepare a property ownership map for each site delineating size configuration of ownership and any easements of record.
4. **OA** will survey key grades, if required, to refine plans for each site.
5. **OA** will investigate funding opportunities from grant and other sources for entire project.
6. **OA** will investigate hydrologic, transportation and natural resources concerns for each site.
7. Prepare an opinion of probable construction cost for each optimal access point.
8. Attend review meeting with P-MRNRD.

F. **TASK SIX: Present Refined Preliminary Elkhorn River Access Plan**

1. Meet one-on-one with the property owners and CLIENT as directed and coordinated by CLIENT Receive input.
2. Present the refined preliminary river access plan to the CLIENT prior to going public. Receive input.
3. Make any final modifications to the plan based upon such input and as directed by the CLIENT prior to presenting publicly.

G. TASK SEVEN: Final Access Plan Preparation

1. Prepare final river access plan based upon public input as directed by CLIENT.
2. Finalize project costs.
3. OA will prepare environmental and permitting requirements.
4. OA will finalize **source** of funding for the project.

H. TASK EIGHT: Final Access Plan Presentation & Submittals

1. Prepare final Elkhorn River Access Plan graphics and all supporting materials.
2. Present final plan to CLIENT for approval.
3. Submit one full set of final plans and **all** supporting materials to CLIENT in both digital and hard **copy**.

11. FEE AND TIMING

- A.** The above Scope of Services will be performed for a Fee not to exceed Fifty Four Thousand Thirty **Six** and 45/100's Dollars (\$54,036.45), which **includes** the cost of **all** expenses associated with the production of the work.
- B.** The above Scope of Services will be performed within sixteen (16) weeks upon written authorization to proceed (signed copy of this agreement) by the CLIENT.
- C.** Attachments:
 1. Exhibit 'A': **Any** additional **services** shall be authorized in writing by the CLIENT prior to initiation and compensated in accordance with the attached rate schedule (Exhibit 'A'). The CLIENT shall reimburse CDG for additional expenses accrued.
 2. Exhibit 'B': Project Task/Hours Worksheet.
 3. Exhibit 'C': Olsson Associates Fee **Summary** and Task/Hours Worksheet.
 4. Exhibit 'D': Proposed schedule.

III. PAYMENT

- A.** Terms of payment for all work performed under this Agreement shall be net 45 days from date of invoice.
- B.** **All** fees due CDG will be payable within **thirty (45)** days of receipt of such invoice showing work completed and the cost of said work. To each statement not paid within **thirty (45)** days, a service charge of one **and** one-half percent (1-1/2%) per **month** will be added to **the** unpaid balance.

III. PAYMENT

- A. Terms of payment for all work performed under this Agreement shall be net 30 days from date of invoice.
- B. All fees due CDG will be payable within thirty (30) days of receipt of such invoice showing work completed and the cost of said work. To each statement not paid within thirty (30) days, a service charge of one and one-half percent (1-1/2%) per month will be added to the unpaid balance.

IV. INDEMNITY AND LIMITATION OF LIABILITY

- A. The CLIENT agrees, at its own expense, to indemnify, defend and hold harmless CDG, its successors and assigns and its shareholders, officers, directors, agents and employees, against any and all losses, costs, liabilities, damages and/or expenses brought against CDG by any third party to the extent based on or arising from the Project or on any claim of breach of this Agreement by CDG ("Third Party Claims"), excluding Third Party Claims that are the sole fault of CDG.
- B. Neither CLIENT nor CDG shall be liable under this agreement, for any indirect, incidental, special, punitive or consequential damages. In no event will the total aggregate liability of CDG for any claims, losses or damages arising out of this agreement exceed the total amount of fees and other consideration actually received by CDG under this agreement. The foregoing limitation of liability and exclusion of certain damages shall apply regardless of the success or effectiveness of any other remedies.

V. OWNERSHIP AND USE OF THE MATERIALS

- A. CLIENT acknowledges and agrees that the drawings, sketches, designs and other documentation (the "Materials") prepared by CDG for the provision of Services contemplated in this Agreement are instruments of CDG's Services and are for use solely with respect to this Project and, unless otherwise provided in writing by CDG, CDG shall be deemed the author of these Materials and shall retain all rights, title and interest therein. The Materials shall not be used by the CLIENT or others on other projects, for additions to this Project or for completion of this Project by others.

VI. TERMINATION

- A. This Agreement may be terminated upon ten (10) days written notice by either party. In the event of termination, the CLIENT will pay CDG due compensation as specified herein for services performed up to the termination date including reimbursable expenses.

VII. APPLICABLE LAW

- A. The parties shall comply with and apply Nebraska law, without reference to the conflicts of laws provisions thereof, in the performance and interpretation of this agreement.

PAPIO-MISSOURI RIVER
NATURAL RESOURCES DISTRICT
8901 South 154th Street
Omaha, Nebraska 68138-3621
(402) 444-6222 (402) 895-6543 Fax

CIACCIO DENNELL GROUP, INC.
1014 Douglas On The Mall
Omaha, Nebraska 68102-1813
(402) 346-8754 (402) 346-7419 Fax

Signature Date

Signature Date

Printed Name / Title

David J. Ciaccio, President

Exhibits

**CIACCIO DENNELL GROUP INC.
RATE SCHEDULE
November 2002**

HOURLY RATES & CLASSIFICATIONS

David J. Ciaccio - Principal	\$110/Hr.
James K. Dennell - Principal.....	\$110/Hr.
Stephen P. Mainelli - Contract Administrator.....	\$100/Hr.
Paul J. Kelly – Architect I / Project Manager.....	\$95/Hr.
Kevin G. Strehle - Landscape Architect I / Project Manager / Architect II	\$95/Hr.
Kevin E. Schluckebier - Architect I / Project Manager.....	\$95/Hr.
Wayne M. Borer - Architect I	\$90/Hr.
Craig J. Larson - Landscape Architect I	\$90/Hr.
Todd M. Maiellaro - Landscape Architect I	\$90/Hr.
Robert A. Slipka, III - Landscape Architect II	\$90/Hr.
Trevor J. Huffaker - Architect III	\$75/Hr.
Mary Lea Stump - Office Manager.....	\$65/Hr.
Technicians.....	\$50/Hr.
Administrative Support Staff	\$50/Hr.

REIMBURSABLES

A. CONSULTANTS:

Services provided by civil, structural, mechanical, and electrical engineering and/or other consultants shall be charged at actual cost plus 10%.

B. REPRODUCTIONS:

Blueprints, plotting, photocopies, photographic reproductions and all printing and materials shall be charged at actual cost plus 10%.

C. SUPPORT MATERIALS:

All support materials (i.e. photographs, model supplies, professional renderings, etc) other than normal office supplies used in connection with the project will be charged at actual cost plus 10%.

D. LONG DISTANCE PHONE, POSTAGE & SHIPPING:

All long distance phone charges, postage charges and express mail/shipping charges used in connection with the project will be charged at actual cost plus 10%.

E. AUTOMOBILE TRANSPORTATION:

Automobile transportation in connection with the project will be charged at a rate of thirty-five cents (\$.35) per mile.

F. COMMERCIAL TRAVEL AND SUBSISTENCE:

Airline travel, auto rentals, living expenses, and other similar direct expenses in connection with out-of-town travel, authorized by the Owner, will be charged at actual cost plus 10%.

G. FILING FEES AND OTHER COST ADVANCED:

All filing or permit fees and other similar costs that are paid by Ciaccio Dennell Group, Inc. shall be charged at actual cost plus 10%.

The rates and multiples set forth above may be annually adjusted in accordance with normal salary review practices.

Exhibit 'B' - Task/Hours Worksheet

Owner/Client: Papio-Missouri River Natural Resources District
Project: Elkhorn River Access Study
Project No. 2823

Project Managers: Dave Ciaccio / Kevin Strehle

TASK	Direct Labor Rates						Labor Costs
	TOTAL	\$ 55.29 Princ.	\$ 33.65 Proj Mgr	\$ 23.27 LA	\$ 23.80 Ofc Mgr	\$ 15.00 Clerical	
INITIAL PLANNING & SITE SELECTION							
Task One: Project Kick-Off Meeting with PMNRD Staff							
A1 Confirm projects contactscope/,budget/ timeline.		3	4			2	\$ 330.47
A2 Discuss public involvement & key user groups-							\$ -
A3 Discuss analysis matrix factors.	0						\$ -
Task Two: Project Start-up							
B1 Acquire and prepare base map information.	30		2	24		4	\$ 685.78
B3 OA Collect & coordinate hydrologic/natural resource data.	2		2				\$ 67.30
B4 OA to Assemble land ownership information along river.	4		4				\$ 134.60
Task Three: In-Field Inventory & Analysis							
C1 Physically review entire Elkhorn River corridor.	42	16				2	\$ 1,722.24
C2 Prepare analysis matrix of all sites.	16	4				4	\$ 550.36
C3 Attend meeting with Neb. Game & Parks.	4		24			4	\$ 134.60
C4 Develop preliminary concept plan For each site.	28	4	8	12			\$ 904.20
			4				\$ -
Task Four: Preliminary Plan Workshop with PMNRD Staff							
D1 Review meeting with P-MRNRD staff.	9	3	4			2	\$ 330.47
D2 Discuss preliminary concept plans.	0						\$ -
D3 Determine optimal sites / contents / issues.	0						\$ -
D4 Discuss how to present plan to public & land Owners	0						\$ -
Task Five: Refined Prelim. Access Plan Preparation							
E1 Prepare refined preliminary overall plan.	20	4	8	8			\$ 676.52
E2 Prepare enlarged site plan of each site.	64	4	24	32		4	\$ 1,833.40
E3 OA Determine property ownership for each site.	1		1				\$ 33.65
E4 OA survey key elevations if required for refined plan prep.-			2				\$ 67.30
E5 OA Investigate funding opportunities.			1				\$ 33.65
E6 OA Investigate HTH, Trans. & E concerns for each site.	1		1				\$ 33.65
E7 Prepare opinion of probable cost for each site.	14		2	8	2	2	\$ 331.06
E8 Attend review meeting with PMNRD Staff	6	3	3				\$ 266.82
Task Six: Present Refined Prelim. Access Plan							
F2 Meet one-on-one with impacted property owners.	36	24	12				\$ 1,730.76
F1 Present plan to P-MRNRD Board.	7	3	4				\$ 300.47
F3 Make any final modifications to plan.	14	2	2	8		2	\$ 394.04
F4 Present refined/modified plan to public	20	4	12	2		2	\$ 701.50
Task Seven: Final Access Plan Preparation							
G1 Prepare final river access plan based on input.	30	2	12	16			\$ 886.70
G2 Finalize project costs.	6		2	4			\$ 160.38
G3 Finalize environmental/permitting requirements.	0						\$ -
G4 Finalize souce of funding for project.	0						\$ -
Task Eight: Final Access Plan Presentation/Submittals							
H1 Prepare final plan graphics & support materials.	22		2	4		16	\$ 400.38
H2 Present final plan to P-MRNRD Board.	8	4	4				\$ 355.76
H3 Submit plans & materials. (1 Full size & 1 Half site plans and documents & digital PDF Report)	6		2			4	\$ 127.30
Initial Planning & Site Selection Subtotal:	399	80	1581	118,	2	44	\$ 13,19336

Budget Summary:
ELKHORN RIVER ACCESS STUDY
Project No. 2823

FEE SUMMARY:

Direct Labor Subtotal:	\$ 13,193.36
Overhead @ 117.84%:	<u>\$ 15,547.06</u>
Subtotal Labor & Overhead:	\$ 28,740.42
Profit 12% of Subtotal:	<u>\$ 3,448.85</u>
Total Labor, Overhead & Profit:	\$ 32,189.27
Expenses:	
Mileage/ Transportation- Included in Overhead	\$
GIS Data	
Prints/ Copies	\$
Total Expenses:	\$
Consultants:	
Olsson Associates	<u>\$ 21,847.18</u>
Total Consultants:	\$ 21,847.18
TOTAL FEE:	<u><u>\$ 54,036.45</u></u>

OLSSON ASSOCIATES
FEE SUMMARY
Elkhorn River Access Study

Direct Labor Subtotal	\$ 7,103.98
Overhead @ 168.3%	<u>11,956.00</u>
Subtotal Labor and Overhead	\$ 19,059.98
Profit @ 12%	<u>2,287.20</u>
Total Labor, Overhead and Profit	\$ 21,347.18
Expenses	<u>500.00</u>
Total Consultant Fee	<u><u>\$ 21,847.18</u></u>

Exhibit 'C' - Task/Hours Worksheet

Consultant: Olsson Associates
 Owner/Client: Paplo-Missouri River Natural Resources District
 Project: Elkhorn River Access Study
 Project No. 2823

TASK	Labor Rates							Labor Costs
	TOTAL	\$ 90.00 LA	\$ 90.00 LA II	\$ 65.00 Ofc Mgr	\$ 50.00 Clerical	\$ 115.00 Proj. Engr	\$ 60.00 Proj. Scientist	
INITIAL PLANNING & SITE SELECTION								
Task One: Project Kick-Off Meeting								
A1 Confirm projects contacts/scope / budget / timeline	8					4	4	\$ 700.00
A2 Discuss public involvement & key user groups.	0							\$ -
A3 Discuss analysis matrix factors	0							\$ -
Task Two: Project Start-Up								
B1 Acquire and prepare base map information.	0							\$ -
B3 OA Collect & coordinate hydrologic & natural res. data.	30					6	24	\$ 2,130.00
B4 OA to Assemble land ownership information along river for each site	63					3	60	\$ 3,945.00
Task Three: In-Field Inventory & Analysis								
C1 Physically review entire Elkhorn River corridor.	8					4	4	\$ 700.00
C2 Prepare analysis matrix of all sites.	0							\$ -
C3 Attend meeting with Neb. Game & Parks.	0							\$ -
C4 Develop preliminary concept plan for each site.	0							\$ -
Task Four: Preliminary Plan Workshop								
D1 Review meeting with P-MRNRD Staff.	12					6	6	\$ 1,050.00
D2 Discuss preliminary concept plans.	0							\$ -
D3 Determine optimal sites / contents / issues.	0							\$ -
D4 Discuss how to present plan to public/ land Owners	0							\$ -
Task Five: Refined Prelim. Access Plan Preparation								
E1 Prepare refined preliminary overall plan.	0							\$ -
E2 Prepare enlarged site plan of each site.	0							\$ -
E3 OA Determine property ownership for each site.	40						40	\$ 2,400.00
E4 OA survey key elevations if required for refined plan prep.	30						30	\$ 1,800.00
E5 OA Investigate funding opportunities.	6					6	6	\$ 690.00
E6 OA Investigate H/H, Trans. & E concerns for each site.	62					14	48	\$ 4,490.00
E7 Prepare opinion of probable cost for each site.	0							\$ -
E8 Attend review meeting with PMRNRD Staff	0					4		\$ 480.00
Task Six: Present Refined Prelim. Access Plan								
F2 Meet one-on-one with impacted property owners.	0							\$ -
F1 Present plan to P-MRNRD Board.	9					3	6	\$ 705.00
F3 Make any final modifications to plan.	0							\$ -
F4 Present refined/modified plan to public	0							\$ -
Task Seven: Final Access Plan Preparation								
G1 Prepare final river access plan based on input.	0							\$ -
G2 Finalize project costs.	0							\$ -
G3 Finalize environmental/permitting requirements.	24						24	\$ 1,440.00
G4 Finalize source of funding for project.	6					6	6	\$ 690.00
Task Eight: Final Access Plan Presentation/Submittals								
8A Prepare final plan graphics & support materials.	8						8	\$ 480.00
8B Present final plan to P-MRNRD Board.	4						4	\$ 240.00
8C Submit plans & materials.	0							\$ -
(1 Full size & 1 Half size plans & digital PDF Report)								\$ -
Initial Planning & Site Selection Subtotal:	310	0	0	0	0	56	258	\$ 21,920.00

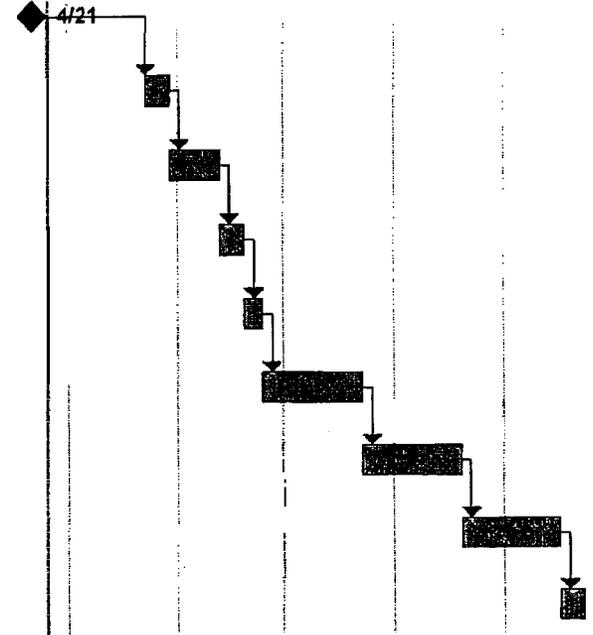
Budget Summary:
 ELKHORN RNER ACCESS STUDY
 Project No. 2823

FEE SUMMARY

Initial Planning & Site Selection Fee	\$ 21,347.18
Sum Fee:	\$ 21,347.18
Sum Expenses:	\$ 500.00
TOTAL FEE:	\$ 21,847.18

P-MRNRD Elkhorn River Access Study

ID	Task Name	Duration	Start	Finish	March	April	May	June	July	August	September
1	P-MRNRD Elkhorn River Access Study	0 days	Mon 4/21/03	Mon 4/21/03			4/21				
2	1 - Project Kickoff Meeting	5 days	Fri 5/23/03	Thu 5/29/03							
3	2 - Project Start-Up	10 days	Fri 5/30/03	Thu 6/12/03							
4	3 - in-Field Inventory & Analysis	5 days	Fri 6/13/03	Thu 6/19/03							
5	4 - Preliminary Plan Workshop	3 days	Fri 6/20/03	Tue 6/24/03							
6	5 - Refined Prelim. Access Plan Preparation	20 days	Wed 6/25/03	Tue 7/22/03							
7	6 - Present Refined Prelim. Access Plan	20 days	Wed 7/23/03	Tue 8/19/03							
8	7 - Final Access Plan Preparation	20 days	Wed 8/20/03	Tue 9/16/03							
9	8 - Final Access Plan Preparation/Submittals	5 days	Wed 9/17/03	Tue 9/23/03							



Ciaccio-Dennell Group Exhibit D

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 (402) 346-7419
 CIACCIO DENNELL GROUP
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AGREEMENT TO PERFORM
PROFESSIONAL SERVICES
FOR THE ELKHORN RIVER ACCESS STUDY
(*CDG Project No.2823*)

Ciaccio Dennell Group, Inc. (CDG) enters into this agreement for professional services with the Papio-Missouri River Natural Resources District (CLIENT) for the Elkhorn River Access Study Project, Dodge and Douglas Counties, Nebraska.

SCOPE OF SERVICES

CDG, in association with its subcontractor/consultant Olsson Associates (OA), will perform the following services:

- A. TASK ONE: Project Kick-Off Meeting with P-MRNRD staff
 - 1. Attend project kick-off meeting to confirm project contacts, scope of work, budget and timeline.
 - 2. Discuss in detail public involvement and any key user groups who should be included in the planning process.
 - 3. Discuss, analyse and develop matrix factors, including but not limited to: proximity to public road row, public/private ownership, zoning, and development cost.

 - B. TASK TWO: Project Start Up
 - 1. Assemble base map information for the entire project area using database information on the Elkhorn River basin from the Omaha Suburban Parks Plan, the Camp Fontenelle Plan, the City of Elkhorn Comprehensive Plan, and others.
 - 2. CLIENT shall provide any hydrologic and natural resource data available.
 - 3. OA will collect & coordinate hydrologic and natural resources data.
 - 4. OA will assemble land ownership information along river for each site.
- TASK THREE: In-Field Inventory & Analysis
- 1. Physically review the entire Elkhorn River corridor from Fontenelle, Nebraska, down-stream to the Platte River junction. Special emphasis will be placed at key intersecting areas of major county and state highways with the Elkhorn River.

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2. Document in a site analysis matrix the pros/cons of each potential site to objectively determine the optimal sites.
 3. Attend meeting with CLIENT and officials from Nebraska Game & Parks Commission to collect information on similar projects and the solutions.
 4. Develop preliminary concept plan for each site.
- D. TASK FOUR: Preliminary Plan Workshop with P-MRNRD
1. Upon completion of the base maps, the in-field analysis, and the site analysis matrix, meet with CLIENT in workshop session to review the information to date.
 2. Discuss preliminary concept for the overall river access plan.
 3. Determine optimal sites and facility content of each.
 4. Discuss how to unveil the formal access plan to the public and landowners.
- E. TASK FIVE: Refined Preliminary Access Plan Preparation
1. Prepare refined preliminary plan based upon input from the workshop session to illustrate the overall study area and the sites considered. The plan will illustrate the selected optimal sites and provide supportive data for selection.
 2. Prepare enlarged site plan of each optimal river access site.
 3. OA will determine property ownership for each optimal site. OA will prepare a property ownership map for each site delineating size configuration of ownership and any easements of record.
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 7. Prepare an opinion of probable construction cost for each optimal access point.
 8. Attend review meeting with P-MRNRD.

- F. TASK SIX: Present Refined Preliminary Elkhorn River Access Plan
 1. Meet one-on-one with the property owners and CLIENT as directed and coordinated by CLIENT, Receive input.
 2. Present the refined preliminary river access plan & enlarged site plans to the CLIENT prior to going public. Receive input.
 3. Make any final modifications to the plan based upon such input and as directed by the CLIENT prior to presenting publicly.
 4. Present the modified plan to the CLIENT and general public at one public meeting as directed by CLIENT. Receive input.

- G. TASK SEVEN: Final Access Plan Preparation
 1. Prepare final river access plan based upon public input as directed by CLIENT
 2. Finalize project costs.
 3. OA will prepare environmental and permitting requirements.
 4. OA will finalize source of funding for the project.

- H. TASK EIGHT: Final Access Plan Presentation & Submittals
 1. Prepare final Elkhorn River Access Plan graphics and all supporting materials.
 2. Present final plan to CLIENT for approval.
 3. Submit one full set of final plans and all supporting materials to CLIENT in both digital and hard copy.

II. FEE AND TIMING

- A. The above services will be performed by CDG for fees and expense reimbursements (including the fees and expenses of CDG's consultant) set out in the rate schedules attached hereto and hereinafter identified, the grand total of such fees and expense reimbursements to not in any case exceed the sum of ~~Fifty Four Thousand Thirty Six and 45/100's Dollars (\$54,036.45).~~

- B. The above Scope of Services will be performed within sixteen (16) weeks upon written authorization to proceed (signed copy of this agreement) by the CLIENT.

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C. Attachments:

Exhibit 'A': Any additional services shall be authorized in writing by the CLIENT prior to initiation and compensated in accordance with the attached rate schedule (Exhibit 'A'). The CLIENT shall reimburse CDG for additional expenses accrued.

- 1. Exhibit 'B': Project Task/Hours Worksheet.
- 2. Exhibit 'C': Olsson Associates Fee Summary and Task/Hours Worksheet.
- 3. Exhibit 'D': Proposed schedule.

III. PAYMENT

- A. Terms of payment for all work performed under this Agreement shall be net forty five (45) days from date of invoice.
- B. All fees due CDG will be payable within forty five (45) days of receipt of such invoice showing work completed and the cost of said work. To each statement not paid within forty five (45) days, a service charge of one and one-half percent (1-1/2%) per month will be added to the unpaid balance.

IV. INDEMNITY AND LIMITATION OF LIABILITY

- A. CDG will at all times during the term of this Agreement have and keep in force a policy of general liability insurance in the amount of not less than \$2,000,000 and a policy of professional liability insurance in the amount of not less than \$1,000,000; and CDG will furnish to CLIENT a certificate evidencing such insurance coverages.
- B. Neither CLIENT nor CDG shall be liable under this agreement, for any indirect, incidental, special, punitive or consequential damages. The foregoing exclusion of certain damages shall apply regardless of the success or effectiveness of any other remedies.

V. TERMINATION

- A. This Agreement may be terminated upon ten (10) days written notice by either party. In the event of termination, the CLIENT will pay CDG due compensation as specified herein for services performed up to the termination date including reimbursable expenses.

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Deleted: <#>The CLIENT agrees, at its own expense, to indemnify, defend and hold harmless CDG, its successors and assigns and its shareholders, officers, directors, agents and employees, against any and all losses, costs, liabilities, damages and/or expenses brought against CDG by any third party to the extent based on or arising from the Project or on any claim of breach of this Agreement by CDG ("Third Party Claims"), excluding Third Party Claims that are the sole fault of CDG.¶
Formatted
Deleted: In no event will the total aggregate liability of CDG for any claims, losses or damages arising out of this agreement exceed the total amount of fees and other consideration actually received by CDG under this agreement.
Deleted: limitation of liability and
Deleted: <#>OWNERSHIP AND USE OF THE MATERIALS¶ ¶ A. CLIENT acknowledges and agrees that the drawings, sketches, designs and other documentation (the "Materials") prepared by CDG for the provision of Services contemplated in this Agreement are instruments of CDG's Services and are for use solely with respect to this Project and, unless otherwise provided in writing by CDG, CDG shall be deemed the author of these Materials and shall retain all rights, title and interest therein. The Materials shall not be used by the CLIENT or others on other projects, for additions to this Project or for completion of this Project by others.¶ ¶
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| VI. APPLICABLE LAW

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- A. The parties shall comply with and apply Nebraska law, without reference to the conflicts of laws provisions thereof, in the performance **and** interpretation of this agreement.

PAPIO-MISSOURI RIVER
NATURAL RESOURCES DISTRICT
8901 South 154th Street
Omaha, Nebraska 68138-3621
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CIACCIO DENNELL GROUP, INC.
1014 Douglas On The Mall
Omaha, Nebraska 68102-1813
(402) 346-8754 (402) 346-7419 Fax

Signature Date

Signature Date

| [Steven G. Oltmans, General Manager](#)

David J. Ciaccio, President