

Agenda Item: 9.

MEMORANDUM

TO: Programs, Projects and Operations Subcommittee

FROM: Martin P. Cleveland, Construction Engineer

SUBJECT: Papio Creek Watershed Structure D-15 B - Interlocal Cooperation Agreement with SID 564 of Douglas County (Grove Ridge)

DATE: June 27, 2014

Papio Creek Watershed Structure D-15 B is a small grade control stabilization structure that was constructed in 1993 by Natural Resources Conservation Service with the District as the local sponsor. This site is located in West Omaha, northeast of 192nd and Pacific Street. The District operates and maintains the structure, which is an earthen dam. It is immediately upstream of The Grove residential neighborhood and will be within the proposed Grove Ridge residential development (apartment complex). The District acquired a permanent easement in 1993 to build and operate the structure. The property is owned by the developer. There is a small pond upstream of the dam with normal pool size of 1.61 acres. Attached are maps and photos related to the project.

The Grove Ridge developer has approached the District regarding the possible use of the D-15 B pond as a storm water pollution prevention feature during construction and a post construction water quality basin. This use would eliminate the need to duplicate a sediment pond elsewhere on the property. Attached is a draft Interlocal Cooperation Agreement with SID 564 of Douglas County (Grove Ridge) to handle the maintenance of the pond during construction and into the future. The SID would be required to clean out the pond sediment at periodic intervals determined by elevation of sediment as outlined in the agreement. The District would not incur any cost for pond maintenance. As a side note, the pond has silted in considerably over the years due to upstream development and agricultural sediment runoff and this agreement would result in restoring sediment capacity of the pond. Natural Resources Conservation Service and District staff have reviewed the proposed development plans and associated sediment and hydraulic calculations and have determined that the planned use will not harm the D-15 B dam.

It is Management's recommendation that the Subcommittee recommend to the Board of Directors that the General Manager be authorized to execute Interlocal Cooperation Agreement with SID 564 of Douglas County (Grove Ridge) for Papio Watershed Structure D-15B, subject to changes as deemed necessary by District legal counsel.

Papio Creek Watershed PL 566 Structure

D-15B Location Map

June 2014

192nd D-15 pond



SID 564
(Grove Ridge)



North

The Grove SID

Pacific Street

Imagery Date: 9/21/2013 41°15'17.02" N 96°12'15.81" W elev 1210 ft eye alt 6973 ft

1993

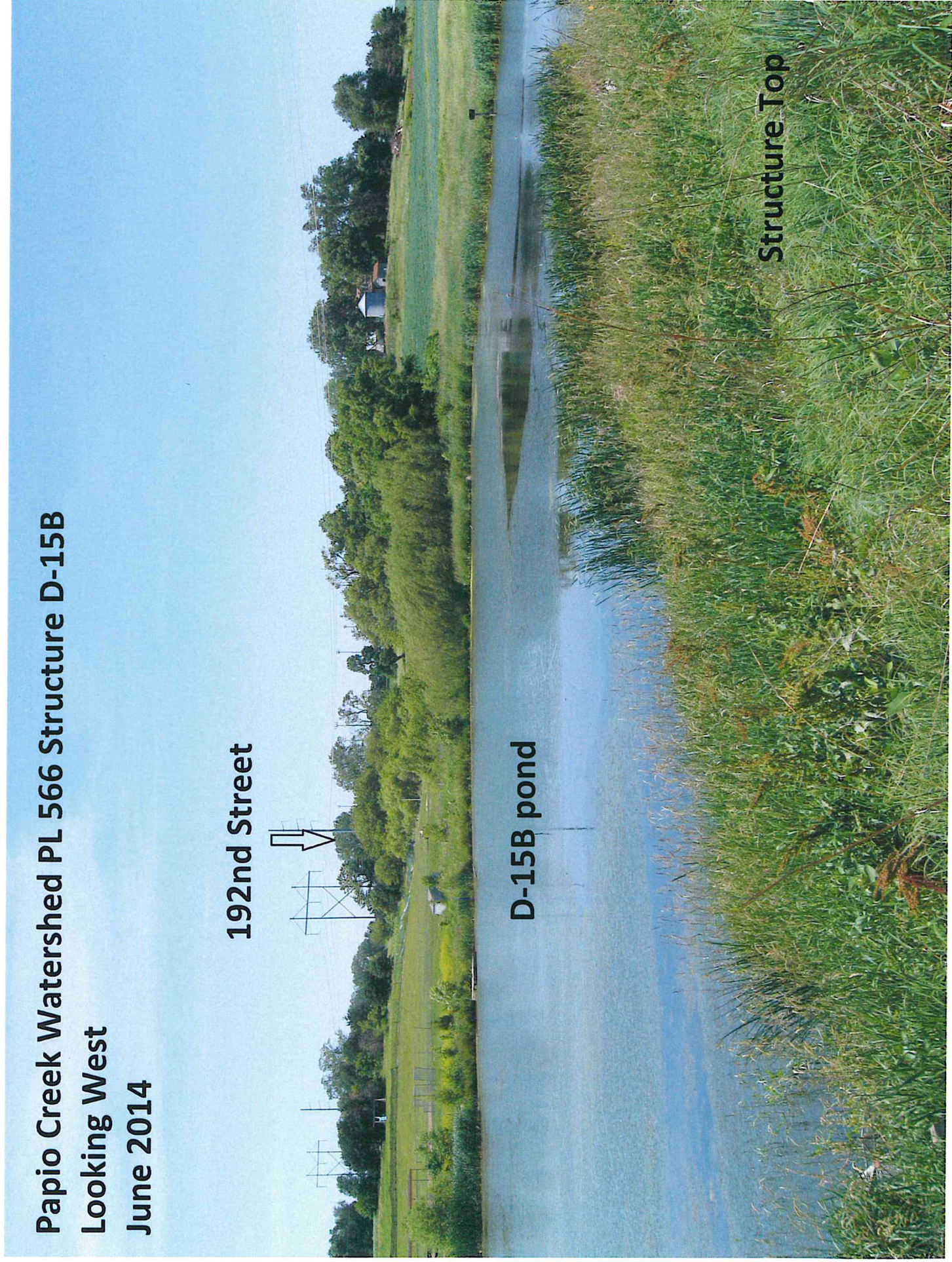
**Papio Creek Watershed PL 566 Structure D-15B
Looking West
June 2014**

192nd Street



D-15B pond

Structure Top



INTERLOCAL COOPERATION ACT AGREEMENT

Between

**SANITARY AND IMPROVEMENT DISTRICT NO. 564
OF DOUGLAS COUNTY, NEBRASKA**

And

PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

For

PAPIOPAPILLION CREEK PL 566 WATERSHED STRUCTURE D-15B

THIS AGREEMENT (hereinafter "**THIS AGREEMENT**") is made by and between the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** (the "**NRD**") and **SANITARY AND IMPROVEMENT DISTRICT NO. 564 OF DOUGLAS COUNTY, NEBRASKA** (the "**DISTRICT**"), pursuant to the authority provided in the Nebraska Interlocal Cooperation Act (§§13-801, R.R.S., 1997, et seq.)

WHEREAS, the aforesaid parties to THIS AGREEMENT (the "**PARTIES**," each being a "**PARTY**") desire to undertake a project to provide for the modification of the dam outlet riser and the maintenance, operation and management of PapioPapillion Creek PL 566 Watershed Structure D-15B ~~flood~~permanent pool (the "**PROJECT**") located in Douglas County, Nebraska; and,

WHEREAS, the NRD desires the DISTRICT to establish policies and programs relating to the maintenance, operation and management of the PROJECT for the Grove Ridge Development near 192nd and Leavenworth Streets, Douglas County, Nebraska that are acceptable to the NRD; and,

WHEREAS, the objective of the PROJECT is to meet City of Omaha as well as State of Nebraska and federal storm water management regulation and permit requirements;

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants of the PARTIES hereinafter expressed, the PARTIES hereby agree as follows:

1. PROJECT BENEFITS. The PARTIES do hereby find and determine that the PROJECT will be of predominantly general benefit to the DISTRICT.

2. **PROJECT PARTICIPANTS.** The PROJECT shall be undertaken without any separate entity being created, and the duties and responsibilities of the PARTIES with respect to the PROJECT shall be as defined by THIS AGREEMENT.

3. **THE PROJECT.** The PROJECT shall be maintained, operated and managed by the DISTRICT under the supervision and control of the NRD in accordance with the terms and conditions of THIS AGREEMENT.

4. **MAINTENANCE, OPERATION AND MANAGEMENT OF THE PROJECT.** The DISTRICT ~~has prepared, and the NRD has reviewed and accepted~~ agrees to operate, maintain and manage the PROJECT in accordance with good engineering practice and the "BMP Maintenance, Operation and Management Requirements" which are attached hereto as Exhibit "A" and which are incorporated herein by this reference. Such BMP Maintenance, Operation and Management Requirements ~~shall~~ describe the specific maintenance practices to be performed for the PROJECT and include a schedule for implementation of these practices. A written record of inspection results and any maintenance work shall be maintained by the DISTRICT and shall be available for review by the NRD.

5. **PROJECT COSTS.** The DISTRICT shall, at its sole expense, dredge, repair and perpetually operate and maintain the PROJECT in accordance with the BMP Maintenance, Operation and Management Requirements.

6. **INSPECTION RIGHTS.** The DISTRICT hereby grants permission to the NRD, its authorized agents and employees, upon reasonable notice and at reasonable times, to enter upon the PROJECT, for inspections to ensure that the PROJECT is being maintained, operated and managed in accordance with THIS ~~Agreement; provided, however, any such access by the NRD onto the PROJECT shall be limited to paved areas and any pervious areas around the PROJECT to the extent reasonably necessary to inspect the PROJECT~~ AGREEMENT.

7. **CORRECTIVE ACTION.** In the event an NRD inspection reveals that the PROJECT has not been maintained, operated or managed in accordance with THIS AGREEMENT and corrective action is needed, the NRD shall provide the DISTRICT with written notice specifying what corrective action is reasonably required. If the DISTRICT

has not completed the corrective actions within thirty (30) days of receipt of such notice, the NRD may perform the necessary corrective work: and the District agrees to reimburse the NRD for its costs. In the event of an emergency as determined by the NRD or its designee in its sole discretion, the NRD or its designee is authorized to enter the PROJECT to make all repairs, and to perform all maintenance, construction and reconstruction as the NRD reasonably deems necessary. The NRD shall be entitled to recover from the DISTRICT the reasonable costs the NRD reasonably expends to maintain or repair the PROJECT or to correct operational deficiencies in accordance with THIS AGREEMENT or applicable law. Failure to pay the ~~City~~NRD all of its reasonably expended costs, after forty-five days written notice, shall constitute a breach of THIS AGREEMENT. The NRD shall thereafter be entitled to bring an action against the DISTRICT to recover such costs, including interest and attorney fees.

8. NO OBLIGATION OF NRD. The DISTRICT shall not obligate the NRD to maintain, operate, manage or repair the PROJECT, and the NRD shall not be liable to any person or entity for the condition or operation of the PROJECT. The DISTRICT and not the NRD, shall be responsible for meeting all City of Omaha as well as state and federal storm water management regulations and permit requirements

9. INDEMNIFICATION. The DISTRICT hereby indemnifies and holds harmless the NRD and its authorized agents and employees for any and all damages, accidents, casualties, occurrences or claims that may arise or be asserted against the NRD from the construction, presence, existence or maintenance of the PROJECT by the DISTRICT, unless such damages, accidents, casualties, occurrences or claims are caused by the negligence, gross negligence or willful misconduct of the NRD or its authorized agents or employees. In the event such a claim is asserted against the NRD, its authorized agents or employees, the NRD shall promptly notify the DISTRICT and the DISTRICT shall have the right to defend and settle, at its own expense, any suit based on such claim. If a final judgment is entered against the NRD for such a claim, the DISTRICT shall pay such judgment unless such judgment is based on the negligence, gross negligence or willful misconduct of the NRD or its agents or employees.

10. PERMITS. All necessary local, state and federal permits, which are determined to be necessary for the PROJECT, or for the permanent operation, maintenance, repair, replacement, management and regulation of the PROJECT, shall be obtained at the sole cost and expense of the DISTRICT, which shall hold the same.

11. OPERATION AND MAINTENANCE OF THE PROJECT. The DISTRICT, at its sole cost and expense, shall permanently operate, maintain, repair, replace, manage and regulate the ~~features-of-the~~ PROJECT in such manner and at such time(s) as the NRD determines reasonably necessary, and in accordance with applicable and generally-accepted engineering practices, all applicable federal, state and local laws, statutes, ordinances, rules and regulations, and THIS AGREEMENT.

The NRD, at its sole cost and expense, shall permanently operate, maintain, repair, replace, manage and regulate ~~features-of-the~~ PapioPapillion Creek Watershed Structure D15-B dam, drainage system, emergency spillway, and observation well.

12. EFFECTIVE DATE AND TERM. THIS AGREEMENT shall be in force and effect upon and after its execution by both PARTIES, and shall have permanent duration.

13. NON-DISCRIMINATION. The PARTIES shall not, in the performance of THIS AGREEMENT, discriminate or permit discrimination by any contractors in violation of federal or state laws or local ordinances because of race, disability, color, sex, age, political or religious opinions, affiliations or national origin.

14. ENTIRE AGREEMENT. THIS AGREEMENT contains the entire agreement between the PARTIES, and each of the PARTIES hereto agrees that neither the other PARTY, nor any of the officers, agents, employees or contractors of the other PARTY, have made any representations or promises with respect to the PROJECT not expressly contained herein.

15. TIME. Time is of the essence of THIS AGREEMENT.

16. DEFAULT. If either of the PARTIES shall default hereunder, the other PARTY shall be entitled to enforce specific performance of THIS AGREEMENT or may have any other remedy allowed by law or equity.

17. NOTICES. All notices herein required shall be in writing and shall be served on the PARTIES at their principal offices, or at such other address as either PARTY may hereafter designate to the other PARTY in writing for service of notice to itself. The mailing of a notice by certified or registered mail, return receipt requested, or delivery thereof by messenger, shall be sufficient service hereunder.

18. BINDING EFFECT. The provisions of THIS AGREEMENT shall inure to the benefit of, and shall be binding upon, the successors and assigns of the respective PARTIES.

19. APPLICABLE LAW. Each of the PARTIES to THIS AGREEMENT shall follow all applicable federal and state statutes and regulations in carrying out the faithful performance and terms of THIS AGREEMENT.

20. SEVERABILITY. In the event any portion of THIS AGREEMENT is held invalid or unenforceable for any reason, it is agreed that any such invalidity or unenforceability shall not affect the remainder of THIS AGREEMENT, the remaining provisions shall remain in full force and effect, and any court of competent jurisdiction may so modify any objectionable provision of THIS AGREEMENT so as to render it valid, reasonable and enforceable.

21. CAPTIONS. Captions used in THIS AGREEMENT are for convenience and not for use in the construction of THIS AGREEMENT.

IN WITNESS WHEREOF, the PARTIES have executed THIS AGREEMENT, on the respective dates hereinafter indicated, pursuant to authorizing resolutions duly adopted at regularly-called meetings of their governing bodies.

The DISTRICT executed THIS AGREEMENT on _____, 20 ____.

**SANITARY AND IMPROVEMENT DISTRICT NO. 564
OF DOUGLAS COUNTY, NEBRASKA,**

By _____
_____, CHAIRMAN

Attest:

DISTRICT CLERK

The NRD executed THIS AGREEMENT on _____, 20 ____.

**PAPIO-MISSOURI RIVER NATURAL RESOURCES
DISTRICT**

By _____
JOHN WINKLER, General Manager

EXHIBIT A
MAINTENANCE, OPERATION AND
MANAGEMENT REQUIREMENTS

EXHIBIT "A"

BMP Maintenance Requirements

Grove Ridge 192nd and Leavenworth Street; Omaha, NE

I. General BMP Information

BMP ID Name	BMP Location
BMP #1: Wet Pond <u>Papillion Creek Watershed Structure D15-B</u>	41d 15' 17.65"N, 96d 12' 41.27"W

II. Routine Maintenance Tasks and Schedule ~~for typical BMPs~~

Wet Pond Basin <u>D15-B</u> Maintenance Tasks and Schedule	
Task	Schedule
Remove debris from side slopes and trash rack	Monthly
Check and clear orifice of any obstructions	Monthly
Inlet inspection and cleanout	Monthly
Check and repair any eroded	Monthly
Basin inspection and cleanout	Annually remove sediment every 10 years or when the sediment level
Repair broken pipes	As needed
Replace filtration riprap that has been choked with sediment	As needed
Remove sediment	As needed, <u>remove sediment every 19 years or when the sediment level reaches elevation 1193.61</u>
<u>Dredge and Rodent</u> Pest Control	As needed
Security	As needed

- III. The ~~Property Owner~~ District shall perform maintenance and inspection in accordance with the above table. A written report of all maintenance and inspections shall be prepared annually and kept on file by the ~~Owner~~ District for a period covering the last 3 years at all times. The first report shall be prepared within one year of receiving ~~the~~ a Certificate of Occupancy. Upon request of the City or NRD, the ~~Owner~~ District shall provide copies of the annual maintenance inspection reports within three (3) business days.

INTERLOCAL COOPERATION ACT AGREEMENT
Between
SANITARY AND IMPROVEMENT DISTRICT NO. 564
OF DOUGLAS COUNTY, NEBRASKA
And
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT
For
PAPIO WATERSHED STRUCTURE D15-B

THIS AGREEMENT (hereinafter "**THIS AGREEMENT**") is made by and between the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** (the "**NRD**") and **SANITARY AND IMPROVEMENT DISTRICT NO. 564 OF DOUGLAS COUNTY, NEBRASKA** (the "**DISTRICT**"), pursuant to the authority provided in the Nebraska Interlocal Cooperation Act (§§13-801, R.R.S., 1997, et seq.)

WHEREAS, the aforesaid parties to THIS AGREEMENT (the "**PARTIES**", each being a "**PARTY**") desire to undertake a project to provide for the maintenance, operation and management of Papio Watershed Structure D15-B flood pool (the "**PROJECT**"); and ,

WHEREAS, the NRD desires the DISTRICT to establish policies and programs relating to the maintenance, operation and management of the PROJECT that are acceptable to the NRD; and,

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants of the PARTIES hereinafter expressed, the PARTIES hereby agree as follows:

1. PROJECT BENEFITS. The PARTIES do hereby find and determine that the PROJECT will be of predominantly general benefit to the DISTRICT.

2. PROJECT PARTICIPANTS. The PROJECT shall be undertaken without any separate entity being created, and the duties and responsibilities of the PARTIES with respect to the PROJECT shall be as defined by THIS AGREEMENT.

3. THE PROJECT. The PROJECT shall be maintained, operated and managed by the DISTRICT under the supervision and control of the NRD in accordance with the terms and conditions of THIS AGREEMENT.

4. MAINTENANCE, OPERATION AND MANAGEMENT OF THE PROJECT. The DISTRICT has prepared, and the NRD has reviewed and accepted the "Maintenance, Operation and Management Requirements" which are attached hereto as Exhibit "A" and which are incorporated herein by this reference. Such Maintenance, Operation and Management Requirements shall describe the specific maintenance practices to be performed for the PROJECT and include a schedule for implementation of these practices. A written record of inspection results and any maintenance work shall be maintained by the DISTRICT and shall be available for review by the NRD.

5. PROJECT COSTS. The DISTRICT shall, at its sole expense, dredge, repair and perpetually operate and maintain the PROJECT in accordance with the Maintenance, Operation and Management Requirements.

6. INSPECTION RIGHTS. The DISTRICT hereby grants permission to the NRD, its authorized agents and employees, upon reasonable notice and at reasonable times, to enter upon the PROJECT, for inspections to ensure that the PROJECT is being maintained, operated and managed in accordance with THIS Agreement; provided, however, any such access by the NRD onto the PROJECT shall be limited to paved areas and any pervious areas around the PROJECT to the extent reasonably necessary to inspect the PROJECT.

7. CORRECTIVE ACTION. In the event an inspection reveals that the PROJECT has not been maintained, operated or managed in accordance with THIS AGREEMENT and corrective action is needed, the NRD shall provide the DISTRICT with written notice specifying what corrective action is reasonably required. If the DISTRICT has not completed the corrective actions within thirty (30) days of receipt of such notice, the NRD may perform the necessary corrective work. In the event of an emergency as determined by the NRD or its designee in its sole discretion, the NRD or

its designee is authorized to enter the PROJECT to make all repairs, and to perform all maintenance, construction and reconstruction as the NRD reasonably deems necessary. The NRD shall be entitled to recover from the DISTRICT the reasonable costs the NRD reasonably expends to maintain or repair the PROJECT or to correct operational deficiencies in accordance with THIS AGREEMENT or applicable law. Failure to pay the NRD all of its reasonably expended costs, after forty-five days written notice, shall constitute a breach of THIS AGREEMENT. The NRD shall thereafter be entitled to bring an action against the DISTRICT to recover such costs,-including interest and attorney fees.

8. NO OBLIGATION OF NRD. The DISTRICT shall not obligate the NRD to maintain, operate, manage or repair the PROJECT, and the NRD shall not be liable to any person for the condition or operation of the PROJECT.

9. INDEMNIFICATION. The DISTRICT hereby indemnifies and holds harmless the NRD and its authorized agents and employees for any and all damages, accidents, casualties, occurrences or claims that may arise or be asserted against the NRD from the construction, presence, existence or maintenance of the PROJECT by the DISTRICT, unless such damages, accidents, casualties, occurrences or claims are caused by the negligence, gross negligence or willful misconduct of the NRD or its authorized agents or employees. In the event such a claim is asserted against the NRD, its authorized agents or employees, the NRD shall promptly notify the DISTRICT and the DISTRICT shall have the right to defend and settle, at its own expense, any suit based on such claim. If a final judgment is entered against the NRD for such a claim, the DISTRICT shall pay such judgment unless such judgment is based on the negligence, gross negligence or willful misconduct of the NRD or its agents or employees.

10. PERMITS. All necessary local, state and federal permits, which are determined to be necessary for the PROJECT, or for the permanent operation, maintenance, repair, replacement, management and regulation of the PROJECT, shall be obtained at the sole cost and expense of the DISTRICT, which shall hold the same.

11. OPERATION AND MAINTENANCE OF THE PROJECT. The DISTRICT, at its sole cost and expense, shall permanently operate, maintain, repair, replace, manage and regulate the features of the PROJECT in such manner and at such time(s) as the NRD determines reasonably necessary, and in accordance with applicable and generally-accepted engineering practices, all applicable federal, state and local laws, statutes, ordinances, rules and regulations, and THIS AGREEMENT.

The NRD, at its sole cost and expense, shall permanently operate, maintain, repair, replace, manage and regulate features of the Papio Watershed Structure D15-B dam, drainage system, emergency spillway, and observation well.

12. EFFECTIVE DATE AND TERM. THIS AGREEMENT shall be in force and effect upon and after its execution by both PARTIES, and shall have permanent duration.

13. NON-DISCRIMINATION. The PARTIES shall not, in the performance of THIS AGREEMENT, discriminate or permit discrimination by any contractors in violation of federal or state laws or local ordinances because of race, disability, color, sex, age, political or religious opinions, affiliations or national origin.

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NO. 564 OF DOUGLAS COUNTY, NEBRASKA,**

By _____
_____, CHAIRMAN

Attest:

DISTRICT CLERK

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**PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT**

By _____
JOHN WINKLER, General Manager

EXHIBIT A
MAINTENANCE, OPERATION AND
MANAGEMENT REQUIREMENTS

EXHIBIT “A”

BMP Maintenance Requirements

Grove Ridge 192nd and Leavenworth Street; Omaha, NE

I. General BMP Information

BMP ID Name	BMP Location
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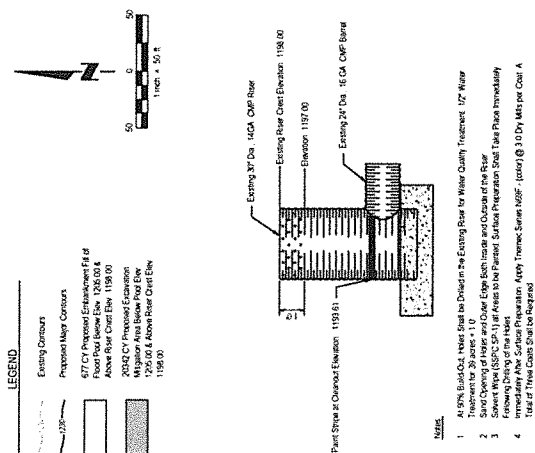
II. Routine Maintenance Tasks and Schedule for typical BMPs

Wet Pond Maintenance Tasks and Schedule	
Task	Schedule
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Check and repair any eroded areas	Monthly
Basin inspection and cleanout	Annually – remove sediment every 19 years or when the sediment level reaches elevation 1193.61
Repair broken pipes	As needed
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DOUGLAS COUNTY, NEBRASKA

120 Main Street, Suite 100
 Portland, ME 04101
 Phone: 402.895.4790 Fax: 402.895.2509
 www.rockwell.com



MODIFIED RISER FOR PCSMP
NOT TO SCALE

NOT TO SCALE

Cut/Fill Summary

Name	Cut Factor	Fill Factor	2d Area	Cut	Fill	Net
New Bound Volume	1.000	1.000	75138.42 Sq. Ft.	20342 Cu. Yd.	677 Cu. Yd.	19665 Cu. Yd.<Cut>
Totals			75138.42 Sq. Ft.	20342 Cu. Yd.	677 Cu. Yd.	19665 Cu. Yd.<Cut>

SEDIMENT BASIN DATA TABLE

Run No	2 Year Drainage Area (Ac)	10 Year Storm Event Depth (in)	Wet Storage Provided (cu ft)	Dry Storage Provided (cu ft)	Trip Run Time (min)	Emergency Flow Cap Elevation (ft)	Wet Storage Elevation (ft)	Bottom of Riser Elevation (ft)	Flow Discharge Rate (cfs)	Number of Overlapping Rises	Riser Diameter (in)	Run Length (ft)	Event Elevation (ft)	Event Elevation (ft)
A	20.0	43.7	65.0	136.67	120.0	108.0	142.0	145.5	30.0	1	36	1000	145.5	145.5

