

EXHIBIT

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AGREEMENT FOR THE CONSTRUCTION OF A PORTION
OF THE POPLAR CREEK-DEER CREEK INTERCEPTOR SEWER

Agreement entered into by and between the CITY OF NEW BERLIN, a municipal corporation organized and existing under the laws of the State of Wisconsin with principal offices at 16300 West National Avenue, New Berlin, Wisconsin, hereinafter referred to as "NEW BERLIN", and the TOWN OF BROOKFIELD, a body corporate organized and existing under the laws of the State of Wisconsin with principal offices at 655 North Janacek Road, Waukesha, Wisconsin, hereinafter referred to as "TOWN";

W I T N E S S E T H:

WHEREAS, the City of Brookfield, New Berlin and the Town entered into an agreement dated April 26, 1976, hereinafter referred to as "THE AGREEMENT" for the construction and operation of a sanitary sewer interceptor in the Poplar Creek-Deer Creek Drainage Basin, and

WHEREAS, THE AGREEMENT provides that said sewer interceptor shall be constructed in three phases, designated as Phases 1, 2 and 3, and

WHEREAS, Phases 1 and 2 have been constructed and are in operation in accordance with the terms of THE AGREEMENT, and

WHEREAS, the Town is in need of a portion of the sewer to be constructed as a part of Phase 3 described in Exhibit "B" attached to THE AGREEMENT as Segments 3-4 and 4-5 and as described in Exhibit "A" hereto attached, in order to provide sewer service to present and proposed development in the Town, and

WHEREAS, the City of Brookfield and the Town have agreed to amendments and modifications of THE AGREEMENT to permit the Town to construct that portion of the sewer interceptor required by the Town in accordance with the terms and provisions of an agreement between the City of Brookfield and the Town executed by the City of Brookfield on November 25, 1985, and

WHEREAS, New Berlin did not agree to the proposed agreement approved by the City of Brookfield and has agreed to amendments and modifications of THE AGREEMENT as hereinafter set forth.

NOW, THEREFORE, in consideration of the payment of One Dollar (\$1.00) and other good and valuable consideration to each in hand paid by the other, receipt of which is hereby acknowledged, and in consideration of the covenants herein contained, the parties contract and agree as follows:

1. New Berlin agrees that the Town may install that portion of the sewer interceptor described in Exhibit "B" attached to THE AGREEMENT as Segments 3-4 and 4-5 and as described in Exhibit "A" hereto attached.

- A. Ruckert & Mielke, Inc., engineers employed by the Town shall prepare and complete all plans and specifications for such extension of the sewer herein described; that such plans and specifications have been prepared by Ruckert & Mielke, Inc. and copies thereof have been presented to New Berlin, which plans and specifications are approved. Any bids which the Town decides to accept shall be approved by New Berlin before acceptance by the Town.

- B. The Town shall obtain all necessary approvals and permits from all governmental agencies involved in the approval of plans and specifications and issuing of permits for such work.

C. Those provisions of THE AGREEMENT relating to a joint sewerage commission and their powers and duties shall not apply to the work described in this agreement and such commission shall not be involved.

2. The Town shall pay the total cost for the construction of that portion of the Poplar Creek sewer interceptor as herein described. Payment shall be made by the City of Brookfield to the Town as provided in the agreement between the Town and the City of Brookfield executed by the City of Brookfield on November 25, 1985 and by New Berlin as hereinafter provided.

3. New Berlin shall not be required at any time to hook up to the sewer interceptor. If New Berlin does not hook up to the sewer interceptor, it will not have to pay anything to the Town for the construction of that portion of the sewer interceptor herein described.

4. When New Berlin wishes to hook up to the sewer interceptor, it shall notify the Town in writing at least ninety (90) days before it proposes to serve any area in New Berlin by such sewer interceptor. Such notice shall indicate a description of the area to be served and the type of development that is proposed to occur in such area.

5. At the time New Berlin chooses to connect to the sewer interceptor, a determination shall be made of the flow into said interceptor from the area in New Berlin to be immediately served by such sewer interceptor, and New Berlin shall pay to the Town, as reimbursement to the Town of costs and expenses for the construction of said sewer interceptor, an amount to be determined on the ratio of such design flow of the area in the City of New Berlin proposed to be then served as it relates to the design flow determined to ultimately be required by the City

of New Berlin within its service area. Payment of the amount required to be paid by New Berlin to the Town as hereinabove provided shall be paid, together with a proportionate share of the accrued interest as provided in this paragraph within ninety (90) days after the determination is made of the flow by New Berlin. The engineers of the Town and New Berlin shall determine the amount to be paid by New Berlin to the Town based on the best engineering and related data available. When any additional area or areas of New Berlin are to be served by said sanitary sewer interceptor, a determination shall be made by the engineers employed by the Town and New Berlin as to the amount of additional flow from New Berlin into said interceptor from such additional area or areas to be served, and New Berlin shall pay to the Town to apply towards its costs of the construction of that portion of the sewer interceptor herein described, an amount to be determined on the ratio of such additional design flow of the area in the City of New Berlin proposed to be then served as it relates to the design flow determined to ultimately be required by the City of New Berlin within its service area. Payment for such additional flow shall be made in the same manner as payment is to be made by New Berlin to the Town for the initial connection and flow into the interceptor sewer as herein provided. When the City of New Berlin chooses to hook up, the Town of Brookfield and City agree to enter into a contract for such construction containing the same terms and conditions for construction and payment as contained herein.

6. It is further agreed that a meter shall be installed by New Berlin when the first connection is made to the interceptor to meter the flow from New Berlin into such interceptor. The total cost of said meter and the maintenance thereof shall be paid by New Berlin.

7. It is further understood that the payments to be made as herein provided by New Berlin to the Town shall apply only to the cost of the installation of that portion of the sewer interceptor by the Town and shall not apply to cost to be paid by New Berlin to the City of Brookfield under THE AGREEMENT dated April 26, 1976, or which may be due to the City of Brookfield for the treatment of said sewage in the sewage treatment plant operated by the City of Brookfield.

8. Such payment due to the Town shall include interest from October 1, 1985, which interest shall be calculated at the rate of 8.93% per annum, which is the amount of interest required to be paid by the Town on a loan made to the Town to pay the costs of such sewer. The interest rate herein provided to be paid by New Berlin shall be in effect only so long as the Town is obligated to pay such interest rate on the money borrowed to construct the sewer. In the event such loan is paid up by the Town before New Berlin is obligated to pay its share of the costs of such sewer as provided in this agreement, no further interest shall be charged to New Berlin from the date that such loan is paid by the Town. The principal and interest herein provided shall accrue to the date that New Berlin is required to pay for its share of the construction of said sewer as herein provided and no payment will be required from New Berlin to the Town prior to that date.

9. In the event that the Town refinances said loan at a different interest rate, such different interest rate shall be used to calculate the interest to be paid by New Berlin, which

shall be in effect from the date that the new interest rate goes into effect.

10. It is understood and agreed that "total costs" to be shared by New Berlin and the Town pursuant to this agreement and by New Berlin, the Town and the City of Brookfield in accordance with THE AGREEMENT dated April 26, 1976, shall be determined and include all items described in Paragraph 1 of THE AGREEMENT.

11. It is understood and agreed that except as herein modified or changed, all of the terms and provisions of THE AGREEMENT between the parties shall remain in full force and effect.

Dated as to City of New Berlin this 28TH day of JANUARY, 1986.

CITY OF NEW BERLIN

By Timothy K. Tully
Timothy K. Tully, Mayor

Attest Florence Greve
Florence Greve, Clerk

Dated as to Town of Brookfield this 4th day of February, 1986.

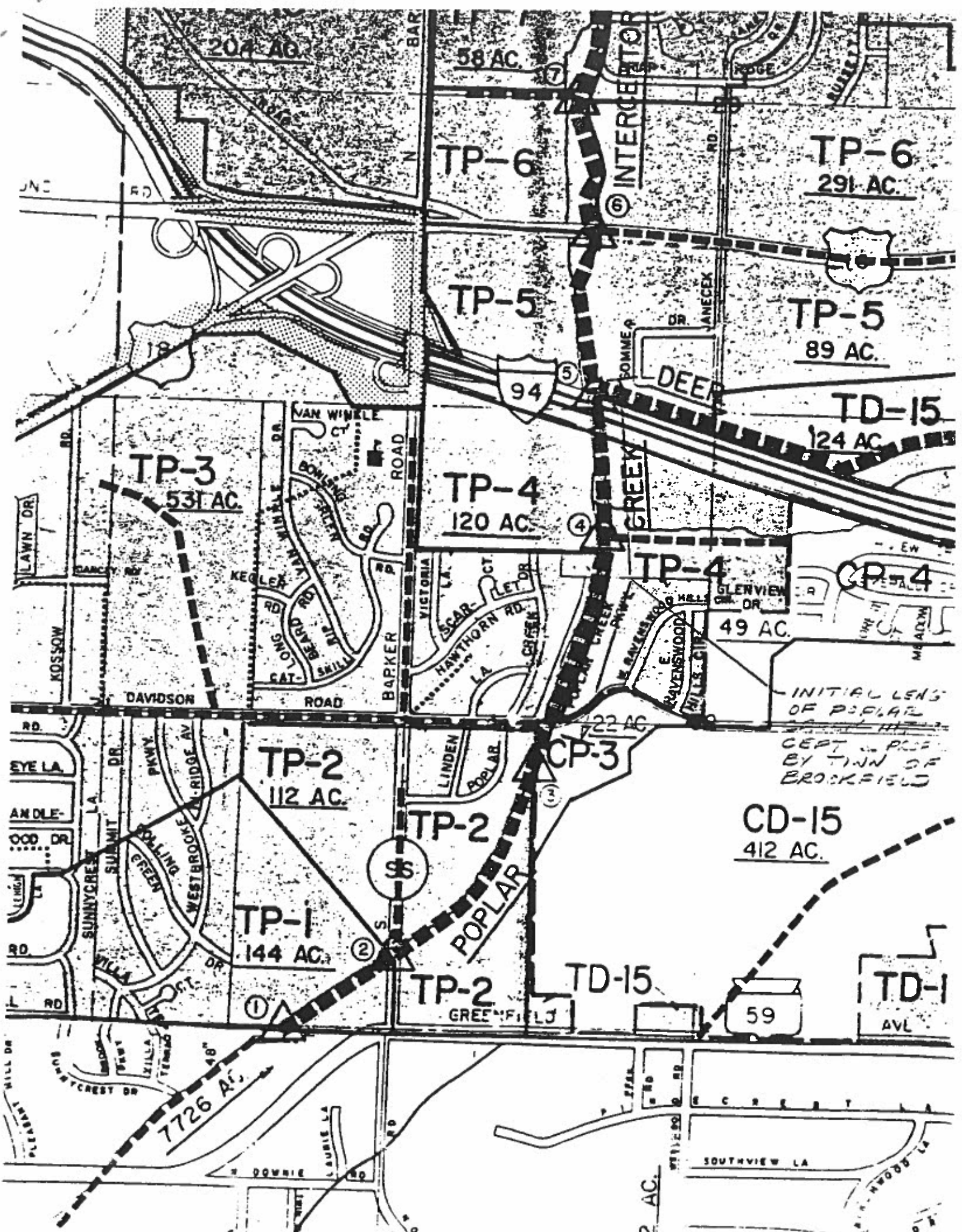
TOWN OF BROOKFIELD

By Robert J. Wargowski
Robert J. Wargowski, Chairman

Russell Frisby
Russell Frisby, Supervisor

George R. Hunt
George R. Hunt, Supervisor

Attest Claudine E. Setzke
Claudine E. Setzke, Clerk



204 AC

58 AC

TP-6

TP-6
291 AC

TP-5

TP-5
89 AC

TD-15
124 AC

TP-3
531 AC

TP-4
120 AC

TP-4

49 AC

INITIAL LENS
OF POPLAR
CEPT. BY TOWN OF
BROCKFIELD

TP-2
112 AC

TP-2

CP-3

CD-15
412 AC

TP-1
144 AC

TP-2

TD-15

TD-1
AVL

7726 AC

2 AC

SOUTHVIEW LA

INTERCEPTOR

DEER CREEK

POPLAR

SOMMEA DR

JANECEK RD

DEER

GREENFIELD

AVL

VAN WINKLE DR
BOWLING GREEN CT
KEGEL RD
LONG RD
SKILL RD
BARKER ROAD

VICTORIA L.A.
SCARLET CT
HAWTHORN RD
LA CREEK

E. RAVENSWOOD HILL
RAVENSWOOD
MILLS CITY

EYELA
ANDLEOOD DR
SUNNYCREST L.A.
SUMMIT DR
ROLLING GREEN
WESTBROOK
RIDGE AV

LAURIE LA
DOWNIE

SECRET LA
SOUTHVIEW LA
WOOD LA

