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CLERK'S

SEWERAGE SERVICE AGREEMENT

BETWEEN

TOWN OF VIENNA AND FAIRFAX COUNTY

VIRGINIA

THIS AGREEMENT, made this 16th day of December, 1963,

by and between the TOWN OF VIENNA, in the County of Fairfax, Virginia, a body politic and corporate, hereinafter called "the TOWN," and the BOARD OF COUNTY SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, also a body politic and corporate, hereinafter called "the COUNTY."

WITNESSETH:

WHEREAS, the Town plans to construct, own, operate and maintain trunk sewers to serve that portion of the Town area situated within the Wolftrap Creek and Piney Branch sub-basins of the Difficult Run stream basin, and

WHEREAS, a trunk sewer will extend from the corporate limit of the Town at Piney Branch, generally down and along Piney Branch to its junction with Difficult Run, thence from said junction down and generally along Difficult Run to the Potomac Interceptor at its upper terminus in the vicinity of State Highway Route 7 at Difficult Run, and

WHEREAS, a trunk sewer will also extend from the corporate limit of the Town at Wolftrap Creek, generally down and along Wolftrap Creek to its junction with the Difficult Run portion of the above trunk sewer, and

WHEREAS, the above described trunk sewers will be situated in unincorporated areas of the County, and

WHEREAS, the County wishes to connect to the aforesaid trunk sewers, the sanitary sewerage systems which the County may now or at any time hereafter

install within the Piney Branch, Wolftrap Creek and Difficult Run stream basins,

NOW, THEREFORE, in consideration of the premises, and of the mutual benefits to be derived therefrom, and of the respective undertakings, promises, and covenants of the parties hereto as hereinafter contained, the Town hereby agrees to commence the construction of each of the above-described trunk sewers not later than March 1, 1964, and to complete their construction on or before July 1, 1965; also, to permit the connection of sewers serving the area of the County within the Piney Branch, Wolftrap Creek and Difficult Run stream basins with the trunk sewers of the Town at locations described in Section 3 hereof and to convey, pump and treat by reason of the Town's arrangements with the District of Columbia, all sewage discharged to the Town trunk sewers hereinbefore described through each of the connections therewith of the County sewers under the following terms and conditions:

Section 1. All customers residing in the County will be served by the County through laterals constructed or owned by the County except as otherwise provided in this section. All customers served by the Town, as of the date of this contract, and any other customers as may be mutually agreed to by the County and the Town, will be served by the Town. Except as otherwise provided herein, no connection from a County lateral shall be made to the Town sewerage system without express written permission of the Town and upon rates and conditions to be agreed upon prior to such connection. No other direct connection of a sewer of the Town or County to the trunk sewers described shall be made except upon the basis of prior agreement between the parties hereto and/or as set forth in Section 4.

Section 2. The Town will incorporate at connection points hereinafter specifically designated in Section 5, suitable means for measuring any flow of sewage from the County or from the Town and the County as the case may be.

Section 3. The trunk sewers in Wolftrap Creek, Piney Branch and Difficult Run shall be designed to provide for the following capacities and neither the Town nor the County shall discharge sewage thereto at rates of flow in excess of those herein indicated:

<u>Approximate Location of Connection Points*</u>	<u>Maximum Rate (MGD**)</u>		<u>TOTAL CAPACITY (MGD)</u>
	<u>Town</u>	<u>County</u>	
<u>Wolftrap Creek</u>			
Sta. 235+0 to 185+0	3.60	4.24	7.84
185+0 to 153+0	3.60	4.50	8.10
153+0 to 132+0	3.60	4.70	8.30
132+0 to 99+0	3.60	6.60	10.20
99+0 to 74+0	3.60	6.94	10.54
74+0 to 0+0	3.60	7.40	11.00
<u>Piney Branch</u>			
Sta. 115+0 to 110+0	6.45	0	6.45
110+0 to 90+0	6.45	0.70	7.15
90+0 to 75+0	6.45	1.16	7.16
75+0 to 0+0	6.45	3.07	9.52
<u>Difficult Run</u>			
Sta. 162+0 to 160+0	6.45	21.60	28.05
160+0 to 112+0	6.45	21.80	28.25
112+0 to 103+0	6.45	21.90	28.35
103+0 to 25+0	6.45	22.40	28.85
25+0 to 15+0	8.50	26.40	34.90

* As designated on plan titled "Vienna-Fairfax County Joint Sewer, Project A," dated April 1963, attached hereto.

** MGD denotes "Million Gallons Daily".

The Town will receive and accept for conveyance, treatment and disposal in the trunk sewers hereinbefore described and in the Potomac Interceptor and other

conveyance and treatment facilities of the District of Columbia, pursuant to its agreement with the District of Columbia, rates of sewage flow from the County, not exceeding those above indicated nor shall the rates of sewage flow from the Town exceed those above indicated for the Town.

Section 4. The approximate location of connection points shown in Section 3 shall not preclude the County from connecting to the sewer at any point between the stations noted so long as the County's total sewage flow contribution to the section of the sewer between the designated stations shall not exceed the maximum rate for the County as hereinabove fixed for that section and provided that the County will reimburse the Town for the actual costs of all connections made after the sewers constructed under this contract are initially complete.

Section 5. (a) Suitable means for measuring flow of sewage from the County or from the Town and County shall be installed by the Town at the following connection points:

<u>Meter No.</u>	<u>Connection Point</u>	<u>Flow Measured</u>	<u>Installed by</u>
1	Vienna Corporate Line at Piney Branch	Vienna Flow (in Piney Branch)	Town
2	Eliminated		
3	Eliminated		
4	Vienna Corporate Line at Wolftrap Creek	Vienna Flow in Wolftrap Creek	Town
5	Difficult Run at Junction with Potomac Inter- ceptor near Route 7	Vienna and Fairfax County Flow	Town

(b) The size and type of the meter and exact location thereof shall, in each instance, be determined by agreement of representatives of the parties hereto. The entire cost of each meter installation shall be part of "Total Cost".

(c) The County may at any time and at no direct cost to the Town examine or test for accuracy any of the above sewage meters of the Town whose purpose it

is to record the flow of sewage to the Town's trunk sewers and to the Potomac Interceptor System of the District of Columbia.

Section 6. The Town and County shall each prevent, insofar as possible, the passage from its respective sewerage systems into the trunk sewers under consideration any drainage or wastes which are detrimental to these trunk sewers.

Section 7. The County shall comply with all rules and regulations adopted by the Town or imposed on the Town by the District of Columbia with respect to character of the wastes discharged to the Town System and with respect to the use of the Town and/or District of Columbia Potomac Interceptor System, except that it is understood that all rules and regulations which the Town shall make with respect to the use of the system by the County, whether in this Agreement or hereafter, shall be applicable equally to the Town.

Section 8. The sewage flow meters at the connection points of the County and Town system shall be operated and maintained by the Town. Both parties may participate from time to time in joint readings of the sewage meters and in joint inspection of such meters. The Town shall provide necessary access to County personnel for such purposes.

Section 9. In case a sewage flow meter fails to function from any cause, the sewage flow for the period of such failure shall be considered as equal to the flow as determined during the most recent corresponding period during which the meter was in satisfactory operation, and if there is no such corresponding period the flow shall be determined or estimated in such manner as shall be agreeable to the representatives of the parties hereto.

Section 10. Payments by the County to the Town for services herein contemplated shall consist of three parts as follows:

(1) Payment No. 1 (Capacity Payment). Fixed payment for permanent built-in capacity for the County based on capacities set forth in Section 3 above is determined to be 63.19% of the total cost of the project. The amount of this payment is estimated to be \$934,010.00 with the exact amount to be determined at the completion of construction. For construction purposes this payment shall be divided as follows:

(a) The County's estimated share of the cost of the Piney Branch - Difficult Run portion of the contract is 63.82%, or \$627,584.00. Within thirty days after notification by the Town that a construction contract for Piney Branch and Difficult Run sewers has been entered into, the County will make a payment to the Town of \$313,792.00 on account of this fixed payment. The balance to be paid by the County within thirty days after notification by the Town that it is ready to receive County sewage through this portion.

(b) The County's estimated share of the cost of the Wolftrap Creek portion of the contract is 62.01%, or \$306,426.00. Within thirty days after notification by the Town that a construction contract for Wolftrap Creek's sewer has been entered into, the County will make a payment to the Town of \$153,213.00. The balance of the total cost of the entire project will be paid by the County within thirty days after notification by the Town that the total project is completed.

(2) Payment No. 2 (Trunk Sewer Operation & Maintenance Payment). Quarterly payments shall be made by the County to the Town for the period of this Agreement to cover the County's share of the actual costs to the Town of operating and maintaining the Piney Branch and Wolftrap Creek trunk sewers from Town Line to junction with the Difficult Run trunk sewer, and the Difficult Run trunk sewer from the mouth of Piney Branch to its junction with the Potomac Interceptor. Such payment

shall be determined as follows:

(a) The quarterly cost of operation, repair and maintenance of these Town facilities which will handle sewage from the County shall be determined from the records of actual costs of operation and maintenance which are kept by the Town with respect to these facilities. To the total of these costs shall be added four percent (4%) thereof as overhead.

(b) The County payment shall be an amount equal to such share of the total operation, repair, maintenance and overhead costs of the Town facilities which handle sewage from the County as the share of the County design capacity therein is of the total design capacity provided. For purposes of this Agreement and as hereinbefore noted, the overall County share of the design capacity is 63.19% which percentage shall also be the County share of the total operation, repair, maintenance and overhead costs. Payment No. 2 shall be made quarterly by the County within 30 days of billing therefor by the Town.

(3) Payment No. 3 (District of Columbia charges for Conveyance and Disposal in D. C. System). By the terms of an agreement between the Commissioners of the District of Columbia and the Town all of the elements of cost for providing conveyance, treatment and disposal service in the District of Columbia system for sewage emanating from the Town trunk sewer connected to the Potomac Interceptor will be reflected in a single charge or service rate which, when multiplied by the total volume of sewage, expressed in million gallons, delivered to the Potomac Interceptor from the Town trunk sewer will constitute the total cost to the Town for sewerage service provided by the District of Columbia for the period during which such sewage flows were discharged. The County and Town shares of the District of Columbia charges shall be prorated to each of the parties in

proportion to the respective total volume of sewage from each jurisdiction delivered to the Potomac Interceptor via the Difficult Run trunk sewer.

Total volume of sewage for a given period from each jurisdiction shall be determined as follows:

(a) TOWN VOLUME. The sum of the following:

(1) Sewage flow for the period as recorded on Meter No. 1 (See Figure A.); plus (2) sewage flow for the period as recorded on Meter No. 4; plus (3) allocated portion of infiltration in Piney Branch, Wolftrap Creek and Difficult Run (below Piney Branch) trunk sewers which, for purposes of this Agreement, is to be determined in the following manner:

Determination of infiltration. Upon completion of construction, tests approved by the Town and County will be made to determine the exact infiltration above Meter No. 5 on the three trunk sewers under consideration in this Agreement. The amount of infiltration thus determined shall be known as the "test infiltration amount." 36.81% of the "test infiltration amount" will be the Town's portion of the infiltration which will be used in determining payment for a 5-year period after commencement of sewage delivery to the District of Columbia system. To reflect natural deterioration and resulting increase in infiltration, the "test infiltration amount" shall be periodically adjusted as follows:

(1) For the next 5-year period the "test infiltration amount" shall be increased by 10% or shall be the value computed at the rate of 200 gallons per inch diameter per mile per day (5000 gallons per mile per day being the maximum), whichever is greater, and the Town's share shall be 36.81% of such adjusted value.

(2) Thereafter, and at 5-year intervals, infiltration shall be increased

by an amount of 10% of the preceding 5-year period until total infiltration is twice the adjusted value at commencement of the second 5-year period, and the Town's share in each case shall be 36.81% of such adjusted values.

(b) COUNTY VOLUME

Sewage flow for the period as recorded on Meter No. 5 minus Town Volume as above determined. Payment No. 3 shall be made by or before the 30th day next succeeding each bill rendition date which shall be at three-month intervals.

Section 11. (a) In view of County's substantial interest in the trunk sewers herein under consideration, the County reserves the right to inspect the trunk sewers and appurtenances from time to time to determine that maintenance and operation thereof provided by the Town is efficient and economical, and the Town shall afford access to the sewers and appurtenances and otherwise cooperate with the County for this purpose. County shall bring to attention of Town, in writing, pertinent facts disclosed by such examinations together with recommendations, if necessary. After a reasonable period should needed maintenance not be performed or be inadequately performed County reserves the right to proceed with required maintenance work including repairs or replacements and shall apportion all costs in connection therewith to the Town and County as set forth under Payment No. 1 (Capacity Payment) in Section 10 hereof.

(b) Town will submit the plans and specifications and other engineering data with reference to the design and construction of the trunk sewers hereunder for review and approval by the authorized agent of the County. Failure to approve or disapprove within thirty days shall constitute approval.

(c) Public liability and property damages insurance shall be carried by the Town with a responsible insurance company or companies authorized and

qualified to do business in the Commonwealth of Virginia and to furnish to the County a certificate stating the amount and kind of such insurance in effect for the ensuing year. For purposes of this Agreement the cost of said insurance shall be considered part of the total operating costs.

(d) In event of major repairs, reconstruction or relocation of the trunk sewers and appurtenances herein or any part thereof, allocation of actual total costs in connection therewith shall be made to the parties in accordance with provisions of Payment No. 1 (Capacity Payment) in Section 10.

Section 12. The County expressly covenants and agrees that if it fails to pay to the Town the amount of any bill within the time hereinbefore specified, and such failure continues for a period of time determined by the Council of the Town of Vienna, in its discretion to be unreasonable, it, the said County, will disconnect its sewerage system or systems from the sewerage system of the Town and will cease to discharge any sewage into the Town's system promptly upon notice from the said Council so to do.

It is expressly covenanted and agreed by and between the parties hereto that erroneous billings may be corrected at any time and that any rights secured to each party to be paid any sums of money pursuant to the terms of this Agreement shall not be barred by any statute of limitations or by any other bar.

All accounts and other records maintained by either party hereto under or in connection with this Agreement shall be open for inspection by the other party or its authorized representative at any time during regular business hours.

Section 13. As used in this Agreement

(a) The word "facility" shall mean interceptor sewer, trunk sewer, metering station, pumping station, sewage treatment plant, any equipment used

or useful in connection with any of the foregoing, or any other construction, structure or personal property of any description through which sewage flows or passess or which is necessarily related to handling, pumping or treatment of sewage.

(b) The term "total cost" shall mean the construction cost of the trunk sewers, meter stations and appurtenances, the cost of borings, of professional services, land and right-of-way and of other work directly related to the design and construction of the facilities to be used jointly by the parties hereunder, including costs of pre-design surveys and preparation of easement plats incurred prior to the date of this Agreement.

Section 14. This Agreement may be amended or terminated at any time by mutual agreement of the parties hereto.

Section 15. This Agreement shall be effective as of the date first hereinabove written.

IN WITNESS WHEREOF, the Board of County Supervisors of Fairfax County, Virginia, has caused these presents to be executed by its Chairman and its corporate seal to be hereunto affixed and attested by its Clerk, and the Town Council of the Town of Vienna has caused these presents to be executed by its Mayor and its corporate seal to be hereunto affixed and attested by its Clerk, the day and year first hereinbefore written.

(SEAL)

Attest:

Edna H. Dickler
Clerk

BOARD OF COUNTY SUPERVISORS OF
FAIRFAX COUNTY, VIRGINIA

C. Clifton Lerch
Chairman

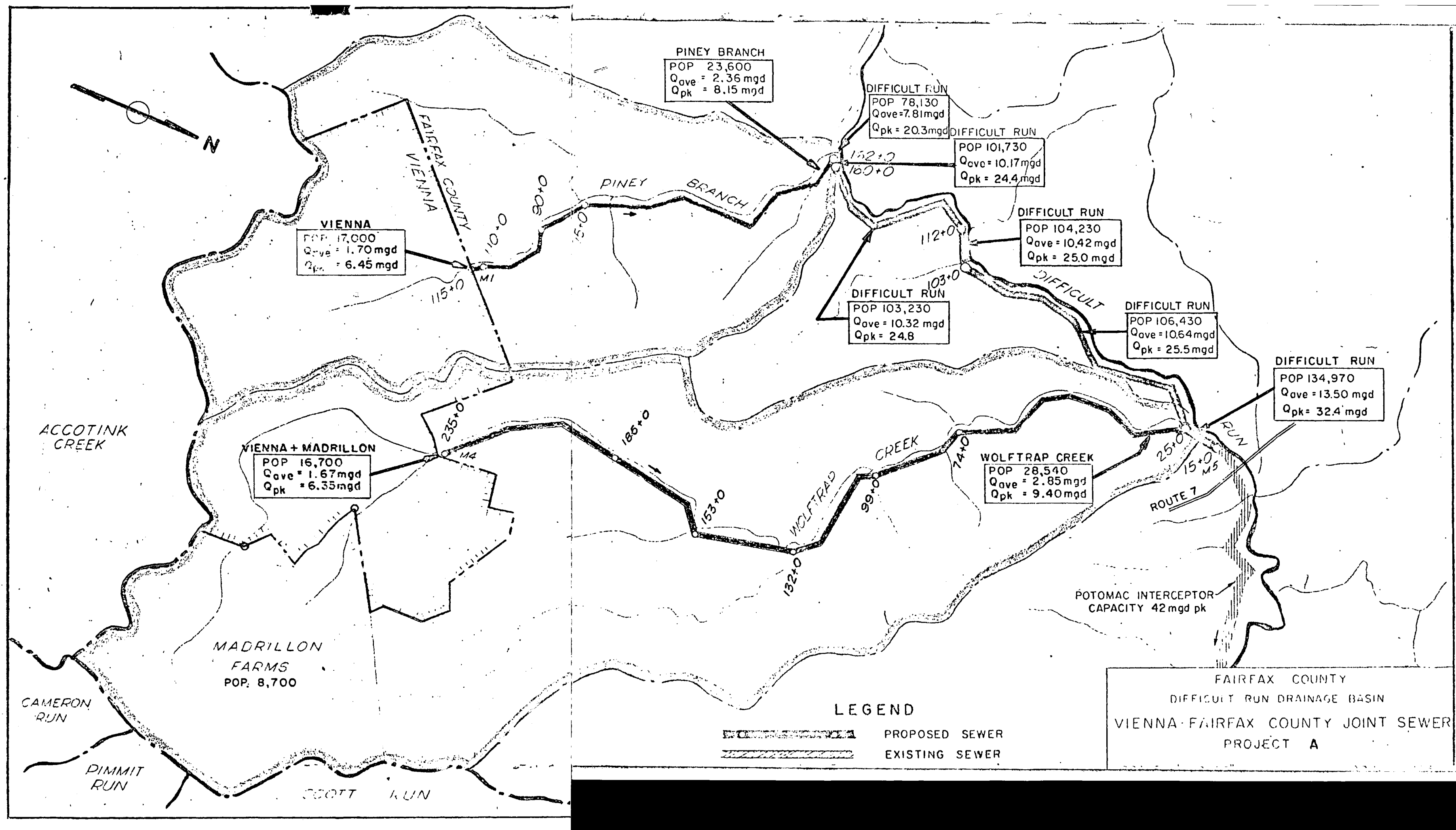
(SEAL)

Attest:

Jean L. Savin
Clerk

TOWN OF VIENNA, VIRGINIA

Ray M. Wilson
Mayor



On motion of Supervisor Farrish, seconded by Supervisor Bradley, and unanimously carried, the Board authorized award of a contract for the relocation of a sanitary sewer main at South Washington Street and Tripps Run in the City of Falls Church to Martin and Gass, Inc. in the amount of \$26,268, this being the lowest bid received, subject to concurrence by the City of Falls Church, Falls Church, Virginia, and the Virginia Department of Highways and subject to the total cost of this work being borne by the City of Falls Church and the Virginia Department of Highways. (Supervisor Babson left at 3:05 P.M.)

On motion of Supervisor Beerman, seconded by Supervisor Bradley, and carried by a vote of six, Supervisor Babson being out of the room when this action was taken, the Board adopted the following resolution relative to individual sewer connections being made to the Town of Vienna sewer mains located in Fairfax County and existing prior to December 16, 1963:

WHEREAS, Section 1 of agreement between the Town of Vienna and Fairfax County dated December 16, 1963, relative to sewer service in the Difficult Run, Piney Branch and Wolf Trap Creek watersheds provides in part as follows:

"Section 1. All customers residing in the County will be served by the County through laterals constructed or owned by the County except as otherwise provided in this section. All customers served by the Town as of this date, and any other customers as may be mutually agreed to by the County and the Town, will be served by the Town," and

WHEREAS, the Town of Vienna has certain collector sewers in the above-described areas outside the corporate limits of the Town which existed prior to December 16, 1963; and

WHEREAS, individual houses along these existing collector sewers from time to time desire to connect to the Town sewer; now, therefore, be it

RESOLVED, by the Board of County Supervisors of Fairfax County, Virginia, that where the Town has existing collector sewer mains to which individual properties in the County of Fairfax may be connected, it is hereby agreed that the County of Fairfax has no objection to the Town permitting such individual connections.

The time had now arrived for the public hearing to be held on the application of L. F. Jennings (No. A-760) to rezone certain land in Providence Magisterial District from RE-1 District to I-L District, being approximately 3.8479 acres located on the west side of Prosperity Avenue approximately 375 feet south of its intersection with Lee Highway. (Supervisor Babson returned at 3:10 P.M.)

Mr. Robert A. McGinnis, counsel for the applicant, filed with the Board the necessary notice showing that at least one adjacent and/or interested persons had been notified of the date and hour of the public hearing. He stated that he knew of no opposition to this application; that the client plans to construct a commercial building on this site, if the same is rezoned as requested; that sewer is not available now but it is proposed under the current land use program; serve property on Prosperity Avenue; that the