

WATER PLANT MANAGEMENT AGREEMENT

This License Agreement (this "Agreement") is made this 19 day of September, 2024, by and between **WELLS COLLEGE**, a non-profit corporation formed under the New York State Education Law, situated in the Village of Aurora, New York and having an address of 170 Main Street, Aurora, New York 13026 (the "Licensor") and the **VILLAGE OF AURORA**, a New York Municipal Corporation, situated in Cayuga County and having an address of 456 Main St, Aurora, New York 13026 (the "Licensee"). Licensor and Licensee may also be identified in this Agreement as "Party" or together as the "Parties."

RECITALS

WHEREAS, pursuant to New York State Education Law § 227(1), Licensor currently owns, maintains and operates a water tower, pumps, intake pipe, equipment, treatment plant,, and certain transmission and distribution infrastructure that provide the Parties with water, a map of which is attached as Exhibit A (the "Water Plant"); and

WHEREAS, the Water Plant serves the Wells College campus and approximately 400 year-round residents, consists of a water pumping station and a distribution system comprised of service lines and an above ground water storage tank, and is tied directly into a separate distribution system owned and operated by the Licensee; and

WHEREAS, the Water Plant and existing infrastructure is subject to operational regulation under (i) the Safe Drinking Water Act (the "SDWA"), (ii) New York Public Health Law (the "NYPHL"), (iii) the New York State Sanitary Code, and (iv) the Cayuga County Health Department Sanitary Code, as well as, federal and state law and oversight by the United States Environmental Protection Agency (the "EPA"), the New York State Department of Health (the "NYSDOH"), and the Cayuga County Health Department (the "CCHD"); and

WHEREAS, the Water Plant is identified on EPA's Safe Drinking Water Information System as Public Water System ID No. NY0512920 and is classified as a Community Water System; and

WHEREAS, Licensor has been issued a Water Withdrawal System Permit by the New York State Department of Environmental Conservation (the "NYSDEC"), expiring on November 26, 2027, which authorizes the Licensor to withdraw up to 320 gallons of water per minute from Cayuga Lake; (the Village would like to attach this Permit as an exhibit) and

WHEREAS, Licensor provides water to the Licensee pursuant to a certain Water Agreement, dated April 1, 1999; and

WHEREAS, Licensor is in the process of winding down its operations and will eventually cease to exist; and

WHEREAS, the Parties agree that the Water Plant should be operated by the Licensee while the Licensor is winding down its operations; and

WHEREAS, Licensor is the owner of certain real property located in the Village of Aurora, county of Cayuga, State of New York, identified as Tax Parcel Nos. 193.05-1-1 and 193.05-1-1.1 more commonly known as 151 and 139 Main Street (together, the "Licensor's Property"); and

WHEREAS, Licensee is expressly authorized by Village Law § 11-1104 to acquire the Water Plant by simple resolution or Eminent Domain Procedure Law; and

WHEREAS, at a future date, Licensor intends to transfer a portion of the Licensor's Property to Licensee pursuant to New York Education Law § 220 for the purposes of owning and operating the Water Plant, together with its after-acquired equipment, replacements, materials and improvements (the "Conveyance"); and

WHEREAS, until the Conveyance is finalized, Licensee desires to obtain a license to use a portion of the Licensor's Property and Licensor is willing to permit Licensee to use a portion of the Licensor's Property for the uses described in Section 2 of this Agreement and upon terms and conditions set forth in this Agreement; and

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Licensor and Licensee agree as follows:

1. **Grant of License.** Licensor hereby grants to Licensee, and each of its employees, representatives, invitees, and agents ("Permitted Persons") a license (the "License") to use a portion of the Licensor's Property for the permitted uses and on the terms and conditions set forth in this Agreement, for a term of one (1) year beginning on October 1, 2024 and ending on October 1, 2025 (the "Term") unless sooner terminated as provided herein.

2. **Use of the Licensor's Property**

(a) Licensee shall operate the Water Plant and transmission lines, at Licensee's sole expense, and in connection with the operation of the Water Plant and transmission lines, a portion of the Licensor's Property may be used by Licensee and any Permitted Persons for the maintenance of the Water Plant for the purpose of treating, processing, and distributing water to Licensor, Licensee and Licensee's residents and users. The portion of the Licensor's Property subject to this license is defined in the attached **Exhibit B.**

(b) Licensee and any Permitted Persons shall have reasonable rights of vehicular and pedestrian ingress and egress over and across the Licensor's Property to and from the public road and the Licensor's Property.

(c) Licensee shall comply with all local, state, and federal laws, rules, ordinances, operational requirements, regulations, permitting requirements, and orders, including, but not limited to, the SDWA, NYPHL, and New York State and Cayuga County Health Department Sanitary Codes in its use of the Licensor's Property and access thereto. Licensee shall also comply with all oversight conducted by, including, but not limited to, the EPA, NYSDOH, CCHD, and NYSDEC, in its use of the Licensor's Property and access thereto (collectively, the "Licensee Obligations").

(d) Licensors shall not unreasonably interfere with Licensee's use of the Licensors' Property and the Licensors' Property shall be accessible to Licensee at all times.

(e) Licensors shall in no way be responsible for any theft or damage to any of Licensee's personal property and Licensee agrees and acknowledges that the storage of the same at or within the Licensors' Property shall be at the sole risk of Licensee.

(f) Licensee shall provide water to Licensors at no cost in an amount not to exceed the Licensors' average monthly usage during calendar year 2024.

3. **Indemnity and Insurance.**

(a) **Indemnification.** Each Party hereby agrees to defend, indemnify, and to hold harmless the other Party and its respective officers, directors, employees, representatives and agents from and against any claim, liability, cause of action, lawsuit, loss, damage, cost, or expense (including, without limitation, reasonable attorney's fees and court costs) arising out of or otherwise relating any acts or omissions of the other Party, and further agrees to pay all costs and expenses (including reasonable attorneys' fees and court costs) incurred by the other Party in enforcing this indemnity.

(b) **Insurance.** During the Term, Licensee and its Permitted Persons shall maintain in force, at its sole cost and expense, the following insurance policies, with at least the minimum coverages and limits indicated below:

(i) **Workers' Compensation Insurance.** Workers' Compensation and Employers' Liability insurance as required under the laws of the State of New York.

(ii) **Disability Insurance.** Disability insurance as required under the laws of the State of New York.

(iii) **Commercial General Liability.** Commercial General Liability insurance written on an occurrence basis and a commercial form which shall specifically include contingent liability arising out of operations performed by subcontractors, contractual liability with a specific endorsement referring to the project name, completed operations and products liability, with limits as follows:

Commercial General Liability including contractual liability for bodily injury and property damage of at least \$1,000,000 without a deductible or self-insured retention of any kind.

(iv) **Automobile Liability Insurance.** Automobile liability insurance covering owned, non-owned, and hired vehicles, with limits of at least \$1,000,000 combined single limit for bodily injury and property damage.

The policies required by this section shall name Licensors as an additional insured (where applicable) and shall be written and placed with a reputable insurance company licensed to do business in the State of New York. The insurance provided by Licensee shall incorporate a

provision requiring the giving of written notice to Licensor at least sixty (60) days prior to the cancellation, non-renewal, or material modification of any such policies.

4. **Termination.** It shall be an event of default under this Agreement ("Event of Default") if Licensee or any Permitted Persons fail to comply with any of the Licensee Obligations set forth in this Agreement. If an Event of Default shall occur, and is not cured within a reasonable period of time as reasonably adjudged under the circumstances presented, Licensor may terminate this License Agreement upon thirty (30) days written notice to Licensee and Licensee shall vacate the Licensor's Property. The exercise by Licensor of its rights of termination as provided herein is a nonexclusive remedy and Licensor shall have the right to pursue any other remedies available to it under applicable law. The obligations of Licensee under this paragraph shall survive expiration or earlier termination of this Agreement, but shall nonetheless merge into title at the time of conveyance of the Real Property and Water Plant to the Village of Aurora. The License granted by this Agreement shall be revocable by the Licensor with ninety (90) days' notice with or without cause. Upon termination or revocation of this Agreement, Licensee shall immediately cease its use of the Licensee's Property.

5. **Surrender of the Licensor's Property.** Upon the expiration of the Term or upon its earlier termination according to the provisions herein, Licensee hereby agrees to surrender the Licensor's Property in substantially the same state of condition and repair as it exists as of the date of this Agreement.

6. **Operating Permits and Approvals.** This Agreement is conditioned upon Licensee receiving written authority to assume all duties and responsibilities contemplated hereunder regarding the operation of the Water Plant and related infrastructure, including but not limited to the transfer of the Water Withdrawal System Permit to Licensee, together with such other operational permits that may be required by New York State and/or the federal government. This Agreement shall not become effective until all operational permits and approvals have been received by Licensee, regardless of the term set forth in paragraph 1, above.

7. **Entire Agreement.** This Agreement sets forth all the promises, agreements and understandings between the parties with respect to the subject matter hereof. It is further agreed that any amendment or modification to this Agreement shall not be binding unless such amendment or modification is reduced to writing and signed by all of the parties hereto.

8. **Captions.** The captions of the paragraphs in this Agreement are not part of the content hereof and are intended only as an aid in locating various provisions hereof.

9. **Severability.** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the court may modify this Agreement so as to effect the original intent of the parties as closely as possible.

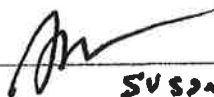
10. **Governing Law.** This Agreement shall be construed and interpreted in accordance with the laws of the State of New York.

11. **Counterparts.** This Agreement may be signed in counterparts, all of which, taken together, shall constitute one and the same instrument. Signatures on this Agreement which are transmitted by facsimile or electronic delivery shall be valid for all purposes.

[Signature Page Follows]

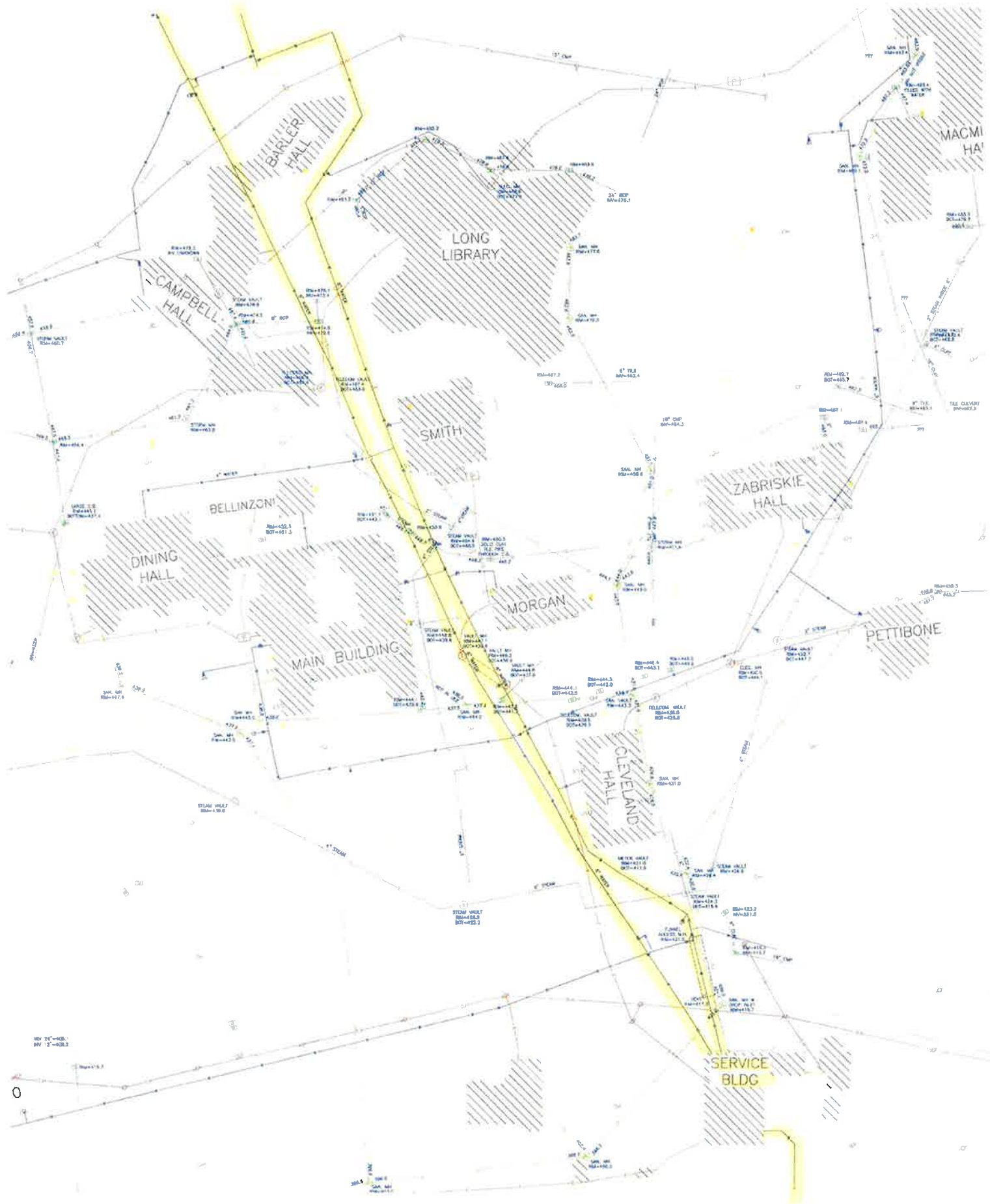
IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date first set forth above.

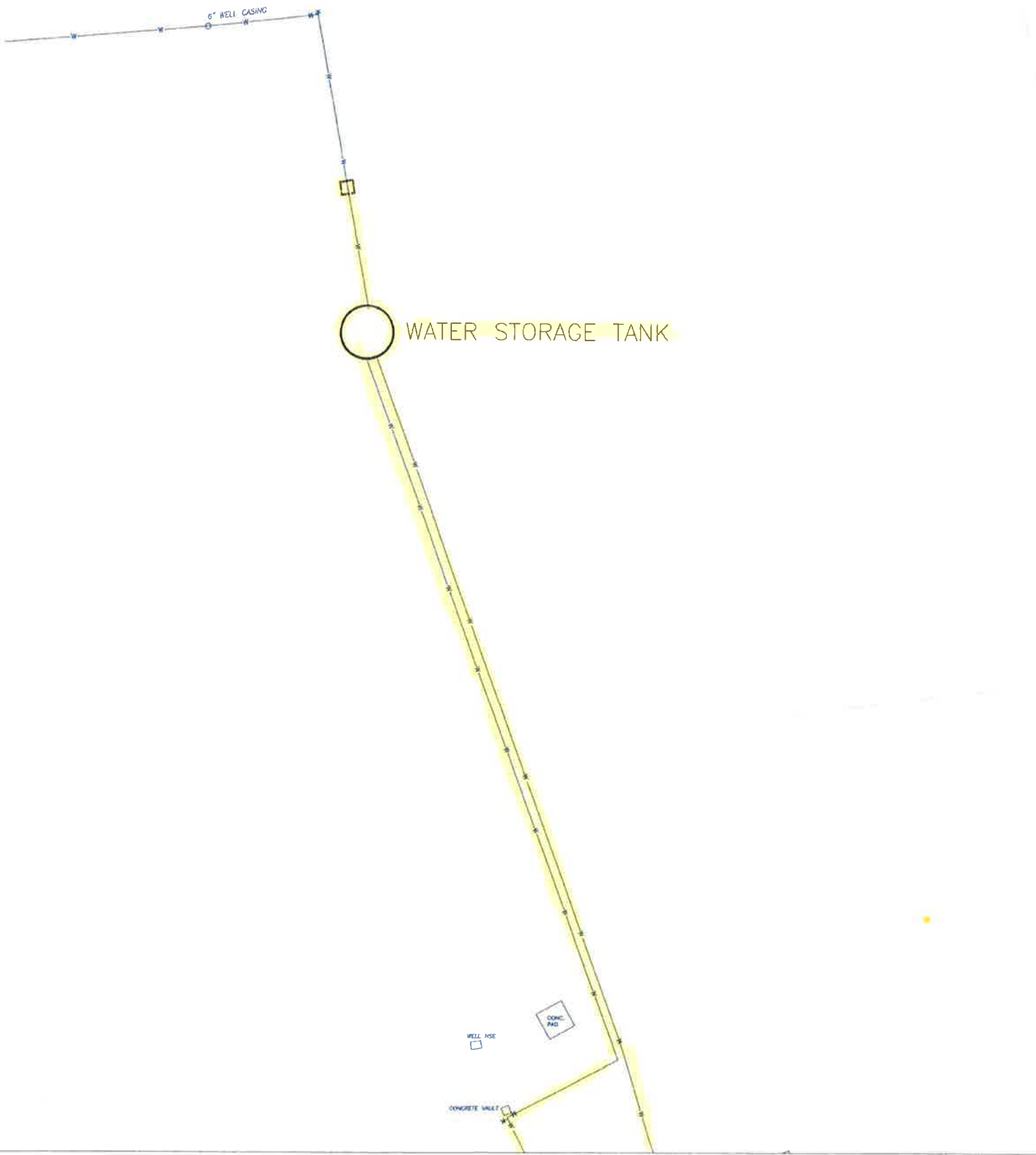
WELLS COLLEGE

By: 
Name: Susan Henking
Title: President

THE VILLAGE OF AURORA

By: 
Name: _____
Title: _____

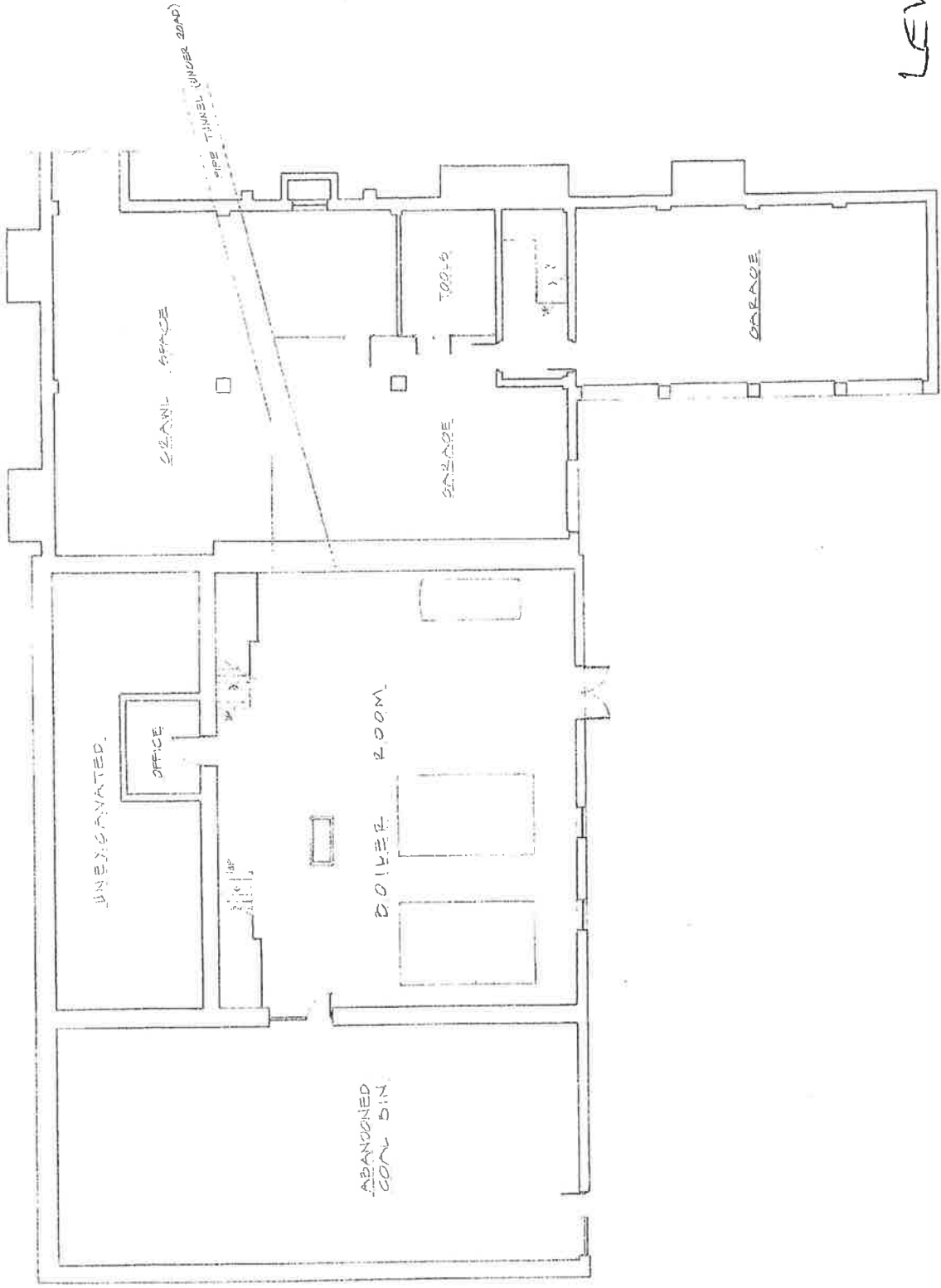




WELLS COLLEGE & VILLAGE OF AURORA – LICENSE AGREEMENT
APPENDIX A NARRATIVE

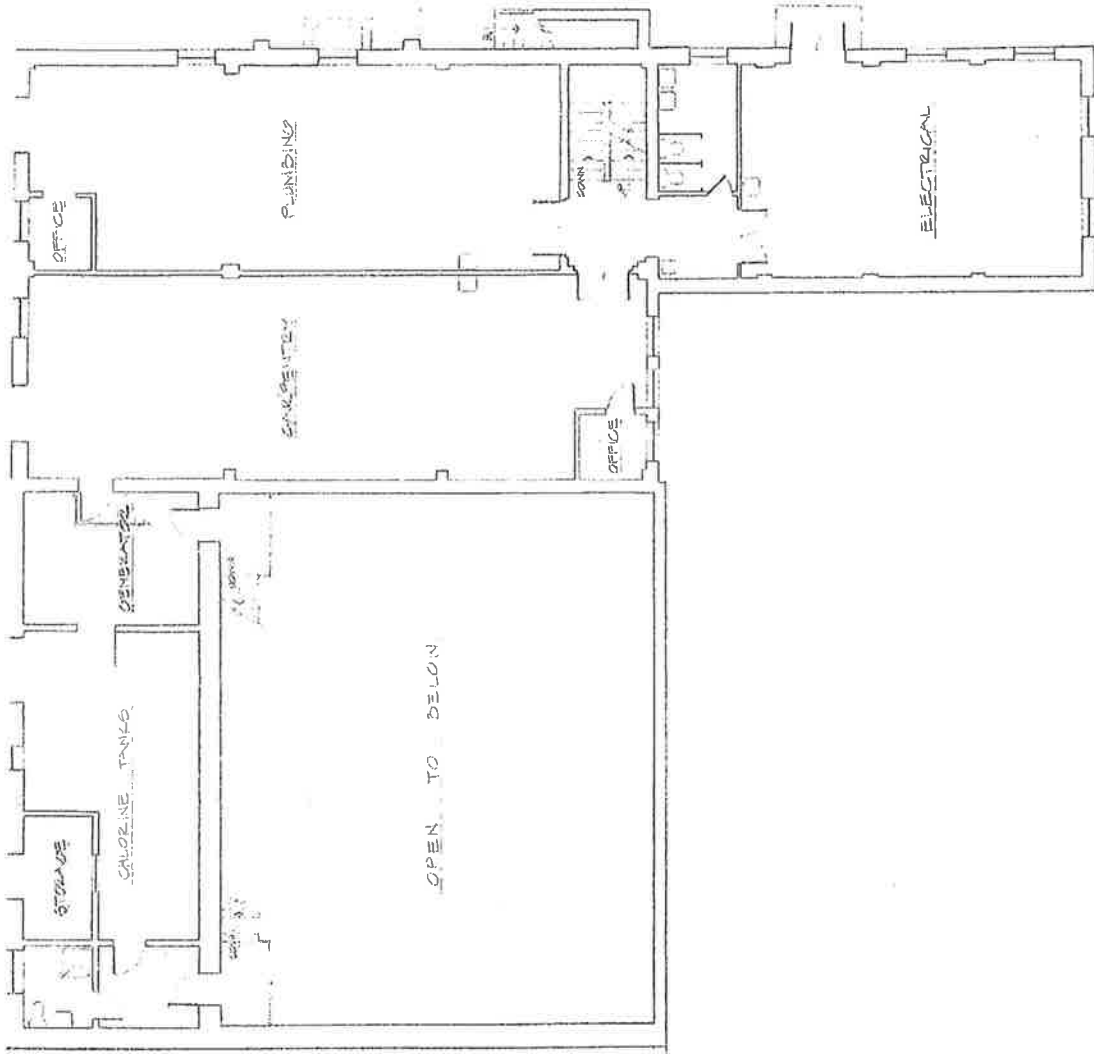
This supplement to Appendix A will provide additional details in conjunction with the highlighted utility map (CT Male – 2016) which depicts that portion (outside of the Service Building/Water Treatment Plant [WTP]) of the Wells water system the Village will operate and be responsible for the duration of this Agreement only.

1. The map highlights the key water mains, the intake pipe, meter pits, valves, water storage tank etc. that comprise the essential portions of the system. These components are utilized to draw water from the Lake, pipe it up the hill into the storage tank (the transmission main) and then send this water back down the hill (return main) to serve both the campus facilities and ultimately the Village itself.
2. The intent is to include all in-line control valves, all control valves nearby the return main that feed either additional distribution mains on the campus or service connections to individual buildings. No piping beyond these valves will be part of the Village's responsibility. The Village will only be responsible for those fire hydrants located immediately adjacent to the return main and fed directly by this main.
3. The intent is to include the water intake pipe, the shoreline control valves and structures and the pipe bringing the water into the WTP.
4. Up on the hill, the intent is to include all components (pipe, control valves, drain pipes, overflows, etc.) associated with the storage tank itself located within the fenced area surrounding the tank.
5. This responsibility will also include the pipe and metering pit located just east of the tank which serves the golf course facilities.



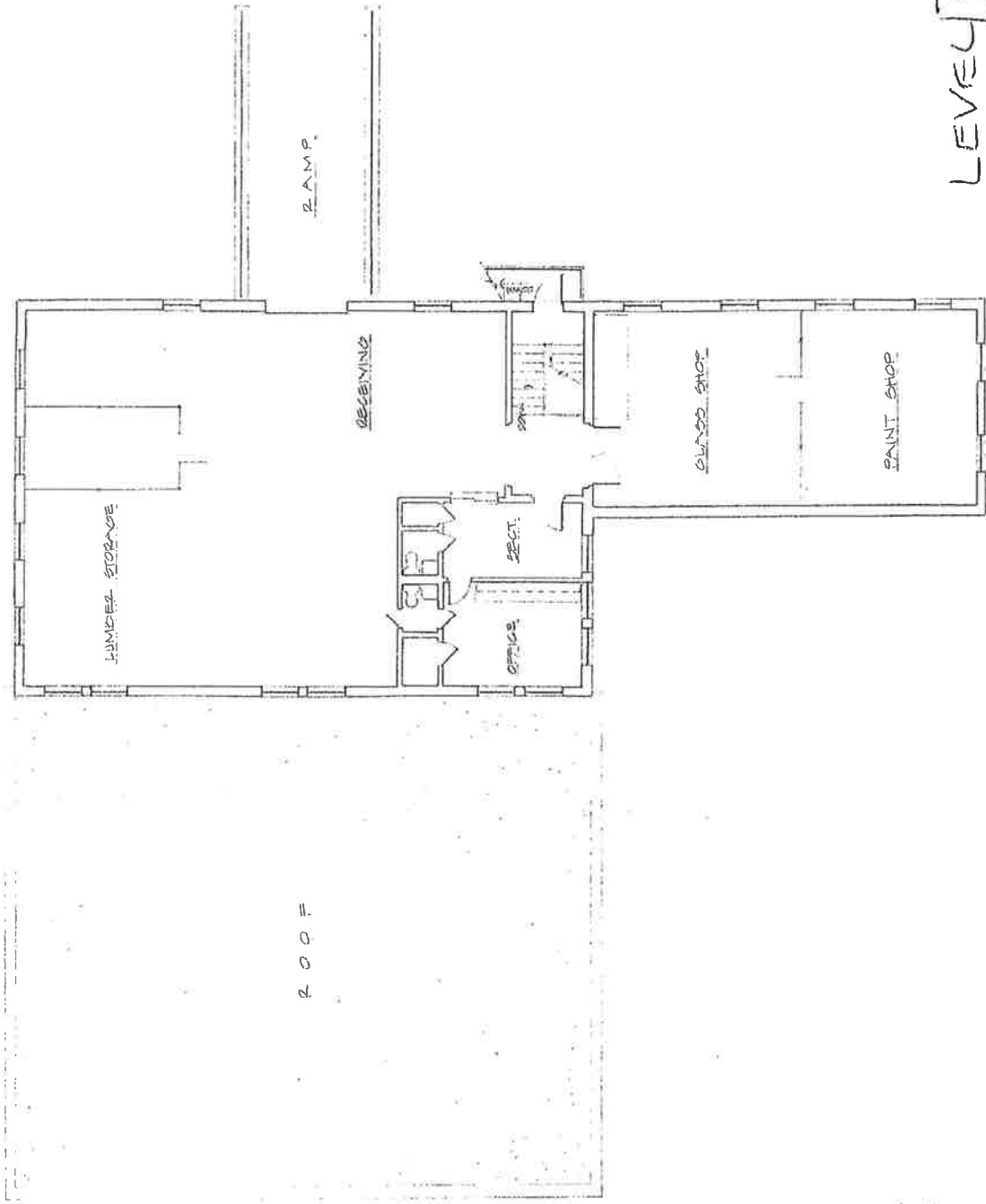
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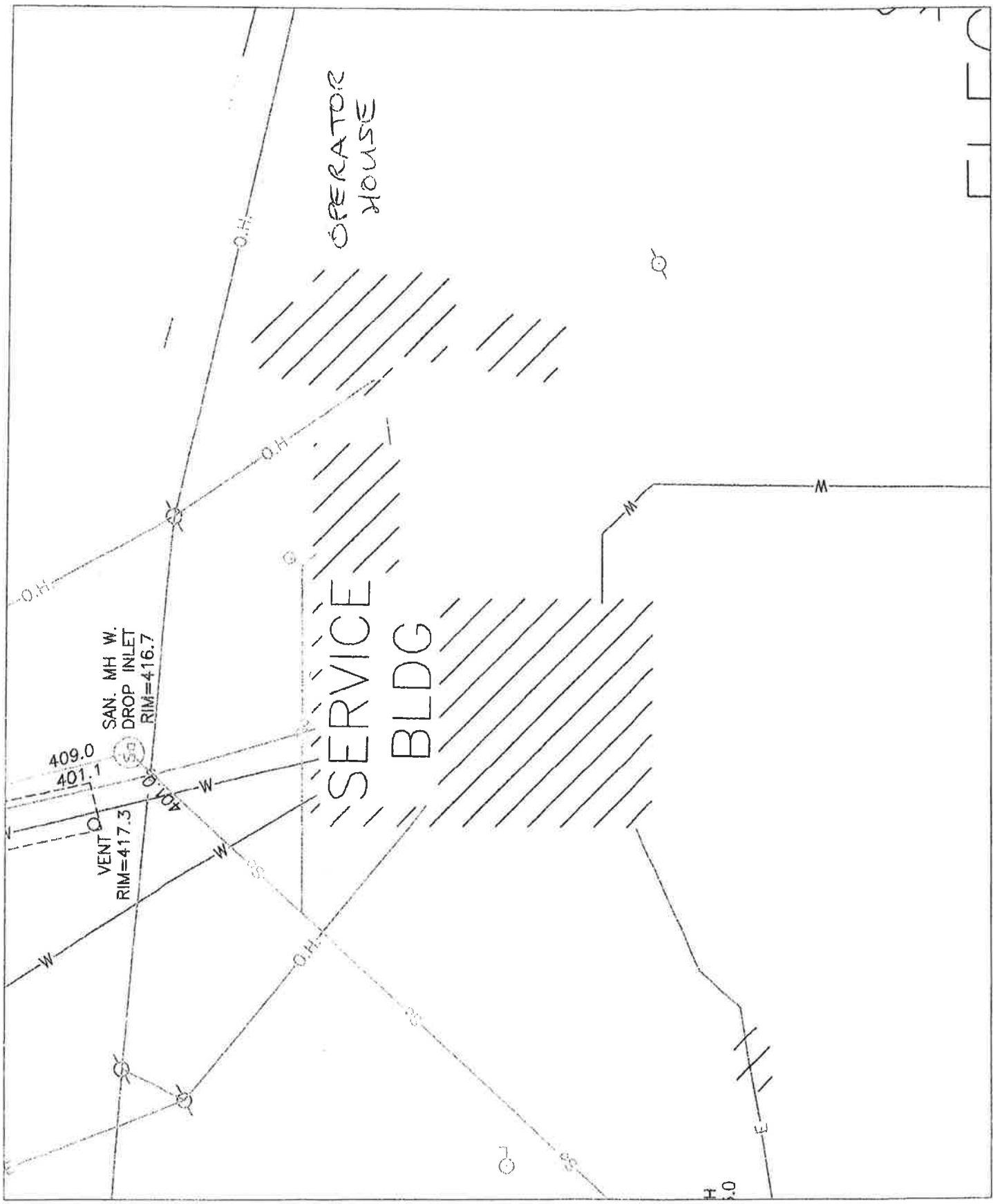
LEVEL III





LEVEL 2





WELLS COLLEGE & VILLAGE OF AURORA – LICENSE AGREEMENT
APPENDIX B NARRATIVE

This supplement to Appendix B will provide additional details in conjunction with the attached 1980 Service Building floor plans prepared by Wells College. These floor plans indicate the basic rooms and spaces located within the building even though the labels shown have changed in some cases and partitions have been modified. As detailed below, the Village of Aurora will operate and be responsible for just the water system components for the duration of this Agreement only.

1. As an overview, the water system components are located in several of these spaces and due to the variety of access doors as well as the possible necessity to use other spaces for parts, repairs, tools, office space, bathrooms, etc., the reasonable approach is that the entire building will be available to the Village as a shared space.
2. Related to the above approach is the reality that the entire building is served with heat, communications, power, etc., which cannot be distinguished or differentiated.
3. Concerning the water system components only, the pipe carrying water from the Lake first enters the building under the floor of what is noted as the Boiler Room on the "B" level. From that room it is pumped into the "Chlorine Tanks", "Storage", and adjacent bathroom and entry area shown on Level 1. This area has been significantly modified over the years and now includes the GAC treatment vessels. It is just outside this space that the settling tank for the filters residue is located and is part of the system. All other tanks (used and/or abandoned) at the site are fully the responsibility of Wells College. Following treatment, the water is then piped through the building until it enters the "Pipe Tunnel" (shown on Level "B") and passes underground to the east/campus side of Main Street.
4. To clarify, the Village, upon obtaining the necessary permits, licenses and/or approvals to become the lawful Water Plant operator (as further described in the Agreement) will only be responsible for those components and their associated controls, computers, meters, alarms, gauges, etc., strictly related to the water system. Wells College will remain responsible for the operation and maintenance of

all other systems and improvements not related to the water system, including the Service Building and grounds. Knowing that the heating system for the entire campus, Service Building and adjacent "Operator House" has been turned off, this Agreement hereby authorizes the Village to immediately modify the Service building heating plant to install a smaller boiler system to heat just the Service Building and Operator House. The existing "campus" boilers will remain in place and connections will only be modified as needed to insure that the new smaller boiler system functions properly.

5. As identified on the enlarged survey map excerpt with the "Service Bldg." shown, also included in this Agreement is the use and occupancy of the Operator's House and property located immediately to the south along Main Street. This is presently occupied by Bob Yager the chief water operator for Wells and it will continue to be used as housing for the chief operator in the future.