

GROUND LEASE AGREEMENT
Between
TOWN OF SARATOGA, CARBON COUNTY, WYOMING
as Landlord,
and
VALLEY VILLAGE
as Tenant

THIS GROUND LEASE (this “**Lease**”) is made as of the ___ day of _____, 2023 (“**Effective Date**”), by and between the **TOWN OF SARATOGA, CARBON COUNTY, WYOMING**, a Wyoming municipal corporation, (“**Landlord**”), and **VALLEY VILLAGE**, a Wyoming nonprofit corporation (“**Tenant**”), who hereby mutually covenant and agree as follows:

Article I
GRANT AND TERM

1.1 Grant: Premises.

Landlord is the owner of certain real property located in Carbon County, Wyoming, legally described and depicted as the “Subject Lands” on Exhibit A attached hereto and made a part hereof (the “**Premises**”). The Landlord wishes to lease the Premises to the Tenant. For and in consideration of the agreement of Tenant to pay Rent (as hereinafter defined) and other sums herein provided and to perform the terms, covenants and conditions herein contained, the full performance and observance of which are hereby agreed to by Tenant, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises.

1.2 Term.

The term of this Lease shall commence on the Effective Date and shall continue in effect for a term of one hundred (100) years (“**Term**”), unless sooner terminated as provided herein.

Article II
PURPOSE

2.1 Purpose.

The Tenant shall use the Premises exclusively in connection with its early childhood education facility or childcare facility located adjacent to the Premises.

2.2 Compliance; Restrictions.

(a) Tenant is prohibited from using the Premises for any purpose other than in connection with an early childhood education facility or childcare facility located adjacent to the Premises.

(b) Tenant shall not use or occupy the Premises, or permit the Premises to be used or occupied:

(i) contrary to any statute, rule, order, ordinance, requirement or regulation applicable thereto;

- (ii) in any manner which would violate any certificate of occupancy affecting the same;
- (iii) which would cause structural injury to the improvements;
- (iv) cause the value or usefulness of the Premises, or any part thereof, to diminish; or
- (v) which would constitute a public or private nuisance or waste.

(c) Tenant shall not:

(i) use the Premises or any improvements now or hereafter constructed thereon for the treatment, storage, disposal, burial, or placement of any “**hazardous substance**,” as that term is defined under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as the same may now or hereafter be amended (“**CERCLA**”), pollutants, contaminants or any other substance, the treatment, storage, disposal, burial or placement of which is regulated under any state, federal or local statute, law, rule, regulation or ordinance; or

(ii) release, as that term is defined in Section 101(22) of CERCLA, or permit the release of any hazardous substance, pollutants, contaminants or other substances regulated under applicable federal, state or local statute, rule, regulation or ordinance onto the Premises or into the subsurface thereof or into any surface or ground waters unless said use or release is in compliance with all applicable statutes, laws, rules, regulations and ordinances or pursuant to a valid and current permit or permits from all governmental authorities having jurisdiction over the Tenant, the Premises or the use and occupancy of the Premises by Tenant and the Subtenants.

Article III RENT

3.1 Rent

Tenant shall pay to Landlord the sum of one dollar (\$1.00) per year (the “**Rent**”), nonrefundable and paid in advance for the entire Term, being a total sum of one hundred dollars (\$100.00) due and payable in full within ten (10) business days of full execution of this Lease. In the event this Lease is terminated prior to the end of the Term for any reason, no prorated refund of Rent shall be due from Landlord to Tenant.

3.2 Net Lease

Except as may otherwise be specifically provided in this Lease or by agreement by the parties, it is the intention of Landlord and Tenant that the rent herein specified shall be completely net to Landlord in each year during the term of this Lease, that all costs, expenses and obligations of every kind relating to the Premises which may arise or become due during the term of this Lease

shall be paid by Tenant, and that Landlord shall be indemnified by Tenant against such costs, expenses and obligations.

Article IV INSURANCE

4.1 Kinds; Amounts.

As additional rent for the Premises, Tenant shall procure and maintain policies of insurance, at its own cost and expense, insuring:

(a) The improvements at any time situated upon the Premises against loss or damage by fire, lightning, windstorm, hailstorm, aircraft, vehicles, smoke, explosion, riot or civil commotion as provided by the all-risk form of property damage policy. The insurance coverage shall be for not less than 100% of the full replacement cost of such improvements with all proceeds of insurance payable to Tenant. The full replacement cost of improvements shall be determined every five (5) years by Tenant's insurance carrier;

(b) Landlord and Tenant from all claims, demands or actions for injury to or death of any person in an amount of not less than \$3,000,000, for injury to or death of more than one (1) person in any one (1) occurrence in an amount of not less than \$5,000,000, and for damage to property in an amount of not less than \$1,000,000 made by, or on behalf of, any person or persons, firm or corporation arising from, related to or connected with the Premises. Said insurance shall comprehend full coverage of the indemnity set forth in Section 9.1 hereof

(c) Landlord shall be named as an Additional Insured on all policies required under this Article IV.

4.2 Form of Insurance Policies.

The aforesaid insurance shall be in companies and in form and substance reasonably satisfactory to Landlord. Landlord agrees that the foregoing coverages may be satisfied by a so-called "blanket" policy of insurance containing reasonable and customary deductibles. The aforesaid insurance shall not be subject to cancellation except after at least thirty days prior written notice to Landlord. Certificates of insurance evidencing such coverages, together with satisfactory evidence of payment of the premiums thereon, shall be deposited with Landlord within ten days of the Effective Date, and renewals thereof shall be delivered to Landlord not less than ten days prior to the end of the term of each such coverage.

4.3 Waiver of Subrogation.

Tenant shall require that all policies of insurance covering its respective interests in any property in, on, and about the Premises contain or be endorsed with a provision by which the insurer shall waive its right of subrogation against Landlord. Tenant hereby grants to Landlord a waiver to any subrogation which any insurer of said Tenant may acquire against the Landlord by virtue of the payment of any loss under such insurance. In the event any insurer of Tenant makes any claim against Landlord based on subrogation, then Tenant hereby agrees to defend, indemnify, and hold Landlord harmless for any such subrogation claims, including but not limited to the payment of attorney's fees and costs and any judgment entered against Landlord.

Article V
MAINTENANCE; IMPROVEMENTS

5.1 Maintenance.

Tenant shall keep and maintain the Premises in good condition and repair, in full compliance with federal, state, and local laws in force. Tenant shall further keep and maintain the improvements at any time situated upon the Premises and all sidewalks, parking areas and areas adjacent thereto, safe, secure, clean and sanitary, specifically including, but not limited to, snow and ice clearance, planting and maintaining yards and landscaping, in the same manner or a manner reasonably equivalent to or better than the manner that exists as of the date hereof; and conforming with the lawful and valid requirements of any governmental authority having jurisdiction over the Premises. As used herein, each and every obligation of Tenant to keep, maintain and repair shall include, without limitation, all ordinary and extraordinary nonstructural and structural repairs and replacements and compliance with all laws, ordinance regulations and orders whatsoever. Landlord shall have no operation or maintenance responsibilities for the Premises whatsoever.

5.2 Improvements.

In the event Tenant desires to make any improvements to the Premises, Tenant shall be allowed to do so only after receiving the specific written consent of Landlord to such improvements both as to design and scope, which consent may not be unreasonably withheld, conditioned or delayed. The improvements shall be constructed in a good and workmanlike manner by Tenant, solely at Tenant's expense. Tenant shall comply with all local building and zoning codes in the construction of any improvements to the land. Landlord's issuance of a valid building permit shall constitute the specific written consent required by this section.

Article VI
ASSIGNMENT; SUBLETTING

Tenant does not have the right to assign or sublease this Lease without the express consent of Landlord. In the event of any assignment or sublease of this Lease without Landlord's consent, this Lease shall terminate immediately and Tenant's interest in the Premises, along with any interest of Tenant's assignee or subtenant, shall also terminate immediately. Landlord reserves all rights and remedies available at law or in equity to evict or remove Tenant, Tenant's assignee(s), or Tenant's subtenant(s) from the Premises in the event of a violation of this section. Notwithstanding the foregoing, during the term of this Lease, Tenant shall have the right to sublet this Lease to Developmental Preschool and Day Care Center, a Wyoming nonprofit corporation doing business as Excel Preschool & Early Intervention Center ("Excel"). Additionally, Tenant shall have the right to assign this Lease to Excel in conjunction with a sale of the early childhood education facility or childcare facility located adjacent to the Premises to Excel, pursuant to Paragraph 3 of that certain Non-Profit Cooperative Building Operating Agreement between Tenant and Excel dated effective February 21, 2023. In the event of any assignment or sublease, the Premises shall continue to be used exclusively in connection with an early childhood education facility or childcare facility located adjacent to the Premises.

Article VII
LIENS; ENCUMBRANCES

7.1 Encumbering Title.

Tenant shall not do any act which shall in any way encumber the title of Landlord in and to the Premises, nor shall the interest or estate of Landlord in the Premises be in any way subject to any claim by way of lien or encumbrance, whether by operation of law or by virtue of any express or implied contract by Tenant. Any claim to, or lien upon, the Premises arising from any act or omission of Tenant shall accrue only against the leasehold estate of Tenant and shall be subject and subordinate to the paramount title and rights of Landlord in and to the Premises.

7.2 Liens.

Tenant shall not permit the Premises to become subject to any mechanics', laborers' or materialmen's lien on account of labor or material furnished to Tenant or claimed to have been furnished to Tenant in connection with work of any character performed or claimed to have been performed on the Premises by, or at the direction or sufferance of, Tenant; provided, however, that Tenant shall have the right to contest in good faith and with reasonable diligence, the validity of any such lien or claimed lien if Tenant shall give to Landlord such security as may be deemed reasonably satisfactory to Landlord to insure payment thereof and to prevent any sale, foreclosure, or forfeiture of the Premises by reason of nonpayment thereof.

Article VIII
UTILITIES

Tenant shall purchase all utility services, including but not limited to fuel, water, sewer and electricity from the utility providing such service and shall pay for such services when such payments are due. Notwithstanding the foregoing to the contrary, Tenant shall not be prohibited from contracting with Landlord for the supply of utility services to any improvements to the Premises.

Article IX
INDEMNITY

9.1 Tenant's Indemnification.

(a) Tenant and its attorneys, representatives, successors, beneficiaries, and all others in privity with them, hereby RELEASE the Landlord, and its attorneys, agents, representatives, insurers, heirs, successors, beneficiaries, and all others in privity with them, individually and collectively, from any and all liability for all damages, arising out of or related to the Tenant's obligations pursuant to this Lease to the extent caused by the Tenant. This release includes and is intended to release all claims, demands, and causes of action for bodily injury, wrongful death, property damage, personal injury, legal injury or other legal or equitable relief.

(b) The Tenant and its attorneys, representatives, successors, beneficiaries and all others in privity with them, AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS,

Landlord, its attorneys, agents, representatives, insurers, heirs, successors, beneficiaries and all others in privity with them, individually and collectively, from any and all claims, demands, damages, costs, attorney's fees or expenses due to any bodily injury, wrongful death, property damage, personal injury, legal injury or other legal or equitable relief that may arise from or are connected in any way to the Tenant's obligations pursuant to this Agreement. This agreement to indemnify, defend and hold harmless includes all claims, demands, and causes of action for bodily injury, wrongful death, property damage, personal injury, legal injury or other legal or equitable relief to the extent caused by the Tenant. Landlord agrees to be liable for its own negligence.

Article X RIGHTS RESERVED TO LANDLORD

10.1 Rights Reserved to Landlord.

Without limiting any other rights reserved or available to Landlord under this Lease, at law or in equity, Landlord, on behalf of itself and its agents reserves the following rights, to be exercised at Landlord's election to inspect the Premises at reasonable times. Landlord may enter upon the Premises for said purposes and may exercise any and all of the foregoing rights hereby reserved without being deemed guilty of an eviction or disturbance of Tenant's use or possession of the Premises, and without being liable in any manner to Tenant, provided that notwithstanding the foregoing, in exercising such rights, Landlord shall use reasonable efforts to prevent any material disruption to the operations of Tenant in the Premises.

10.2 Utility Repairs.

Tenant acknowledges that the Premises is adjacent to or overlays various utilities owned and managed by Landlord, the Saratoga-Carbon County Impact Joint Powers Board, or other utility companies owning an easement through the Premises, which are depicted on Exhibit A. Tenant shall reasonably cooperate with Landlord and any other utility company owning an easement through the Premises to allow for reasonable repairs as required.

Article XI QUIET ENJOYMENT

So long as Tenant is not in default under the covenants and agreements of this Lease, Landlord hereby covenants and agrees that Tenant's quiet and peaceable enjoyment of the Premises shall not be disturbed or interfered with by Landlord or by any person claiming by, through or under Landlord, except as authorized by this Lease or by law.

Article XII SURRENDER

12.1 Surrender.

Upon the termination of this Lease whether by forfeiture, lapse of time or otherwise, or upon the termination of Tenant's right to possession of the Premises, Tenant will at once surrender and deliver up the Premises, together with all improvements thereon, to Landlord in good condition and repair, reasonable wear and tear excepted.

12.2 Removal of Tenant's Property.

Upon the termination of this Lease by lapse of time, Tenant may remove Tenant's property, including trade fixtures and improvements from the Premises; provided, however, that Tenant shall repair any injury or damage to the Premises which may result from such removals. If Tenant does not remove Tenant's property from the Premises prior to the end of the Term, however ended, Landlord may, at its option, remove the same and deliver the same to any other place of business of Tenant or warehouse the same, and Tenant shall pay the cost of such removal (including the repair of any injury or damage to the Premises resulting from such removal), delivery and warehousing to Landlord on demand, or Landlord may treat property as having been conveyed to Landlord with this Lease as a Bill of Sale, without further payment or credit by Landlord to Tenant.

12.3 Holding Over.

Any holding over by Tenant of the Premises after the expiration of this Lease shall operate and be construed to be a tenancy from month to month only, at the same Rent and other charges payable hereunder immediately prior to the expiration or other termination of the Lease or Tenant's right to possession for the Term. Nothing contained in this Section 12.3 shall be construed to give Tenant the right to hold over at any time and Landlord may exercise any and all remedies at law or in equity to recover possession of the Premises.

Article XIII
DEFAULT; REMEDIES

13.1 Default.

Tenant further agrees that any one (1) or more of the following events shall be considered events of default as said term is used herein, that is to say, if:

(a) Tenant shall default in any payments of Rent or in any other payment required to be made by Tenant hereunder when due as herein provided and such default shall continue for ten (10) days after notice thereof in writing to Tenant; or

(b) Tenant shall default in any of the other covenants and agreements herein contained to be kept, observed and performed by Tenant, and such default shall continue for thirty (30) days after notice thereof in writing to Tenant, provided, however, if such default is susceptible to cure but cannot, by the use of reasonable efforts, be cured within thirty (30) days. Landlord shall not exercise any of its remedies hereunder if and so long as (i) Tenant shall commence to cure such default within said thirty (30) day period, and (ii) thereafter Tenant is proceeding to cure such default continuously and diligently and in a manner reasonably satisfactory to Landlord; or

(c) Tenant shall abandon the Premises during the Term; or

(d) If at any time during the Term there shall be filed by or against Tenant, or against any successor to Tenant then in possession, in any court pursuant to any petition in bankruptcy, alleging an insolvency, for reorganization, for the appointment of a receiver, or for an arrangement

under the Bankruptcy Code, or if a similar type of proceeding shall be filed, and such proceeding is not dismissed within sixty (60) days; or

(e) Tenant shall file or admit the jurisdiction of the court and the material allegations contained in, any petition in bankruptcy, or any petition pursuant or purporting to be pursuant to the Federal bankruptcy laws as now or hereafter amended, or Tenant shall institute any proceedings or shall give its consent to the institution of any proceedings for any relief of Tenant under any bankruptcy or insolvency laws or any laws relating to the relief of debtors, readjustment of indebtedness, reorganization, arrangements, composition or extension, and such proceeding is not dismissed within sixty (60) days; or

(f) Tenant shall make any assignment for the benefit of creditors or shall apply for or consent to the appointment of a receiver for Tenant or any of the property of Tenant.

(g) Tenant's possession of the property located 1208 South River Street, Saratoga, Wyoming 82331 terminates for any reason whatsoever, except in the case of a permitted assignment or sublease as provided by Article VI.

(h) Tenant, or permitted assignees or sublessees, stop using the property located 1208 South River Street, Saratoga, Wyoming 82331 as an early childhood education facility or childcare facility.

13.2 Remedies.

Upon the occurrence of any one (1) or more of such events of default, Landlord may at its election terminate this Lease. Upon termination of this Lease, Landlord may re-enter the Premises using such force as may be necessary, and remove all persons, fixtures, and chattels therefrom and Landlord shall not be liable for any damages resulting therefrom. Upon termination of the Lease Tenant shall surrender possession and vacate the Premises immediately, and deliver possession thereof to Landlord, and hereby grants to Landlord the full and free right, without demand or notice of any kind to Tenant (except as expressly provided for by this Lease or by law), to enter into and upon the Premises in such event and to repossess the Premises as Landlord's former estate and to expel or remove Tenant without being deemed in any manner guilty of trespass, eviction, or forcible entry or detainer without incurring any liability for any damage resulting therefrom and without relinquishing Landlord's right to rent or any other right given to Landlord hereunder or by operation of law. Notwithstanding anything contained herein to the contrary, Landlord shall use reasonable efforts to mitigate its damages in the event of Tenant's default hereunder. Upon termination of the Lease, Landlord shall, subject to Landlord's duty to mitigate such damages, be entitled to recover as damages, all Rent and other sums due and payable by Tenant on the date of termination, plus the cost of performing any other covenants to be performed by Tenant.

13.3 Remedies Cumulative.

No remedy herein or otherwise conferred upon or reserved to Landlord shall be considered to exclude or suspend any other remedy, but the same shall be cumulative and shall be in addition to every other remedy given by this Lease to Landlord and may be exercised from time to time and so often as occasion may arise or as may be deemed expedient.

13.4 No Waiver.

No delay or omission of Landlord to exercise any right or power arising from any default shall impair any such right or power or be construed, taken or held to be a waiver of any such default or any acquiescence therein. No waiver of any breach of any of the covenants of this Lease shall be construed to be a waiver of any other breach or waiver, acquiescence in or consent to any further or succeeding breach of the same covenant. The acceptance by Landlord of any payment of Rent or other charges hereunder after the termination by Landlord of this Lease or Tenant's right to possession hereunder shall not, in the absence of an agreement in writing to the contrary by Landlord, be deemed to restore this Lease or Tenant's right to possession hereunder, as the case may be, but shall be construed as a payment on account, and not in satisfaction, of damages due from Tenant to Landlord.

**Article XIV
MISCELLANEOUS**

14.1 Landlord's Right to Cure.

In the event that Tenant shall fail to comply with any of the terms of this Lease and such failure shall continue after the expiration of all applicable grace or cure periods, Landlord may, but shall not be obligated to, cure any default by Tenant (specifically including but not by way of limitations, Tenant's failure to obtain insurance, make repairs, or satisfy lien claims); and whenever Landlord so elects, all costs and expenses paid by Landlord in curing such default, including without limitation reasonable attorneys' fees, shall be so much additional rent due on the next rent date after such payment together with interest at the rate of ten percent (10%) per annum, from the date of the advance to the date of repayment by Tenant to Landlord.

14.2 Complete Agreement

This Lease contains the parties' entire agreement with regard to the Premises and supersedes and replaces any prior agreements as to those matters, whether oral or written. This lease may not be changed or modified, in whole or in part, except by an instrument in writing signed by both parties.

14.3 Notices.

All notices to or demands upon Landlord or Tenant desired or required to be given under any of the provisions hereof, shall be in writing. Notice to Tenant shall be deemed delivered upon depositing the notice in the U.S. Mail deliverable to Tenant's address on file with Wyoming Secretary of State. Notice to Landlord shall be deemed delivery upon depositing the notice in the U.S. Mail deliverable to Saratoga Town Hall.

14.4 Time of Essence.

Time is of the essence of this Lease, and all provisions herein relating thereto shall be strictly construed.

14.5 Relationship of Parties.

Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership, or of joint venture

by the parties hereto, it being understood and agreed that no provision contained in this Lease nor any acts of the parties hereto shall be deemed to create any relationship other than the relationship of Landlord and Tenant.

14.6 Captions.

The captions of this Lease are for convenience only and are not to be construed as part of this Lease and shall not be construed as defining or limiting in any way the scope or intent of the provisions hereof.

14.7 Severability.

If any term or provision of this Lease shall to any extent be held invalid or unenforceable the remaining terms and provisions of this Lease shall not be affected thereby, but each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

14.8 Governing Law and Venue.

This Lease shall be construed and enforced in accordance with the laws of the State of Wyoming, without giving effect to the conflicts of law principles thereof. Any litigation arising out of or related to this Agreement shall be resolved in a Wyoming state court of competent jurisdiction situated in Carbon County, Wyoming.

14.9 Covenants Binding on Successors.

All of the benefits, covenants, agreements, conditions and undertakings contained in this Lease shall extend and inure to and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties hereto, the same as if they were in every case specifically named, and wherever in this Lease reference is made to either of the parties hereto, it shall be held to include and apply to wherever applicable, the heirs, executors, administrators, successors and assigns of such party. Nothing herein contained shall be construed to grant or confer upon any person or persons, firm, corporation or governmental authority, other than the parties hereto, their heirs, executors, administrators, successors and assigns, any right, claim or privilege by virtue of any covenant, agreement, condition or undertaking in this Lease contained.

14.10 Wyoming Governmental Claims Act.

Landlord does not waive any right or rights it may have pursuant to the Wyoming Governmental Claims Act, Wyo. Stat. §§ 1-39-101, *et seq.* Landlord specifically reserves the right to assert any and all immunities, rights, and defenses they may have pursuant to the Wyoming Governmental Claims Act.

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IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease the day and year first above written.

TOWN OF SARATOGA

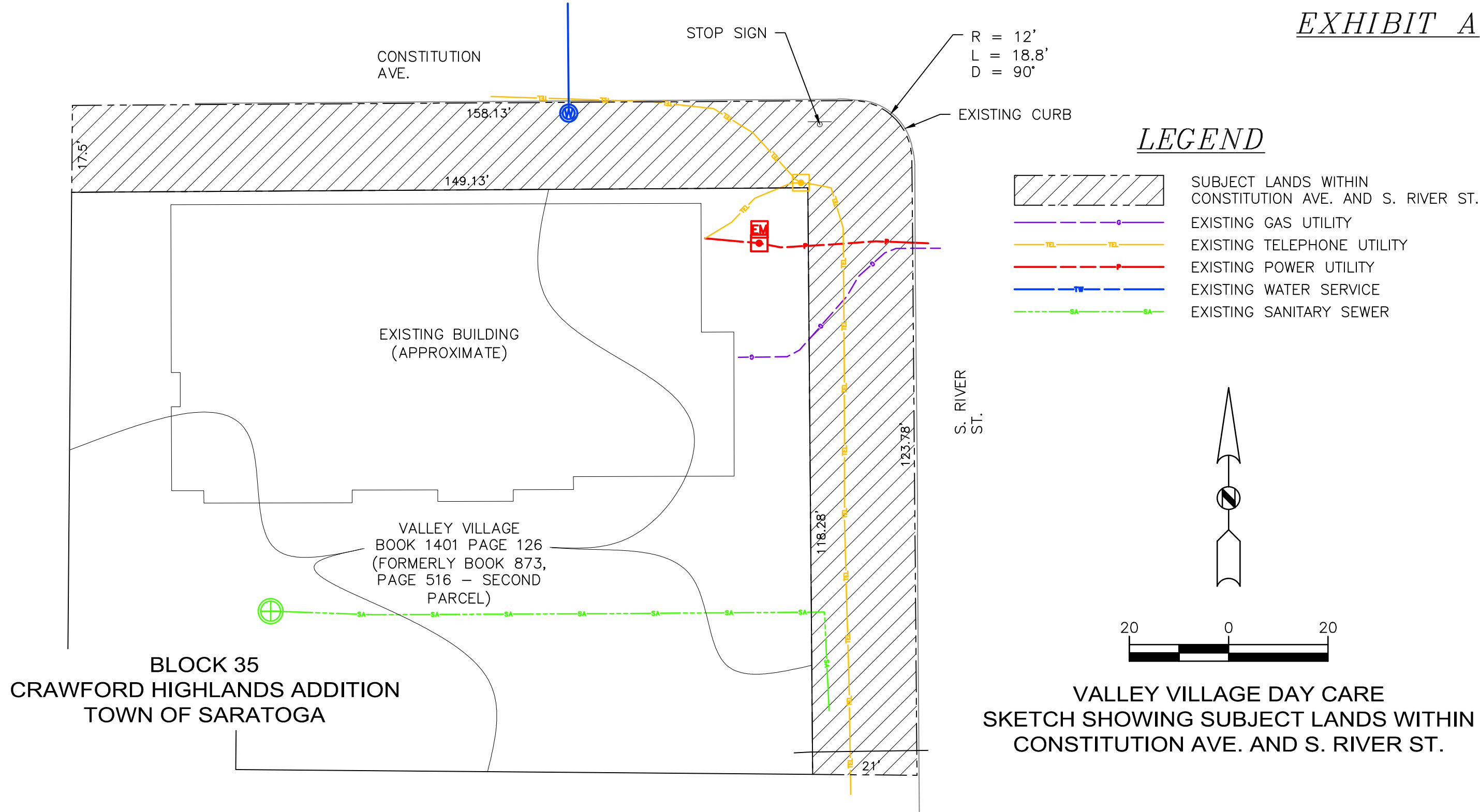
VALLEY VILLAGE

Chuck Davis, Mayor

Ellie Dana Raymer, Board Chair

Attest:

Town Clerk
Town of Saratoga



DESCRIPTION OF SUBJECT LANDS:

BEGINNING AT THE NORTHEAST CORNER OF BLOCK 35 OF THE CRAWFORD HIGHLANDS ADDITION TO THE TOWN OF SARATOGA, CARBON COUNTY, WYOMING; THENCE WEST ON AND ALONG THE NORTH LINE OF SAID BLOCK 35, A DISTANCE OF 149.13 FEET TO THE NORTHWEST CORNER OF THAT PARCEL OF LAND DESCRIBED BY THAT WARRANTY DEED RECORDED IN BOOK 1401 AT PAGE 126 IN THE OFFICE OF THE CARBON COUNTY CLERK; THENCE NORTH, 17.5 FEET; THENCE EAST, PARALLEL WITH SAID NORTH LINE, A DISTANCE OF 158.13 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT WITH RADIUS OF 12 FEET; THENCE EASTERLY AND SOUTHERLY ALONG SAID CURVE, AN ARC LENGTH OF 18.8 FEET, THROUGH A CENTRAL ANGLE OF 90 DEGREES; THENCE SOUTH, PARALLEL WITH THE EAST LINE OF SAID BLOCK 35, A DISTANCE OF 123.78 FEET; THENCE WEST 21 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL; THENCE NORTH ON AND ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 118.28 FEET TO THE POINT OF BEGINNING; SAID SUBJECT LANDS CONTAINING 5430 SQUARE FEET, MORE OR LESS.