

2019-001570

Klamath County, Oregon



00235898201900015700050054

02/20/2019 10:26:00 AM

Fee: \$102.00

**RETURN TO:**

Lensman & Associates, Ltd.  
4571 Stephen Circle, N.W.  
Suite 200  
Canton, OH 44718

**OPEN-END MORTGAGE**

THIS MORTGAGE is made on September 8<sup>th</sup>, 2018 and effective September 1, 2018, between the Mortgagor, **BEAR VALLEY CONSTRUCTION, LLC**, an Oregon limited liability company (herein "Borrower"), with an address at 830 Market St Klamath Falls, OR 97601 and the Mortgagee, **FO REAL ESTATE, LLC**, an Ohio limited liability company (herein "Lender"), with an address at 4571 Stephen Circle, N.W., Canton, Ohio 44718.

WHEREAS, Borrower is indebted to Lender in the principal sum of up to, or in excess of, One Hundred Twenty-Four Thousand Three Hundred Forty-six and 50/100 Dollars (\$124,346.50), which indebtedness is evidenced by a Consolidated Promissory Note entered into between Borrower and Lender (the "Note"), providing for payment of the balance of the indebtedness plus interest as designated, and in the manner, as described therein.

TO SECURE to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon, the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage, and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant and convey to Lender, Lender's heirs, executors, administrators and assigns forever, the following described properties located in the County of Klamath and State of Oregon (hereinafter, the "Property" or the "Properties"):

Property 1:

Lot 26, Tract 1472, Ridgewater Subdivision, Phase 1, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

Property Address: 1126 Paper Birch Way, Klamath Falls, OR 97601  
Map Tax Lot No. R-3808-036CB-00600-000; Property ID No. R893099

and

Property 2:

Lot 65, Tract 1472, Ridgewater Subdivision, Phase 1, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

Property Address: 857 Beattys Butte Drive, Klamath Falls, OR 97601

Map Tax Lot No. R-3808-026DD-01400-000; Property ID No. R893198

Together with all improvements now or hereafter erected on the Properties, and all interests in or appurtenant to the within described property which are subsequently acquired, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the Properties, all of which, including replacements and additions thereto, and shall be deemed to be and remain a part of the Properties covered by this Mortgage.

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Properties, and that Borrower will warrant and defend generally the title to the Properties against all claims and demands, subject to any easements and restrictions set forth on evidence of title required by Lender.

Borrower and Lender covenant and agree as follows:

1. Performance of Obligations. All obligations owed Lender and secured by this Mortgage shall be promptly paid when due including payments of principal and interest as required by the aforesaid Note, prepayment and late charges as provided in said Note. Further, Borrower shall promptly comply with all covenants contained in this Mortgage, said Note and any other loan document relating to any transaction secured by this Mortgage.
2. How Payments Applied. The payments made hereon shall apply as designated in the Note, whose terms are hereby incorporated herein.
3. Charges; Liens. Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, by Borrower making payment, when due, directly to the payee thereof. Borrower shall promptly furnish to Lender all notices of amounts due under this Paragraph and Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has priority over this Mortgage; provided, that Borrower shall not be required to discharge any such lien so long as Borrower shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof.

4. Hazard Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require and in such amounts and for such periods as Lender may require; provided, that the policy shall contain an inflation guard endorsement and shall provide not less than 30 days prior written notice to Lender of any policy cancellation or changes. Borrower shall maintain sufficient coverage so that no co-insurance provisions apply to reduce the face amount of such policy or policies. The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided, that such approval shall not be unreasonably withheld. All premiums on insurance policies shall be paid by Borrower making payment, when due, directly to the insurance carrier.
5. Preservation and Maintenance of Property. Borrower shall keep the Property in good repair and shall not permit or commit waste, impairment, or deterioration of the Property.
6. Protection of Lender's Security. If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to disbursement for taxes, assessments, insurance premiums, reasonable attorney's fees and entry upon the Property to make repairs. Any amounts disbursed by Lender pursuant to this Paragraph 6, with interest thereon, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof, and shall bear interest from the date of disbursement at the rate stated in the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate permissible by applicable law. Nothing contained in this Paragraph 6 shall require Lender to incur any expense or do any act hereunder and will not prohibit the exercise of any other right, including those available after default, which Lender may have. Borrower agrees to pay all reasonable expenses incurred by Lender in enforcing the covenants and agreements contained in this Mortgage, the Note secured thereby, and any loan document related to any transaction secured by this Mortgage and in enforcing remedies as provided in said Mortgage, Note and any other loan document related to any transaction secured by this Mortgage.
7. Forbearance by Lender Not a Waiver. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy hereunder. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage.

8. Remedies Cumulative. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively.
9. Successors and Assigns Bound; Joint and Several Liability; Captions. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.
10. Governing Law. This Mortgage shall be governed by the law of the State of Ohio. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Mortgage and the Note are declared to be severable.
11. Acceleration; Remedies. Subject to the provisions contained in the Note, upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, Lender may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding. Lender shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to costs of documentary evidence, abstracts and title reports. After acceleration all sums due Lender shall accrue interest at the interest rate upon default payable on the Note secured by this Mortgage.
12. Transfer of Properties. None of the Properties secured by this Mortgage shall be transferred or conveyed without the prior written consent of the Lender.
13. Release. Upon payment of all sums secured by this Mortgage, Lender shall discharge this Mortgage, without charge to Borrower. Borrower shall pay all costs of recordation, if any.

Borrower has executed this Mortgage on that date listed above.

BEAR VALLEY CONSTRUCTION, LLC  
an Oregon Limited Liability Company

By: Tom Matthias O Member

Tom Matthias  
Printed Name and Title

X Tom Matthias

STATE OF OREGON

COUNTY OF CLATSOP

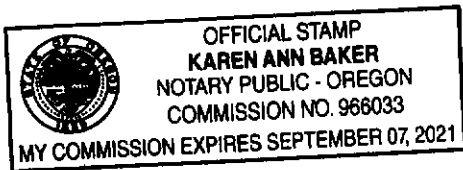
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} SS:

Before me, a Notary Public in and for said County and State, personally appeared Bear Valley Construction, LLC, by and through Tom Matthias, its MEMBER, who executed the above instrument and acknowledged that such signing was his free act and deed and the free act and deed of the limited liability company in his capacity indicated by said signature.

WITNESS my signature and notarial seal at CLATSOP Oregon this 8<sup>TH</sup> day of September, 2018.

Karen Ann Baker  
Notary Public

EXP 9-7-2021



This instrument prepared by:  
John T. Konovsky, Jr.  
LENSMAN & ASSOCIATES, LTD.  
4571 Stephen Circle, N.W.  
Canton, Ohio 44718  
Phone: (330) 497-8274