

Return To: Little Horn State Bank
834 North Center Ave
Hardin, MT 59034


2024-793643 8/5/2024 4:03 PM PAGE: 1 OF 6
FEES: \$27.00 PK MORTGAGE
EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK

Mortgage

The date of this Mortgage ("*Security Instrument*") is August 5, 2024.

Mortgagor

Excalibur Construction Inc
a Wyoming Corporation
2275 Dry Ranch Rd
Sheridan, WY 82801-8507

Lender

Little Horn State Bank
Organized and existing under the laws of the state
of Montana
835 North Center Street
PO Box 530
Hardin, MT 59034

1. Conveyance. For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Mortgagor's performance under this Security Instrument, Mortgagor grants, bargains, conveys, mortgages and warrants to Lender the following described property:

Lot 6, The Summit at Sparrowhawk. A subdivision in Sheridan County, Wyoming, filed in Drawer S of Plats, Number 91.

The property is located in Wyoming County at 2072 Summit Drive, Sheridan, WY 82801.

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, ditches, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "*Property*").

2. Maximum Obligation Limit. The total principal amount secured by this Security Instrument at any one time shall not exceed \$1,000,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.

3. Secured Debt. The term "*Secured Debt*" is defined as follows:

(A) Debt incurred under the terms of all promissory note(s), contract(s), guaranty(s) or other evidence of debt described below and all their extensions, renewals, refinancings, modifications or substitutions.

The promissory note signed by Andrew McFaul (the "*Borrower*") and dated the same date as this Security Instrument (the "*Note*"). The Note states that Borrower owes Lender One million and 00/100 Dollars (U.S. \$1,000,000.00) plus interest. Borrower has promised to pay this debt in regular periodic payments.

(B) All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

4. Payments. Mortgagor agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.

5. Prior Security Interests. With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagor agrees:

- (A) To make all payments when due and to perform or comply with all covenants.
- (B) To promptly deliver to Lender any notices that Mortgagor receives from the holder.
- (C) Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.

6. Claims Against Title. Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagor may have against parties who supply labor or materials to maintain or improve the Property.

7. Due on Sale or Encumbrance. Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of the Property. This right is subject to the restrictions imposed by federal law, as applicable.

8. Warranties and Representations. Mortgagor has the right and authority to enter into this Security Instrument. The execution and delivery of this Security Instrument will not violate any agreement governing Mortgagor or to which Mortgagor is a party.

9. Property Condition, Alterations and Inspection. Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor shall not commit or allow any waste, impairment, or deterioration of the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims and actions against Mortgagor, and of any loss or damage to the Property.

Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Mortgagor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

10. Authority to Perform. If Mortgagor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.

11. Assignment of Leases and Rents. Mortgagor irrevocably grants, bargains, conveys, mortgages and warrants to Lender as additional security all the right, title and interest in and to any and all existing or future leases, subleases, and any other written or verbal agreements for the use and occupancy of any portion of the Property, including any extensions, renewals, modifications or substitutions of such agreements (all referred to as "Leases") and rents, issues and profits (all referred to as "Rents"). In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement. Mortgagor will promptly provide Lender with true and correct copies of all existing and future Leases. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default under the terms of this Security Instrument.

Mortgagor agrees that this assignment is immediately effective between the parties to this Security Instrument. Mortgagor agrees that this assignment is effective as to third parties when Lender takes affirmative action prescribed by law, and that this assignment will remain in effect during any redemption period until the Secured Debt is satisfied. Mortgagor agrees that Lender may take actual possession of the property without the necessity of commencing legal action and that actual possession is deemed to occur when Lender, or its agent, notifies Mortgagor of default and demands that any tenant pay all future Rents directly to Lender. On receiving notice of default, Mortgagor will endorse and deliver to Lender any payment of Rents in Mortgagor's possession and will receive any Rents in trust for Lender and will not commingle the Rents with any other funds. Any amounts collected will be applied as provided in this Security Instrument. Mortgagor warrants that no default exists under the Leases or any applicable landlord/tenant law. Mortgagor also agrees to maintain and require any tenant to comply with the terms of the Leases and applicable law.

12. Leaseholds; Condominiums; Planned Unit Developments. Mortgagor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

13. Default. Mortgagor will be in default if any party obligated on the Secured Debt fails to make payment when due. Mortgagor will be in default if a breach occurs under the terms of this Security Instrument or any other document executed for the purpose of creating, securing or guarantying the Secured Debt. A good faith belief by Lender that Lender at any time is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment or the value of the Property is impaired shall also constitute an event of default.

14. Remedies on Default. In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Mortgagor is in default.

At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the terms of the Secured Debt, this Security Instrument and any related documents including, without limitation, the power to sell the Property.

All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

15. Expenses; Advances on Covenants; Attorneys' Fees; Collection Costs. Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Security Instrument. Mortgagor will also pay on demand any amount incurred by Lender for insuring, inspecting, preserving or otherwise protecting the Property and Lender's security interest. These expenses will bear interest from the date of the payment until paid in full at the highest interest rate in effect as provided in the terms of the Secured Debt. Mortgagor agrees to pay all costs and expenses incurred by Lender in collecting, enforcing or protecting Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, reasonable attorneys' fees, court costs, and other legal expenses. This amount does not include attorneys' fees for a salaried employee of the Lender. This Security Instrument shall remain in effect until released. Mortgagor agrees to pay for any recordation costs of such release.

16. Environmental Laws and Hazardous Substances. As used in this section, (1) "Environmental Law" means, without limitation, the *Comprehensive Environmental Response, Compensation and Liability Act* (CERCLA, 42 U.S.C. 9601 et seq.), and all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) "Hazardous Substance" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste," or "hazardous substance," under any Environmental Law.

Mortgagor represents, warrants and agrees that:

- (A) Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance is or will be located, stored or released on or in the Property. This restriction does not apply to small quantities of Hazardous Substances that are generally recognized to be appropriate for the normal use and maintenance of the Property.
- (B) Except as previously disclosed and acknowledged in writing to Lender, Mortgagor and every tenant have been, are, and shall remain in full compliance with any applicable Environmental Law.
- (C) Mortgagor shall immediately notify Lender if a release or threatened release of a Hazardous Substance occurs on, under or about the Property or there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor shall take all necessary remedial action in accordance with any Environmental Law.
- (D) Mortgagor shall immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any pending or threatened investigation, claim, or proceeding relating to the

release or threatened release of any Hazardous Substance or the violation of any Environmental Law.

17. Condemnation. Mortgagor will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

18. Insurance. Mortgagor shall keep Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Security Instrument.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "loss payee clause". Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor.

Unless otherwise agreed in writing, all insurance proceeds shall be applied to the restoration or repair of the Property or to the Secured Debt, whether or not then due, at Lender's option. Any application of proceeds to principal shall not extend or postpone the due date of the scheduled payment nor change the amount of any payment. Any excess will be paid to the Mortgagor. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

19. Escrow for Taxes and Insurance. Mortgagor will pay to Lender amounts for (a) yearly taxes and assessments on the Property which under the law may be superior to this Security Instrument, (b) yearly leasehold payments or ground rents (if any), (c) yearly premiums for hazard or property insurance, (d) yearly premiums for flood insurance (if any), and (e) yearly premiums for mortgage insurance (if any). Mortgagor will pay those amounts to Lender unless Lender tells Mortgagor, in writing, that Mortgagor does not have to do so, or unless the law requires otherwise. Mortgagor will make those payments at the times required by Lender.

Lender will estimate from time to time Mortgagor's yearly taxes, assessments, leasehold payments or ground rents and insurance premiums, which will be called the "Escrow Items". Lender will use existing assessments and bills and reasonable estimates of future assessments and bills. The amounts that Mortgagor pays to Lender for Escrow Items under this section will be called the "Funds". Lender will collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for Mortgagor's escrow account under the federal *Real Estate Settlement Procedures Act of 1974* (as amended), unless another law that applies to the Funds sets a lesser amount. If so, Lender will collect and hold Funds in the lesser amount.

Lender will keep the Funds in a savings or banking institution which has its deposits or accounts insured or guaranteed by a federal or state agency. If Lender is such an institution, Lender may hold the Funds. Lender will use the Funds to pay the Escrow Items. Lender will give Mortgagor, without charge, an annual accounting of the Funds. That accounting must show all additions to and deductions from the Funds and the reason for each deduction.

Lender may not charge Mortgagor for holding or keeping the Funds, for using the Funds to pay Escrow Items, for analyzing Mortgagor's payments of Funds, or for receiving, verifying and totaling assessments and bills. However, Lender may charge Mortgagor for these services if Lender pays Mortgagor interest on the Funds and if the law permits Lender to make such a charge. Lender may require Mortgagor to pay a one-time charge for an independent real estate tax reporting service used by Lender in accordance with the Secured Debts, unless applicable law provides otherwise. Lender will not be required to pay Mortgagor any interest or earnings on the Funds unless either (i) Lender and Mortgagor agree in writing, at the time Mortgagor signed this Security Instrument, that Lender will pay interest on the Funds; or (ii) the law requires Lender to pay interest on the Funds.

If the Funds held by Lender exceed the amounts permitted to be held by applicable law, Lender will account to borrower for the excess Funds in accordance with the requirements of applicable law. If the

amount of the funds held by Lender at any time is not sufficient to pay the Escrow Items when due, Lender may notify borrower in writing, and, in such case, borrower will pay to Lender the amount necessary to make up the shortage or deficiency. Borrower shall make up the shortage or deficiency as Lender directs, subject to the requirements of applicable law.

If, by reason of any default under this Security Instrument, Lender declares all Secured Debts due and payable, Lender may then apply any Funds against the Secured Debts.

When Mortgagor has paid all of the sums secured, Lender will promptly refund to Mortgagor any Funds that are then being held by Lender.

20. Financial Reports and Additional Documents. Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Security Instrument and Lender's lien status on the Property.

21. Joint and Individual Liability; Co-Signers; Successors and Assigns Bound. All duties under this Security Instrument are joint and individual. If Mortgagor signs this Security Instrument but does not sign an evidence of debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Mortgagor and Lender.

22. Applicable Law; Severability; Interpretation. This Security Instrument shall be governed by Federal law and the law of the jurisdiction in which the Property is located. This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any section in this Security Instrument, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. Time is of the essence in this Security Instrument.

23. Notice. Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address in this Security Instrument, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.

24. Waivers. Except to the extent prohibited by law, Mortgagor waives any right regarding the marshalling of liens and assets and all homestead exemption rights relating to the Property.

25. Other Terms. If checked, the following are applicable to this Security Instrument:

- ☐ **Construction Loan.** This Security Instrument secures an obligation incurred for the construction of an improvement on the Property.
- ☐ **Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property. This Security Instrument suffices as a financing statement and any carbon, photographic or other reproduction may be filed of record for purposes of Article 9 of the *Uniform Commercial Code*.
- ☐ **Riders.** The covenants and agreements of each of the riders checked below are incorporated into and supplement and amend the terms of this Security Instrument. [Check all applicable boxes]
- ☐ Condominium Rider ☐ Planned Unit Development Rider ☐ Other:

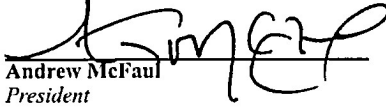
☐ **Additional Terms.** _____

Signatures

By signing below, Mortgagor agrees to the terms and covenants contained in this Security Instrument and in any attachments. Mortgagor also acknowledges receipt of a copy of this Security Instrument on the date stated in this Security Instrument.

Mortgagor

Excalibur Construction Inc
a Wyoming corporation

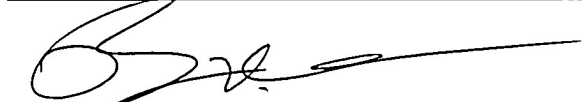

Andrew McFaul
President

Acknowledgment

State of Wyoming

County of Sheridan

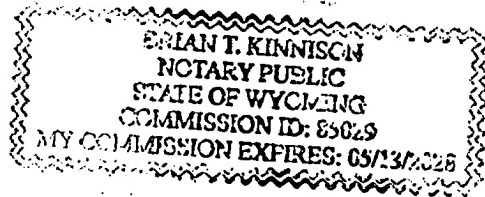
This instrument was acknowledged before me on 8-5-24 by
Andrew McFaul as President for
Excalibur Construction Inc


Notary Public
Brian T. Kinnison
Notary Public Name

My Commission Expires:
5-13-26

This notarial act was completed:

- ☒ In Person
☐ In Person Electronic
☐ Using this Electronic Notarization
System or Other Form of
Communication Technology



Loan Origination Organization: Little Horn State Bank
NMLS ID: 403407

Loan Originator: Ryan Sears
NMLS ID: 1502772

NO. 2024-793643 MORTGAGE

EDA SCHUNK THOMPSON, SHERIDAN COUNTY CLERK
WILCOX AGENCY
SHERIDAN WY 82801