

2007-001466

Klamath County, Oregon



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01/29/2007 10:54:10 AM

Fee: \$51.00

# AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE

State of Oregon       )  
                                  ) ss.  
County of Jackson    )

I, Joseph E. Kellerman, , being first duly sworn, depose and say and certify that:

1. I am the successor trustee under that certain Trust Deed executed and delivered by Carreen R. Powless and Aaron Powless, individually and purportedly doing business as Industrial Property Group, LLC, as Grantor, to AmeriTitle, an Oregon corporation, as trustee, in which Klamath Limited Partnership, an Oregon limited partnership is the beneficiary, dated April 8, 2005 and recorded on April 18, 2005 in volume No. M05, page 26807-10 of the Mortgage Records of Klamath County, State of Oregon and covering the following described real property, to wit:

Lots 1 through 26, inclusive Block 7, Second Hort Springs Addition to the City of Klamath Falls, according to the official plat thereof on file in the office of the county Clerk of Klamath County, Oregon.

EXCEPTING THEREFROM the Easterly 10 feet of Lots 1, 2, 3 and 4 as conveyed to the City of Klamath Falls by deed recorded November 17, 1948 in Volume 226, pages 431 and 433, respectively.

TOGETHER WITH the vacated alley which inured thereto by operation of law.

2. I gave notice of the sale (as required by ORS 86.745) of the real property described in the attached Amended Trustee's Notice of Sale by mailing a true copy thereof by both first-class and certified mail with return receipt requested to each of the following named persons or their legal representatives at their respective last known addresses, to wit:

AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE

-1-

Industrial Property Group, LLC  
Attention: Carreen R. Powless  
223 North Spring Street  
Klamath Falls, OR 97601

Industrial Property Group, LLC  
Attention: Aaron Powless  
223 North Spring Street  
Klamath Falls, OR 97601

The City of Klamath Falls  
P.O. Box 237  
Klamath Falls, OR 97601

All Occupants  
1305 Main Street  
Klamath Falls, OR 97601

Keith Boyd, then attorney and legal representative for Aaron Powless,  
Careen Powless, Industrial Property Group, LLC and All Occupants at  
1305 Main Street, Klamath Falls, Oregon  
Muhlheim Boyd  
88 E Broadway  
Eugene, OR 97401-3135

3. Said persons include (a) the Grantors in the Trust Deed, (b) any successor-in-interest to the Grantors whose interest appears of record or of whose interest the Trustee or the Beneficiary has actual notice, (c) any person, including the Department of Revenue or any other State agency, having a lien or interest subsequent to the Trust Deed if the lien or interest appears of record or the beneficiary has actual notice of the lien or interest, (d) any person requesting notice, as required by ORS 86.785, and (e) Keith Boyd, attorney for Carreen R. Powless, Aaron Powless and Industrial Property Group, LLC, which letter included an acceptance of service that Mr. Boyd signed on behalf of his clients and returned to us. A copy of that signed accepted of service is also attached hereto.

4. Each of the notices so mailed was certified to be a true copy of the original by the undersigned, attorney and successor Trustee named in said Notice; each such copy was contained in a sealed envelope, with postage thereon fully pre-paid, and was deposited by me in the United States Post Office at Medford, Oregon on the 29<sup>th</sup> day of September 2006. With respect to each person listed above, one such notice was mailed with postage thereon sufficient for first-class delivery to the address indicated, and another such notice was mailed with the proper form to request and obtain a return receipt postage thereon in the amount

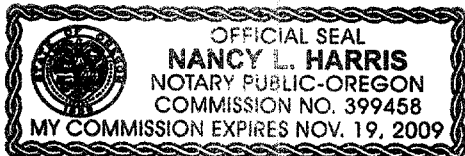
sufficient to accomplish the same. Each of said Notices was mailed after the Amended Notice of Default and Election to Sell described in said Notice of Sale was recorded.

5. As used herein, the singular includes the plural, Trustee includes successor Trustee, and person includes corporation and any other legal or commercial entity.

DATED this 23<sup>rd</sup> day of January, 2007.

  
\_\_\_\_\_  
Joseph E. Kellerman

SUBSCRIBED AND SWORN to before me this 23<sup>rd</sup> day of January, 2007.



  
\_\_\_\_\_  
Notary Public for Oregon

My Commission Expires: 11-19-2009

After Recording Return To:

Joseph E. Kellerman  
Hornecker, Cowling, Hassen & Heysell, L.L.P.  
717 Murphy Road  
Medford, OR 97504

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## AMENDED TRUSTEE'S NOTICE OF SALE

NOTICE is hereby given that the obligation secured by the Trust Deed described below is in default, and that the beneficiary has elected to foreclose the Trust Deed pursuant to ORS 86.705 to 86.795. No action is now pending to recover any part of the debt secured by the Trust Deed.

Information required by ORS 86.735 and ORS 86.745 is as follows:

1.     Grantor:                   Carreen R. Powless and Aaron Powless, individually and purportedly doing business as Industrial Property Group, LLC  
       Trustee:                 AmeriTitle an Oregon corporation  
       Successor Trustee:       Joseph E. Kellerman  
                                  Hornecker, Cowling, Hassen & Heysell, L.L.P.  
                                  717 Murphy Road  
                                  Medford, OR 97504  
       Beneficiary:             Klamath Limited Partnership, an Oregon limited partnership
2.     Property covered by the Trust Deed: Lots 1 through 26, inclusive, Block 7, SECOND HOT SPRINGS ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.  
  
       EXCEPTING THEREFROM the Easterly 10 feet of Lots 1, 2, 3 and 4 as conveyed to the City of Klamath Falls by deeds recorded November 17, 1948 in Volume 226, pages 431 and 433, respectively.  
  
       TOGETHER WITH the vacated alley which inured thereto by operation of law.
3.     Trust Deed was recorded on April 18, 2005 as instrument number M05, page 26807, Microfilm Records of Klamath County, Oregon and assigned to Klamath Limited Partnership, an Oregon limited partnership on June 6, 2005 and recorded on June 15, 2005 as instrument number M05, page 44918, Microfilm Records of Klamath County, Oregon.
4.     Defaults for which foreclosure is made is the failure of Grantee to do the following:

- A. Failure to make two back payments of \$4,961.78 each, plus monthly payments in the amount of \$4,961.78 for the months of June 2006 and thereafter;
  - B. Failure to pay real property taxes assessed against the property;
  - C. Failure to provide proof of required insurance pursuant to the terms of the trust deed being foreclosed herein; and
  - D. Failure to pay late fees in the amount of \$1,736.63 through May 2006 and in the amount of \$248.09 for each month thereafter;
5. The sum owing on the obligation secured by the Trust Deed is \$766,164.97 as of the 6<sup>th</sup> of June 2006, plus interest thereon at the rate of 6.75% from June 6, 2006 until paid, plus late fees in the amount of \$248.09 for each month from June 2006 and thereafter, plus such sums as beneficiary may advance towards payment of real property taxes, binding insurance for the property and payment of other liens that may otherwise attach thereto.
6. The Beneficiary has and does elect to sell the property to satisfy the obligation.
7. The property will be sold in the manner prescribed by law on the 6<sup>th</sup> day of February 2007, at 10:00 a.m. standard time as established by ORS 187.110, at the front steps of the Klamath County Courthouse, 316 Main Street, Klamath Falls, Oregon, 97601, Klamath County, Oregon.
8. Interested persons are notified of the right under ORS 86.753 to have this proceeding dismissed and the Trust Deed reinstated by payment of the entire amount then due, other than such portion as would not then be due had no default occurred, together with costs, trustee and attorney's fees, and by curing any other default complained of in this Amended Notice, at any time prior to five days before the date last set for sale.
9. In construing this notice and whenever the context hereof so requires, the singular includes the plural, the word "grantor" includes any successor in interest to the grantor as well as any other person owing an obligation, the performance of which is secured by said Trust Deed, and their successors in interest, the word "trustee" includes any successor trustee and the word "beneficiary" includes any successor in interest of the beneficiary named in the Trust Deed, and any collateral beneficiary, and their successors in interest.

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10. The only change by this amendment is the date of the sale to assure timely service, on all persons entitled thereto. Recording information on the Notice of Default and Election to Sell is found at M06-15004, Klamath County, Oregon dated 07/26/06 at 8:31.40 a.m.

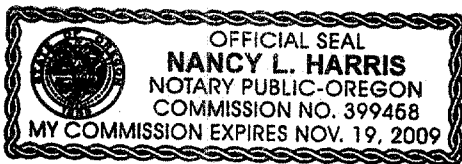
DATED this 28<sup>th</sup> day of September, 2006.

HORNECKER, COWLING,  
HASSEN & HEYSELL, L.L.P.

By: \_\_\_\_\_  
Joseph E. Kellerman, Successor Trustee

STATE OF OREGON       )  
                                      ) ss.  
County of Jackson     )

On this 28<sup>th</sup> day of September, 2006, personally appeared before me Joseph E. Kellerman, as Successor Trustee, and acknowledged said instrument to be his voluntary act and deed.



Nancy L. Harris  
Notary Public for Oregon  
My Commission Expires: 11-19-2009

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When Recorded Return To:  
Joseph E. Kellerman  
Hornecker, Cowling, Hassen & Heysell, L.L.P.  
717 Murphy Road  
Medford, OR 97504

### ACCEPTANCE OF SERVICE


I, Keith Y. Boyd, registered agent of Industrial Property Group, LLC, and authorized person for all listed below and on behalf of:

1. Aaron Powless, individually, and on behalf of Industrial Property Group, LLC;
2. Careen Powless, individually, and on behalf of Industrial Property Group, LLC;
3. Industrial Property Group, LLC; and
4. All Occupants at 1305 Main Street, Klamath Falls, Oregon

do hereby accept service of Amended Trustee's Notice of Sale certified by Joseph E. Kellerman to be a true copy of the original, a copy of which is attached hereto.

DATED this 2nd day of October, 2006.

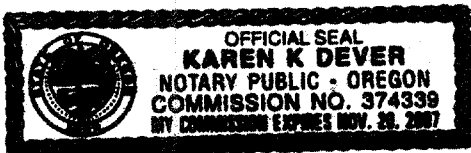
MUHLHEIM BOYD


  
Keith Y. Boyd, OSB No. 76070

Registered Agent, Industrial Property Group, LLC

STATE OF OREGON                    )  
  ) ss.  
County of Lane                    )

On this 2nd day of October, 2006, Keith Y. Boyd personally appeared in the above-named matter and acknowledged the foregoing instrument to be his voluntary act and deed.



  
Notary Public for Oregon  
My commission expires: 11/20/07