

2010-011031

Klamath County, Oregon



00090371201000110310070073

## COVER SHEET

09/16/2010 03:10:00 PM

Fee: \$72.00

ORS: 205.234

This cover sheet has been prepared by the persons presenting the attached instrument for recording. Any errors in this cover sheet DO NOT affect the transaction(s) contained in the instrument itself.

1st 1570968

After recording, return to:

Robert Smejkal P.C.  
696 Country Club Road  
Eugene OR 97401

The date of the instrument attached is 5/21/2010.

1) NAMES(S) OF THE INSTRUMENT(S) required by ORS 205.234(a)

Affidavit of Publication  
Affidavit of Mailing

2) PARTY(IES)/GRANTOR, required by ORS 205.125(1)(b) and ORS 205.160:

Trustee of the Lilian E Marsh Trust

3) PARTY(IES)/GRANTEE, required by ORS 205.125(1)(b) and ORS 205.160

Alberts Development

4) TRUE and ACTUAL CONSIDERATION (if any), ORS 93.030

\$ \_\_\_\_\_

5) FULL OR PARTIAL SATISFACTION ORDER or WARRANT FILED IN THE COUNTY CLERK'S LIEN RECORDS, ORS 205.121(1)(c)

\_\_\_\_\_

6) RE-RECORDED to correct: \_\_\_\_\_  
 Previously recorded as: \_\_\_\_\_

After recording, return to:  
Robert A. Smejkal, P.C.  
Attorney at Law  
PO Box 654  
Eugene, OR 97440

## Affidavit of Publication

### STATE OF OREGON, COUNTY OF KLAMATH

I, Jeanine P. Day, Business Manager,  
being first duly sworn, depose and say  
that I am the principal clerk of the  
publisher of the Herald and News  
a newspaper in general circulation, as  
defined by Chapter 193 ORS, printed and  
published at Klamath Falls in the  
aforesaid county and state; that I know from  
my personal knowledge that the

Legal # 12603

Trustee's Notice of Sale

Connolly/Alberts

a printed copy of which is hereto annexed,  
was published in the entire issue of said  
newspaper for: ( 4 )  
Four

Insertion(s) in the following issues:

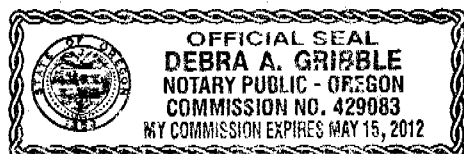
August 06, 13, 20, 27, 2010

Total Cost: \$1,346.91

*Jeanine P Day*  
Subscribed and sworn by Jeanine P Day  
before me on: August 27, 2010

*Debra A Gribble*  
Notary Public of Oregon

My commission expires May 15, 2012



#### TRUSTEE'S NOTICE OF SALE

The Trustee, under the terms of the Trust Deed described herein, at the direction of the Beneficiaries, hereby elects to sell the property described in said Trust Deed to satisfy the obligations secured thereby. A. PARTIES TO THE TRUST DEED: Grantor: ALBERTS DEVELOPMENT, LLC, an Oregon limited liability company, Trustee: ROBERT A. SMEJKAL, Attorney at Law, Beneficiaries: LIANE F. CONNOLLY and STEVE M. CONNOLLY, as to an undivided 13/183 interest, and LILIAN E. MARSH, Trustee of THE LILIAN E. MARSH TRUST dated April 7, 2005, as to an undivided 170/183 interest. B. DESCRIPTION OF THE PROPERTY: "PARCEL 2 OF MAJOR LAND PARTITION PLAT NO. 53-91, RECORDS OF KLAMATH COUNTY, OREGON, LOCATED IN SECTION 30, TOWNSHIP 24 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON." C. TRUST DEED INFORMATION: Dated: April 22, 2008, Recording Date: April 23, 2008, Recording Nos.: Volume 2008, Page 005907, Recording Place: Records of Klamath County, Oregon. D. DEFAULT: The Grantor is in default and the Beneficiaries elect to foreclose the Trust Deed for failure to pay the entire balance of the Promissory Note which became due in full on April 22, 2010. E. AMOUNT DUE: By reason of the default, the Beneficiaries have declared all sums owing on the obligation secured by the Trust Deed immediately due and payable, those sums being the principal amount of \$183,000.00, plus interest at the rate of 12% per annum from July 22, 2009, until paid; plus late fees, foreclosure costs and attorney fees, and amounts, if any, advanced by the Beneficiaries pursuant to the terms of the Trust Deed and/or applicable law. F. ELECTION TO SELL: NOTICE IS HEREBY GIVEN that the Beneficiaries and the Trustee, by reason of said default, have elected and do hereby elect to foreclose said Trust Deed by advertisement and sale pursuant to Oregon Revised Statutes §86.705 et seq., and to cause to be sold at public auction to the highest bidder, for cash or certified funds, the interest in said described property which Grantor had, or had the power to convey, at the time of the execution of the Trust Deed, together with any interest the Grantor or successor in interest acquired after the execution of the Trust Deed, to satisfy the obligations secured by said Trust Deed together with the expenses of sale, including the compensation of the Trustee as provided by law, and the reasonable fees of the Trustee's attorney. G. DATE, TIME AND PLACE OF SALE: Date & Time: October 5, 2010, at 11:00 a.m. Place: Inside the front entrance of the Klamath County Courthouse, 316 Main Street, Klamath Falls, Oregon. H. RIGHT TO REINSTATE: NOTICE IS FURTHER GIVEN that at any time prior to five (5) days before the sale, this foreclosure proceeding may be dismissed and the Trust Deed reinstated by payment to the Trustee of the entire amount then due (other than a portion of the principal as would not then be due had no default occurred), and by curing any other default complained of herein that is capable of being cured by tendering the performance required under the obligation or Trust Deed, and in addition to paying said sums or by tendering the performance necessary to cure the default, by paying all costs and expenses to the Trustee actually incurred by the Beneficiaries and the Trustee in enforcing the obligation and Trust Deed, together with the Trustee's fees and attorney's fees. I. NOTICE: The Federal Fair Debt Practices Act requires we state that this is an attempt to collect a debt and any information obtained will be used for that purpose. J. MISCELLANEOUS: In construing this Notice, 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 the Trust Deed, and the words "Trustee" and "Beneficiaries" in-

clude their respective successors in interest, if any. NOTICE TO TENANTS: If you are a tenant of this property, foreclosure could affect your rental agreement. A purchaser who buys this property at a foreclosure sale has the right to require you to move out after giving you notice of the requirement. If you do not have a fixed term lease, the purchaser may require you to move out after giving you a 30 day notice on or after the date of the sale. If you have a fixed term lease, you may be entitled to receive, after the date of the sale, a 60 day notice of the purchaser's requirement that you move out. To be entitled to either a 30 day or 60 day notice, you must give the Trustee of the property written evidence of your rental agreement at least 30 days before the date first set for the sale. If you have a fixed term lease, you must give the Trustee a copy of the rental agreement. If you do not have a fixed term lease and cannot provide a copy of the rental agreement, you may give the Trustee other written evidence of the existence of the rental agreement. The date that is 30 days before the date of the sale is September 5, 2010. The name of the Trustee and the Trustee's mailing address are listed on this notice. Federal law may grant you additional rights, including a right to a longer notice period. Consult a lawyer for more information about your rights under federal law. You have the right to apply your security deposit and any rent you prepaid toward your current obligation under your rental agreement. If you want to do so, you must notify your landlord in writing and in advance that you intend to do so. If you believe you need legal assistance with this matter, you may contact the Oregon State Bar and ask for the Lawyer Referral Service. Contact information for the Oregon State Bar is included with this Notice. If you have a low income and meet federal poverty guidelines, you may be eligible for free legal assistance. Contact information for where you can obtain free legal assistance is included in this notice. For the name and telephone number of an organization near you, please call the statewide telephone contact number at 1-888-610-8764. You may also wish to talk to a lawyer. If you need help finding a lawyer, you may call the Oregon State Bar's Lawyer Referral Service at 1-503-684-3763, or toll free in Oregon at 1-800-452-7636, or you may visit its website at [www.osbar.org/public/ris/ris.html](http://www.osbar.org/public/ris/ris.html). Legal assistance may be available if you have a low income and meet federal poverty guidelines. For more information and a directory of legal aid programs, go to <http://www.lawhelp.org/program/694/index.cfm>. DATED this 21st day of May, 2010. ROBERT A. SMEJKAL, Trustee, PO Box 654, Eugene, OR 97440. #12603 August 06, 13, 20, 27, 2010.

**After recording, return to:**  
ROBERT A. SMEJKAL, Trustee  
PO Box 654  
Eugene, OR 97440

**Re Trust Deed from Grantor:**  
ALBERTS DEVELOPMENT, LLC  
PO Box 10545  
Eugene, OR 97440

### **AFFIDAVIT OF MAILING TRUSTEE'S NOTICE OF SALE**

STATE OF OREGON, County of Lane ) ss.

I, ROBERT A. SMEJKAL, being first duly sworn, depose and say that:

At all times hereinafter mentioned, I was and am a resident of the State of Oregon, a competent person over the age of eighteen years, and not the Beneficiaries nor the Beneficiaries' successor in interest named in the attached original Trustee's Notice of Sale given under the terms of that certain Trust Deed described in the Trustee's Notice of Sale.

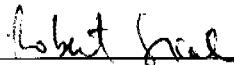
I gave notice of the sale of the real property described in the attached Trustee's Notice of Sale by mailing copies thereof by both first class and certified mail, with return receipt requested, to each of the following persons (or their legal representatives, where so indicated) at their respective last known addresses, to-wit:

<b>Name</b>	<b>Address</b>	<b>Date</b>
Alberts Development, LLC Attn: Todd M. Alberts, General Manager	PO Box 10545 Eugene, OR 97440	May 21, 2010
Oregon Rock and Ready Mix, LLC Attn: Carleton Wood, Registered Agent	37982 MJ Chase Road Springfield, OR 97478	May 21, 2010
Carleton Wood	37982 MJ Chase Road Springfield, OR 97478	May 21, 2010
Shawna Wood	37982 MJ Chase Road Springfield, OR 97478	May 21, 2010

These persons include: (a) the Grantor in the Trust Deed; (b) any successor in interest to the Grantor whose interest appears of record or of whose interest the Trustee or the Beneficiaries have 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 Beneficiaries have actual notice of the lien or interest; and (d) any person requesting notice as set forth in ORS 86.785.

Each of the notices so mailed was certified to be a true copy of the original Trustee's Notice of Sale by ROBERT A. SMEJKAL, Attorney for the Trustee named in the notice. Each such copy was mailed in a sealed envelope, with postage thereon fully prepaid, and was deposited by me in the United States post office at Eugene, Oregon, on the date or dates indicated herein. 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 a proper form to request and obtain a return receipt, with postage thereon in an amount sufficient to accomplish the same. Each such notice was mailed after the Notice of Default and Election to Sell was recorded.

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

  
\_\_\_\_\_  
ROBERT A. SMEJKAL

STATE OF OREGON, County of Lane ) ss.

SUBSCRIBED AND SWORN to before me this 21<sup>st</sup> day of May, 2010, by ROBERT A. SMEJKAL.



  
\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON

## TRUSTEE'S NOTICE OF SALE

The Trustee, under the terms of the Trust Deed described herein, at the direction of the Beneficiaries, hereby elects to sell the property described in said Trust Deed to satisfy the obligations secured thereby.

**A. PARTIES TO THE TRUST DEED:**

Grantor: ALBERTS DEVELOPMENT, LLC, an Oregon limited liability company  
Trustee: ROBERT A. SMEJKAL, Attorney at Law  
Beneficiaries: LIANE F. CONNOLLY and STEVE M. CONNOLLY, as to an undivided 13/183 interest, and LILIAN E. MARSH, Trustee of THE LILIAN E. MARSH TRUST dated April 7, 2005, as to an undivided 170/183 interest

**B. DESCRIPTION OF THE PROPERTY:**

"PARCEL 2 OF MAJOR LAND PARTITION PLAT NO. 53-91, RECORDS OF KLAMATH COUNTY, OREGON, LOCATED IN SECTION 30, TOWNSHIP 24 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON."

**C. TRUST DEED INFORMATION:**

Dated: April 22, 2008  
Recording Date: April 23, 2008  
Recording Nos.: Volume 2008, Page 005907  
Recording Place: Records of Klamath County, Oregon.

**D. DEFAULT:** The Grantor is in default and the Beneficiaries elect to foreclose the Trust Deed for failure to pay the entire balance of the Promissory Note which became due in full on April 22, 2010.

**E. AMOUNT DUE:** By reason of the default, the Beneficiaries have declared all sums owing on the obligation secured by the Trust Deed immediately due and payable, those sums being the principal amount of \$183,000.00, plus interest at the rate of 12% per annum from July 22, 2009, until paid; plus late fees, foreclosure costs and attorney fees, and amounts, if any, advanced by the Beneficiaries pursuant to the terms of the Trust Deed and/or applicable law.

**F. ELECTION TO SELL:** NOTICE IS HEREBY GIVEN that the Beneficiaries and the Trustee, by reason of said default, have elected and do hereby elect to foreclose said Trust Deed by advertisement and sale pursuant to Oregon Revised Statutes §86.705 et seq., and to cause to be sold at public auction to the highest bidder, for cash or certified funds, the interest in said described property which Grantor had, or had the power to convey, at the time of the execution of the Trust Deed, together with any interest the Grantor or successor in interest acquired after the execution of the Trust Deed, to satisfy the obligations secured by said Trust Deed together with the expenses of sale, including the compensation of the Trustee as provided by law, and the reasonable fees of the Trustee's attorney.

**G. DATE, TIME AND PLACE OF SALE:**

Date & Time: October 5, 2010, at 11:00 a.m.  
Place: Inside the front entrance of the Klamath County Courthouse,  
316 Main Street, Klamath Falls, Oregon

**H. RIGHT TO REINSTATE:** NOTICE IS FURTHER GIVEN that at any time prior to five (5) days before the sale, this foreclosure proceeding may be dismissed and the Trust Deed reinstated by payment to the Trustee of the entire amount then due (other than a portion of the principal as would not then be due had no default occurred), and by curing any other default complained of herein that is capable of being cured by tendering the performance required under the obligation or Trust Deed, and in addition to paying said sums or by tendering the performance necessary to cure the default, by paying all costs and expenses to the Trustee actually incurred by the Beneficiaries and the Trustee in enforcing the obligation and Trust Deed, together with the Trustee's fees and attorney's fees.

- I. **NOTICE:** The Federal Fair Debt Practices Act requires we state that this is an attempt to collect a debt and any information obtained will be used for that purpose.
- J. **MISCELLANEOUS:** In construing this Notice, 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 the Trust Deed, and the words "Trustee" and "Beneficiaries" include their respective successors in interest, if any.

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**NOTICE TO TENANTS:**

If you are a tenant of this property, foreclosure could affect your rental agreement. A purchaser who buys this property at a foreclosure sale has the right to require you to move out after giving you notice of the requirement.

If you do not have a fixed term lease, the purchaser may require you to move out after giving you a 30 day notice on or after the date of the sale.

If you have a fixed term lease, you may be entitled to receive, after the date of the sale, a 60 day notice of the purchaser's requirement that you move out.

To be entitled to either a 30 day or 60 day notice, you must give the Trustee of the property written evidence of your rental agreement at least 30 days before the date first set for the sale. If you have a fixed term lease, you must give the Trustee a copy of the rental agreement. If you do not have a fixed term lease and cannot provide a copy of the rental agreement, you may give the Trustee other written evidence of the existence of the rental agreement. **The date that is 30 days before the date of the sale is September 5, 2010.** The name of the Trustee and the Trustee's mailing address are listed on this notice.

Federal law may grant you additional rights, including a right to a longer notice period. Consult a lawyer for more information about your rights under federal law.

You have the right to apply your security deposit and any rent you prepaid toward your current obligation under your rental agreement. If you want to do so, you must notify your landlord in writing and in advance that you intend to do so.

If you believe you need legal assistance with this matter, you may contact the Oregon State Bar and ask for the Lawyer Referral Service. Contact information for the Oregon State Bar is included with this Notice. If you have a low income and meet federal poverty guidelines, you may be eligible for free legal assistance. Contact information for where you can obtain free legal assistance is included in this notice.

For the name and telephone number of an organization near you, please call the statewide telephone contact number at 1-888-610-8764. You may also wish to talk to a lawyer. If you need help finding a lawyer, you may call the Oregon State Bar's Lawyer Referral Service at 1-503-684-3763, or toll free in Oregon at 1-800-452-7636, or you may visit its website at [www.osbar.org/public/ris/ris.html](http://www.osbar.org/public/ris/ris.html). Legal assistance may be available if you have a low income and meet federal poverty guidelines. For more information and a directory of legal aid programs, go to <http://www.lawhelp.org/program/694/index.cfm>.

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DATED this 21<sup>st</sup> day of May, 2010.

Robert A. Smeal  
ROBERT A. SMEJKAL, Trustee