

NTC 83838

After Recording Return:
Evanston Financial Corp.
112 S. David Lane
Knoxville, TN 37922

2009-008041

Klamath County, Oregon



00067532200900080410060067

06/10/2009 11:30:12 AM

Fee: \$46.00

MORTGAGE

FHA Project No. 126-11057

THIS INDENTURE, made this first day of June 2009, between:

Shangri La Apartments of Klamath, LLC, a limited liability company organized and existing under the laws of the State of Wyoming, having its principal place of business at 1415 Esplanade, Klamath Falls, Oregon 97601.

Mortgagor (hereinafter with its successors and assigns referred to as the Mortgagor), and

Evanston Financial Corporation, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, having its principal place of business at 112 S. David Lane, Knoxville, TN 37922

Mortgagee (hereinafter with its successors and assigns referred to as the Mortgagee),

WITNESSETH, that the Mortgagor for and in consideration of the sum of **One Million Fifty Thousand Seven Hundred and No 100ths Dollars (\$1,050,700.00)**, to it in hand paid by the Mortgagee, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, and convey to the Mortgagee, forever, the following-described premises and property or leasehold estate, lying and being in the County of Klamath and State of Oregon, known and described as follows, to wit:

See Exhibit A, which is attached to and made a part of this Indenture.

AlcPmt

Together with all buildings and improvements of every kind and description now or hereafter erected or placed thereon, and all fixtures, including but not limited to all gas and electric fixtures, engines and machinery, radiators, heaters, furnaces, heating equipment, steam and hot water boilers, stoves, ranges, elevators and motors, bathtubs, sinks, water closets, basins, pipes, faucets and other plumbing and heating fixtures, mantels, cabinets, refrigerating plant and refrigerators, whether mechanical or otherwise, cooking apparatus and appurtenances, furniture, shades, awnings, screens, blinds, and other furnishings; and together with the hereditaments and appurtenances and all other rights thereunto belonging, or in anywise now or hereafter appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all articles of personal property now or hereafter attached to or used in and about the buildings now erected or hereafter to be erected on the lands herein described which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all other goods and chattels and personal property as are ever used for furnished in operating a building or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be, attached to said building or buildings in any manner; and

Together with all building materials and equipment now or hereafter delivered to said premises and intended to be installed therein.

TO HAVE AND TO HOLD said described premises and other property with said appurtenances unto the Mortgagee, forever.

The Mortgagor is justly indebted to the Mortgagee in the principal sum of **One Million Fifty Thousand Seven Hundred and No 100ths Dollars (\$1,050,700.00)**, evidenced by its Note of even date herewith, bearing interest from date on outstanding balances at **five and three-quarters per cent (5.750%)** per annum, payable in monthly installments beginning on the first day of the month following the date hereof with a final maturity of **July 1, 2044**, which Note is identified as being secured hereby by a certificate thereon. Said Note and all of its terms are incorporated hereby by reference, and this conveyance shall secure any and all extensions thereof, however evidenced.

THE MORTGAGOR HEREBY COVENANTS:

1. That Mortgagor is seized in fee simple or leasehold of said premises and every part thereof; that there are no liens or encumbrances against or upon the same and none superior or inferior to this Mortgage will be created or suffered by the Mortgagor during the life of this Mortgage; that it will forever warrant and defend said premises unto the Mortgagee against the lawful claims of all persons whomsoever;

2. That Mortgagor will pay the Note at the times and in the manner provided therein;

3. That Mortgagor will not permit or suffer the use of any of the property for any purpose other than the use for which the same was intended at the time this Mortgage was executed;

4. That the Regulatory Agreement, if any, executed by the Mortgagor and the Secretary of Housing and Urban Development acting by and through the Federal Housing Commissioner, which is being recorded simultaneously herewith, is incorporated in and made a part of this Mortgage. Upon default under the Regulatory Agreement and upon the request of the Secretary of Housing and Urban Development acting by and through the Federal Housing Commissioner, the Mortgagee, as its option, may declare the whole of the indebtedness secured hereby to be due and payable;

5. That all rents, profits and income from the property covered by this Mortgage are hereby assigned to the Mortgagee for the purpose of discharging the debt hereby secured. Permission is hereby given to Mortgagor so long as no default exists hereunder, to collect such rents, profits and income for use in accordance with the provisions of the Regulatory Agreement;

6. That upon default hereunder Mortgagee shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom;

7. That at the option of the Mortgagor the principal balance secured hereby may be reamortized on terms acceptable to the Secretary of Housing and Urban Development acting by and through the Federal Housing Commissioner if a partial prepayment results from an award in condemnation in accordance with provisions of Paragraph 9 herein, or from an insurance payment made in accordance with provisions of Paragraph 8 herein, where there is a resulting loss of project income;

8. That the Mortgagor will keep the improvements now existing or hereafter erected on the mortgaged property insured against loss by fire and such other hazards, casualties, and contingencies, as may be stipulated by the Secretary of Housing and Urban Development acting by and through the Federal Housing Commissioner upon the insurance of the Mortgage and other hazards as may be required from time to time by the Mortgagee, and all such insurance shall be evidenced by standard Fire and Extended Coverage Insurance Policy or policies, in amounts not less than necessary to comply with the applicable Coinsurance Clause percentage, but in no event shall the amounts of coverage be less than 80% of the Insurable Values or not less than the unpaid balance of the insured Mortgage, whichever is the lesser, and in default thereof the Mortgagee shall have the right to effect insurance. Such policies shall be endorsed with standard Mortgagee clause with loss payable to the Mortgagee and the Secretary of Housing and Urban Development acting by and through the Federal Housing Commissioner as interest may appear, and shall be deposited with the Mortgagee;

That if the premises covered hereby, or any part thereof, shall be damaged by fire or other hazard against which insurance is held as hereinabove provided, the amounts paid by any insurance company in pursuance of the contract of insurance to the extent of the indebtedness then remaining unpaid, shall be paid to the Mortgagee, and, at its option, may be applied to the debt or released for the repairing or rebuilding of the premises;

9. That all awards of compensation in connection with condemnation for public use of or a taking of any of that property, shall be paid to the Mortgagee to be applied to the amount due under the Note secured hereby in (1) amounts equal to the next maturing installment or installments of principal and (2) with any balance to be credited to the next payment due under the Note. That all awards of damages in connection with any condemnation for public use of or injury to any residue of the property, shall be paid to the Mortgagee to be applied to a fund held for and on behalf of the Mortgagor which fund shall, at the option of the Mortgagee, and with the prior approval of the Secretary of Housing and Urban Development, either be applied to the amount due under the Note as specified in the preceding sentence, or be disbursed for the restoration or repair of the damage to the residue. No amount applied to the reduction of the principal amount due in accordance with (1) shall be considered an optional prepayment as the term is used in this Mortgage and the Note secured hereby, nor relieve the Mortgagor from making regular monthly payments commencing on the first day of the first month following the date of receipt of the award. The Mortgagee is hereby authorized in the name of the Mortgagor to execute and deliver valid acquittances for such awards and to appeal from such awards;

10. That in order more fully to protect the security of this Mortgage, the Mortgagor will pay to the Mortgagee in addition to the monthly payments of interest or of principal and interest under the terms of the Note secured hereby and concurrently therewith monthly on the first day of each month after the date hereof until the said Note is fully paid, the following sums:

- (a) An amount sufficient to provide the Mortgagee with funds to pay the next mortgage insurance premium if this instrument and the Note secured hereby are insured, or a monthly service charge, if they are held by the Secretary of Housing and Urban Development, as follows:
 - (I) If and so long as said Note of even date and this instrument are insured or are reinsured under the provisions of the National Housing Act, an amount sufficient to accumulate in the hands of the Mortgagee one month prior to its due date the annual mortgage insurance premium, in order to provide such Mortgagee with funds to pay such premium to the Secretary of Housing and Urban Development pursuant to the National Housing Act, as amended, and applicable Regulations thereunder, or
 - (II) If and so long as said Note of even date and this instrument are held by the Secretary of Housing and Urban Development a monthly service charge in an amount equal to $1/12$ of $1/4\%$ of the average outstanding principal balance due on the Note computed for each successive year beginning with the first day of the month following the date of this instrument, if the Secretary of Housing and Urban Development is the mortgagee (beneficiary) named herein, or the first day of the month following assignment, if the Note and this instrument are assigned to the Secretary of Housing and Urban Development, without taking into account delinquencies or prepayment;
- (b) A sum equal to the grounds rents, if any, next due, plus the premiums that will next become due and payable on policies of fire and other property insurance covering the premises covered hereby, plus water rates, taxes and assessments next due on the premises covered hereby (all as estimated by the Mortgagee) less all sums already paid therefor divided by the number of months to elapse before one month prior to the date when such ground rents, premiums, water rates, taxes and assessments will become delinquent, such sums to be held by Mortgagee in trust to pay said ground rents, premiums, water rates, taxes, and special assessments.
- (c) All payments mentioned in the two preceding subsections of this paragraph and all payments to be made under the Note secured hereby shall be added together and the aggregate amount thereof shall be paid each month in a single payment to be applied by Mortgagee to the following items in the order set forth:
 - (I) premium charges under the Contract of Insurance with the Secretary of Housing and Urban Development or service charge;
 - (II) ground rents, taxes, special assessments, water rates, fire and other property insurance premiums;
 - (III) interest on the Note secured hereby;
 - (IV) amortization of the principal of said Note;

11. In the event the Mortgagor fails to pay any sums provided for in this Mortgage, the Mortgagee, at its option, may pay the same. Any excess funds accumulated under (b) of the preceding paragraph remaining after payment of the items therein mentioned, shall be credited to subsequent monthly payments of the same nature required thereunder; but if any such item shall exceed the estimate therefor, or if the Mortgagor shall fail to pay any other governmental or municipal charge, the Mortgagor shall forthwith make good the deficiency or pay the charge before the same become delinquent or subject to interest or penalties and in default thereof the Mortgagee may pay the same. All sums paid by the Mortgagee and any sums which the Mortgagee may be required to advance to pay mortgage insurance premiums shall be added to the principal of the debt secured hereby and shall bear interest from the date of payment at the rate specified in the Note and shall be due and payable on demand. In case of termination of the Contract of Mortgage Insurance by prepayment of the Mortgage in full, or otherwise (except as hereinafter provided), accumulations under (a) of the preceding paragraph hereof not required to meet payments due under the Contract of Mortgage Insurance, shall be credited to the Mortgagor. If the property is sold under foreclosure or is otherwise acquired by the Mortgagee after default, any remaining balance of the accumulations under (b) of the preceding paragraph shall be credited to the principal of the Mortgage as of the date of the commencement of foreclosure proceedings or as of the date the property is otherwise acquired; and accumulations under (a) thereof shall be likewise credited unless required to pay sums due the Secretary of Housing and Urban Development acting by and through the Federal Housing Commissioner under the Contract of Mortgage Insurance;

12. That if the Mortgagee is made or becomes a party to any suit or action, by reason of this Mortgage or the indebtedness hereby secured, the Mortgagor will pay all expenses incurred by the Mortgagee therein, including a reasonable attorney's fee;

13. That the Mortgagor shall not assign nor attempt to assign the rents, issues, or profits or any part thereof of the premises mortgaged hereby without the written consent of the Mortgagee, nor shall it demolish or remove nor threaten to demolish or remove any building on or to be erected upon said premises without similar written consent of the Mortgagee;

14. That if Mortgagor defaults in any of the covenants or agreements contained herein, or in said Note, then the Mortgagee may perform the same, and all expenditures made by the Mortgagee in so doing shall draw interest at the rate specified in the Note, and shall be repayable by the Mortgagor to the Mortgagee, and together with interest and costs accruing thereon, shall be secured by this Mortgage;

15. That the improvements about to be made upon the premises above described and all plans and specifications comply with all municipal ordinances and regulations made or promulgated by lawful authority, and that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the fire rating or inspection organization, bureau, association, or office;

16. That Mortgagor will keep all buildings and structures now on said premises or hereafter placed thereon in good repair and in as good condition as they now are. The Mortgagor will permit no waste upon the mortgaged premises;

17. That so long as this Mortgage and the said Note secured hereby are insured under the provisions of the National Housing Act, it will not execute or file for record any instrument which imposes a restriction upon the sale or occupancy of the mortgaged property on the basis of race, creed, color or national origin.

18. That so long as this Mortgage and the Note secured hereby are insured under the provisions of the National Housing Act, no charge shall be made by the Mortgagor for the accommodations, facilities or services offered by the project in excess of those approved by the Secretary of Housing and Urban Development acting by and through the Federal Housing Commissioner;

~~19. That the funds to be advanced herein are to be used in the construction of certain improvements on the lands here described, in accordance with a building loan agreement between the Mortgagor and the Mortgagee, dated , 19 , which building loan agreement (except such part of parts thereof as may be inconsistent herewith) is incorporated herein by reference to the same extent and effect as if fully set forth and made a part of this Mortgage; and if the construction of the improvements to be made pursuant to said building loan agreement shall not be carried on with reasonable diligence, or shall be discontinued at any time for any reason other than strikes or lock-outs, the Mortgagee, after due notice to the Mortgagor or any subsequent owner, is hereby invested with full and complete authority to enter upon the said premises, employ watchmen to protect such improvements from depredation or injury and to preserve and protect the personal property therein, and to continue any and all outstanding contracts for the erection and completion of said building or buildings, to make and enter into any contracts and obligations wherever necessary, either in its own name or in the name of the Mortgagor, and to pay and discharge all debts, obligations, and liabilities incurred thereby. All such sums so advanced by the Mortgagee (exclusive of advances of the principal of the indebtedness secured hereby) shall be added to the principal of the indebtedness secured hereby and shall be secured by this Mortgage and shall be due and payable on demand with interest at the rate specified in the Note, but no such advances shall be insured unless same are specifically approved by the Secretary of Housing and Urban Development acting by and through the Federal Housing Commissioner prior to the making thereof. The principal sum and other charges provided for herein shall, at the option of the Mortgagee or holder of this Mortgage and the Note secured hereby, become due and payable on the failure of the Mortgagor to keep and perform any of the covenants, conditions, and agreements of said building loan agreement. This covenant shall be terminated upon the completion of the improvements to the satisfaction of the Mortgagee and the making of the final advance as provided in said building loan agreement.~~

21. Notwithstanding any other provision contained herein or in the Note, it is agreed that the execution of the Note shall impose no personal liability upon the Mortgagor for payment of the indebtedness evidenced thereby, and, in the event of a default, the holder of the Note shall look solely to the "Collateral" (defined below) in satisfaction of the indebtedness evidenced by the Note and will not seek or obtain any deficiency or personal judgment against the Mortgagor except such judgment or decree as may be necessary to foreclose and/or bar its interest in the Collateral, provided, that nothing in this condition and no action so taken shall operate to impair any obligation of the Mortgagor under the Regulatory Agreement herein referred to and made a part hereof. As used herein, "Collateral" shall mean and include (a) the property subject to this Mortgage and to the rents, issues and profits thereof; (b) the tangible and intangible property described in any and all security agreements (whether executed by the Mortgagor, any lessee or operator of the property or any portion thereof, or any other party) which now or hereafter secure the Note and the proceeds and products thereof; (c) any and all escrows and reserves now or hereafter required by the Mortgagee and or the Secretary of Housing and Urban Development in connection with the property subject to this Mortgage (including, to the extent applicable, replacement reserves accounts, residual receipts accounts, escrows for insurance premiums, mortgage insurance premiums, ground rents, taxes, assessments, utility charges and other impositions, and escrows for working capital, operating deficits, repairs, latent defects, and offsite improvements); and (d) any and all property now or hereafter mortgaged, pledged, conveyed or assigned to secure payment of the Note and the rents, issues, profits, proceeds, and products thereof.

NOW, THEREFORE, if the mortgagor shall well and truly perform each and all of the covenants and agreements herein contained, this conveyance shall be null and void and of no effect; otherwise the same shall remain in full force and effect and may be foreclosed in the manner provided by law.

The covenants herein contained shall bind, and the benefits and advantages shall inure to, the respective successors and assigns of the parties hereto. Wherever used, the singular number shall include the plural, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the Mortgagor has caused these presents to be signed in its name by the president of its manager as of the day and year first above written, pursuant to authority given by resolution of its members.

Shangri La Apartments of Klamath, LLC, a
Wyoming limited liability company

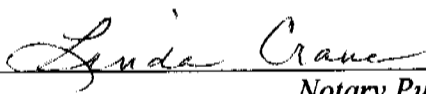
By: 
Mathew K. McVay, Manager

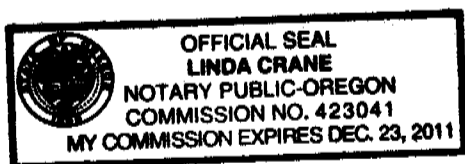
State of Oregon
County of Klamath

State of _____
County of _____

On June 6, 2009, personally appeared before me Mathew K. McVay, who, being duly sworn (or affirmed), did say that he is the manager of Shangri La Apartments of Klamath, LLC, a Wyoming limited liability company, and that the foregoing instrument was signed and sealed in behalf of said company by authority of the members of said a company, and he acknowledged said instrument to be the company's voluntary act and deed.

[NOTARIAL SEAL]


Notary Public



My commission expires: 12/23, 2011

EXHIBIT "A"
LEGAL DESCRIPTION

A tract of land situated in the SE1/4 SW1/4 of Section 34, T38S, R9EWM, Klamath County, Oregon, being more particularly described as follows:

Commencing at the Northeast corner of Lot 37, ENTERPRISE TRACTS, Klamath County, Oregon; thence South 00°15'30" East along the centerline of Avalon Street, 242.83 feet; thence North 89°44'30" East, 30.00 feet to a point on the East boundary of said street for the True Point of Beginning; thence North 89°44'30" East, 395.00 feet; thence North 00°15'30" West 59.01 feet, to a point on the Southwesterly boundary of the U.S.R.S. "A" canal; thence along said canal boundary 204.24 feet along the arc of a curve right (which arc has a radius of 433.10 feet and a long chord of North 55°12'32" West 202.35 feet); thence North 41°42' West 183.35 feet to the Southeasterly boundary of Eberlein Avenue; thence along said boundary South 47°54'30" West, 144.93 feet to the East boundary of Avalon Street; thence along said boundary South 00°15'30" East 216.00 feet to the true point of beginning.

AND an easement for a sewer in and across the following described real estate, situate, lying and being in Klamath County, Oregon, and more particularly described as follows:

A strip of land 10 feet in width lying along the following described centerline:

Beginning at a point 240 feet Northerly from the North boundary of SUNNYLAND ADDITION to the City of Klamath Falls, and 310 feet Easterly from the East boundary of Avalon Street, at which point a manhole is constructed; thence Northerly to a point on the Southerly boundary line of a parcel of property owned by Shangri-La Apartments, a partnership, said point being North 89°44'30" East 298.00 feet from the East boundary of Avalon Street.