

MASTER DISBURSING AGREEMENT

THIS MASTER DISBURSING AGREEMENT (this “*Agreement*”) is made and entered into as of [_____], 2020, by and among AMUNDSON FLATS, LIMITED PARTNERSHIP, a Minnesota limited partnership (“*Borrower*”), U.S. BANK NATIONAL ASSOCIATION, a national banking association (“*Bank*”), the CITY OF EDINA, MINNESOTA, a Minnesota statutory city (the “*City*”; the Bank and the City are sometimes referred to herein individually as a “*Lender*” and collectively as “*Lenders*”), EDINA GROUP, LLC, a Minnesota limited liability company (“*General Partner*”) and FIRST AMERICAN TITLE INSURANCE COMPANY (“*Title Company*”).

RECITALS

A. Borrower owns and intends to construct a sixty-two (62)-unit multifamily housing apartment project on the real property located at 7075 Amundson Avenue, in the City of Edina, Minnesota (the “*Project*”).

B. Lenders have agreed to provide the following loans to Borrower to pay a portion of the costs of the development and construction of the Project:

<u>Lender</u>	<u>Loan Designation</u>	<u>Amount</u>
Bank	“ <i>Senior Loan</i> ”	[\$13,427,963]
City	“ <i>TBRA Loan</i> ”	[\$400,500]
City	“ <i>ERF Loan</i> ”	[\$247,340]

The loans listed above are sometimes referred to herein individually as a “*Loan*” and collectively as the “*Loans*.”

C. Pursuant to (i) that certain Construction Loan Agreement dated as of even date herewith, by and between Borrower and Bank (as amended, restated or otherwise modified from time to time, the “*Loan Agreement*”) and (ii) that certain Amended and Restated Agreement of Limited Partnership of Amundson Flats, Limited Partnership, dated as of even date herewith (the “*Partnership Agreement*”), Borrower will obtain and make available certain capital contributions, in the amounts set forth on Exhibit E to the Loan Agreement (collectively, the “*Construction Equity Deposits*”), in order to pay for additional costs incurred in connection with the development and construction of the Project.

D. The total budgeted “hard” and “soft” costs of development and construction of the Project (collectively, the “*Project Costs*”) are set forth in the project budget attached hereto as *Exhibit A* (the “*Budget*”). All Project Costs will be paid from the following sources (collectively, the “*Funding Sources*”): (i) the Construction Equity Deposits; (ii) the Senior Loan; (iii) the TBRA Loan; and (iv) the ERF Loan.

E. As a condition precedent to making the initial Advance (as hereinafter defined) of the Senior Loan and pursuant to the Loan Agreement, Bank has required that disbursements of the proceeds of the Funding Sources be made in accordance with the provisions of this Agreement.

AGREEMENT:

In consideration of the above Recitals and of the mutual agreements set forth below, the parties agree as follows:

1. Capitalized Terms. All capitalized terms not otherwise defined in this Agreement have the meanings given to them in the Loan Agreement unless the context clearly indicates otherwise. As used herein, the following capitalized terms shall have the following meanings:

“**Advance**” means, (a) with respect to the Senior Loan, an “Advance” (as defined in the Loan Agreement), and, (b) with respect to any Subordinate Loan, an advance of the proceeds of such Subordinate Loan.

“**Bank’s Title Policy**” means an ALTA extended coverage mortgagee’s title insurance policy (ALTA Loan Policy 2006 Loan Policy of Title Insurance, or equivalent or other form satisfactory to Bank), with such endorsements as Bank may require, issued by Title Company in the amount of the Senior Loan, insuring the lien of the Senior Mortgage to be a first and prior lien upon the Project as security for all Advances of the Senior Loan pursuant to the terms of this Agreement.

“**Contributing Parties**” means Borrower, Bank and the City.

“**Draw Request**” means: (i) with respect to the Senior Loan, the form of draw request attached as **Exhibit C-1** to the Loan Agreement, and (ii) with respect to the TBRA Loan and the ERF Loan, such form of draw request as may be required by the City. Such Draw Request must in any event include an updated Budget, including a summary spreadsheet, an Application and Certificate for Payment (AIA Document G702 and G703), and a Draw Request Certification.

“**Draw Request Certification**” means a certification from Borrower to accompany all Draw Requests under this Agreement, in the form of **Exhibit C-2** attached to the Loan Agreement.

“**ERF Loan Documents**” means any and all documents evidencing or securing the ERF Loan, including but not limited to the ERF Mortgage.

“**ERF Mortgage**” means the subordinate mortgage made by Borrower in favor of the City and encumbering the Project, as security for the ERF Loan.

[“**ERF Title Policy**” means an ALTA extended coverage mortgagee’s title insurance policy (ALTA Loan Policy 2006 Loan Policy of Title Insurance, or equivalent or other form satisfactory to City), with such endorsements as City may require, issued by Title Company in the amount of the ERF Loan, insuring the lien of the ERF Mortgage to be a subordinate lien upon the Project as

security for all Advances of the ERF Loan pursuant to the terms of this Agreement.] [**confirm whether City is requiring**]

“**Funding Lender**” means, as to any Advance, the Lender which is to provide the Advance.

“**Loan Documents**” means, (a) with respect to the Senior Loan, the Senior Loan Documents, and (b) with respect to any Subordinate Loan, the applicable Subordinate Loan Documents.

“**Mortgages**” means, individually or collectively, the Senior Mortgage, the ERF Mortgage, and the TBRA Mortgage.

“**Project Inspector**” means any architect, engineer or other party which, under the Senior Loan Documents, is required to inspect the Project as a condition to an Advance.

“**Senior Mortgage**” means the Mortgage (as defined in the Loan Agreement).

“**Senior Loan Documents**” means any and all documents evidencing or securing the Senior Loan, including but not limited to the Loan Documents (as defined in the Loan Agreement).

“**Subordinate Lender**” means the City.

“**Subordinate Loans**” means the ERF Loan and the TBRA Loan, and either of them.

“**Subordinate Loan Documents**” means the ERF Loan Documents, the TBRA Loan Documents, and any documents evidencing or securing the other Subordinate Loans.

“**Sworn Construction Statement**” means a current sworn construction statement executed by General Contractor consisting of a detailed line-item breakdown of the cost of all work and materials included in the Construction Contract.

“**TBRA Loan Documents**” means any and all documents evidencing or securing the TBRA Loan, including but not limited to the TBRA Mortgage.

“**TBRA Mortgage**” means the subordinate mortgage made by Borrower in favor of the City and encumbering the Project, as security for the TBRA Loan.

[“**TBRA Title Policy**” means an ALTA extended coverage mortgagee’s title insurance policy (ALTA Loan Policy 2006 Loan Policy of Title Insurance, or equivalent or other form satisfactory to City), with such endorsements as City may require, issued by Title Company in the amount of the TBRA Loan, insuring the lien of the TBRA Mortgage to be a subordinate lien upon the Project as security for all Advances of the TBRA Loan pursuant to the terms of this Agreement.] [**confirm whether City is requiring**]

2. Construction Information. Borrower has submitted to Lenders and Title Company a copy of the Budget and the Sworn Construction Statement, and has advised Lenders and Title

Company of the name of General Contractor. If requested by any Lender(s) or Title Company, Borrower shall also furnish to such Lender(s) and Title Company a copy of the contracts with each of the subcontractors. Borrower shall keep Title Company and Lenders advised at all times of the names of all subcontractors, and of the type of work, material or services and of the dollar amount covered by each of their respective contracts. It is understood that only General Contractor and those subcontractors whose names, contract descriptions and, after a request therefor, contracts have been furnished to Bank and Title Company shall be entitled to receive disbursements of proceeds of the Senior Loan under this Agreement.

3. Mechanics' Lien Coverage. Title Company shall provide title insurance coverage over any early-start work with respect to the Project, insuring that the Senior Mortgage, the ERF Mortgage, the TBRA Mortgage, as applicable, will have priority over all possible mechanic's and material supplier's lien claims for work performed or materials supplied to the Project. Title Company has agreed to issue Bank's Title Policy to Bank and City's Title Policies to City, subject to satisfaction of the requirements set forth in Schedule B – Part I of Commitment No. NCS-945738-MPLS issued by Title Company, insuring the priority of the Mortgages over any mechanic's liens arising in connection with the Project.

4. Advances Through Title Company. Contributing Parties hereby appoint Title Company as escrow agent to establish, maintain and administer a segregated disbursing account (the "***Disbursing Account***") for the purpose of accepting and disbursing the Funding Sources in connection with the construction of the Project, subject to the terms and provisions of this Agreement. Title Company shall maintain records of each deposit to and transfer from such accounts. Title Company hereby accepts such appointment and agrees to perform the obligations of Title Company under this Agreement.

5. Initial Advance. On the date of this Agreement: (a) Borrower shall deposit (or cause to be deposited) into the Disbursing Account the proceeds of Investor's first Capital Contribution, in the amount shown on the Construction Funds Schedule (as defined in the Loan Agreement); (b) General Partner shall deposit (or cause to be deposited) into the Disbursing Account the proceeds of General Partner's first Capital Contribution, in the amount shown on the Construction Funds Schedule; (c) provided all requirements of the ERF Loan Documents have been met, the City shall deposit proceeds of the ERF Loan in the amount shown on the Budget; (d) provided all requirements of the TBRA Loan Documents have been met, City shall deposit the proceeds of the TBRA Loan into the Disbursing Account in the amount shown on the Budget, and (e) to the extent necessary to fund the initial Draw Request and provided all requirements of the Senior Loan Documents have been met, Bank shall make the initial Advance by depositing the proceeds of such Advance into the Disbursing Account. Title Company shall provide Contributing Parties with wire transfer instructions for the purposes of making all such deposits and transfers. If Borrower is required to provide additional equity funds for the Project (which funds shall not come from Investor or Borrower's other limited partners) after a determination by Bank that there are insufficient funds to complete the Project, Borrower shall deposit such additional equity funds into the Disbursing Account.

6. Disbursements. Borrower may obtain Advances for disbursement to General Contractor or those subcontractors approved as set forth in paragraph 2 above, only to the extent

of the amount currently due for work satisfactorily completed or materials, equipment or services actually incorporated into the Improvements by General Contractor or such subcontractors, in accordance with the Construction Contract and the applicable Loan Documents, less the retainage required under the Construction Contract and approved by the Funding Lender, and Borrower agrees that all sums requested hereunder for disbursement to General Contractor or any such subcontractor shall not exceed that amount. Borrower shall not obtain any disbursements of Funding Sources hereunder for the cost of materials acquired for the Project until such materials have been incorporated into the Project, except as set forth in the Loan Agreement. Borrower may not obtain an Advance of proceeds of any Loan for the cost of materials acquired for the Project until such materials have been incorporated into the Project, except as may be permitted in the Funding Lender's Loan Documents. In addition, Bank shall not be required to authorize the final disbursement of the Senior Loan for the payment of the full amount of the Construction Contract until Bank is satisfied that all of the work covered by the Construction Contract has been completed in accordance with the approved Plans, and all requirements set forth in the Loan Agreement have been fully complied with, including, with respect to the General Contractor, the requirements to evidence Completion of the Project. Without the prior written consent of Bank, no disbursement shall be made from the Disbursing Account except for Project Costs shown on the Budget. Borrower will utilize all amounts disbursed hereunder only as contemplated by the Budget and in compliance with Borrower's obligations under the Loan Documents and the Partnership Agreement.

7. Deposit of Funding Sources; Order of Disbursements. Borrower shall deposit (or cause to be deposited) the proceeds of the Construction Equity Deposits into the Disbursing Account in the amounts and at the times shown in the Construction Funds Schedule. In addition, Borrower shall cause the conditions for Advances to be satisfied so that Lenders may make Advances in the amounts and at the times shown in the Budget. Lenders agree to make Advances on the conditions set forth in their respective Loan Documents. The Funding Sources shall be advanced in the order indicated in the Budget and, except as otherwise permitted or under a Lender's Loan Documents or otherwise agreed to by a Lender in such Lender's sole and absolute discretion, no Lender shall be required to make an Advance until all of the proceeds of the Funding Sources that are scheduled to be advanced prior thereto (pursuant to the Budget) have been advanced to Title Company; provided, that, in the event Borrower receives any Construction Equity Deposits before the time indicated in the Budget, such Construction Equity Deposits shall be advanced before any additional Loan proceeds are advanced.

8. Intentionally Deleted.

9. Draw Requests. Whenever Borrower desires to obtain an Advance or a disbursement of Construction Equity Deposits, Borrower shall submit a signed Draw Request to Bank, the Funding Lender, Project Inspector and Title Company. Draw Requests shall be submitted at least ten (10) Business Days prior to the date on which the requested disbursement is to be made. Draw Requests shall be submitted no more than once each month. Borrower shall also simultaneously submit to Bank, Project Inspector and Title Company the items required pursuant to Section 4.7 of the Loan Agreement, and submit to the Funding Lender any items required pursuant to the Funding Lender's Loan Documents. With respect to each Advance, Title Company shall perform a search of the appropriate records and, within five (5) Business Days after receiving the foregoing items, shall give Bank and the Funding Lender notice by telephone or in writing if

any intervening liens are disclosed (other than those expressly listed in the Bank's Title Policy). If any such intervening liens or other matters are discovered by Title Company, which in the Funding Lender's or Bank's sole judgment jeopardize their respective interests in the Project, Title Company shall refrain from making further disbursements until Bank and the Funding Lender notify Title Company that such intervening liens or other matters have been waived by Bank and the Funding Lender or satisfied. Upon demand of Bank or the Funding Lender, Borrower shall immediately cause any such liens or other matters to be satisfied of record or bonded over, or shall deposit cash or make other arrangements with respect to the discharge thereof satisfactory to Bank and the Funding Lender.

With respect to each Advance, if Bank and the Funding Lender have approved the Draw Request (which approval shall be conditioned among other things upon all of the terms and conditions of Bank's and the Funding Lender's Loan Documents and this Agreement being complied with), then, on the date the Advance is requested to be made, the Funding Lender will advance directly to Title Company the principal amount of the requested Advance less (a) the retainage required under the Construction Contract and the Funding Lender's Loan Documents (unless such retainage is already accounted for in the Draw Request), and (b) amounts payable to and advanced by the Funding Lender to itself. Title Company shall, as promptly as possible thereafter, if all of the conditions of this Agreement have been complied with in a manner satisfactory to Title Company, and if Title Company has not received notice from Bank or the Funding Lender that a Default or an Event of Default exists under Bank's or the Funding Lender's Loan Documents, make a disbursement of the proceeds so received by delivering to General Contractor, or, at Title Company's, Bank's or the Funding Lender's option, to the subcontractors and other parties entitled to receive any of such proceeds, by check or wire transfer, the amounts set forth in the Draw Request.

Notwithstanding anything in this Agreement to the contrary, the Subordinate Lender shall not have the right to approve or disapprove Advances of the Senior Loan.

10. Draw Request Only. The provisions of this Agreement requiring submission of General Contractor's certificate and related documents specified in paragraph 5 shall not apply with respect to Advances of the Subordinate Loans or to the Construction Equity Deposits to be disbursed for the items listed below, which may be disbursed in full upon submission of a Draw Request listing such items signed by Borrower or Bank, as applicable, and/or the following special documentation, if any, to Bank and Title Company (unless said disbursement is made to Bank), or as otherwise provided by the Loan Documents:

<u>ITEM</u>	<u>SPECIAL DOCUMENTATION</u>
Bank charges (interest, fees, etc.)	None
Attorneys' fees (including Bank's counsel) and Project Inspector's fees	Copy of Statement
Real estate taxes on the Project	Copy of Bill
Insurance Premiums	Copy of Statement

Other indirect (non-construction) items As specified by Bank or Title Company

If Borrower directly pays certain Project Costs, and Lenders and Title Company approve, Title Company may make disbursements directly to Borrower as a reimbursement for such payment; provided that all of the other requirements of this Agreement, including but not limited to the presentation of waivers of lien with respect to construction costs, are fulfilled.

11. Contractors, Title Company Records. Title Company shall keep records showing the names of all subcontractors, material suppliers, and other payees to whom disbursements are made by Title Company, the date of each disbursement, and the amount of each disbursement, which records may be inspected by Borrower and Lenders.

12. Withholding Payment. If Title Company shall determine, in its reasonable judgment, that proper documentation to support a given disbursement, as required by this Agreement, has not been furnished, Title Company shall withhold payment of all or such portion of such disbursement as shall not be so supported by proper documentation, and shall promptly notify Borrower and Bank of the discrepancy in or omission of such documentation. Borrower shall promptly use all commercially reasonable efforts to correct the discrepancy and provide the required documentation. Until such time as such discrepancy or omission is corrected to the satisfaction of Title Company and Bank, Title Company shall withhold such amount, unless Bank notifies Title Company that it has waived any such discrepancy or omission and instructs Title Company to disburse, in which case it shall make the disbursement. In determining whether to instruct Title Company to disburse, Bank, Borrower and Title Company shall discuss any reasonable alternatives to resolving the issues presented by the discrepancies or missing documentation.

13. Borrower's Inspection. Borrower shall be responsible for making inspections of the Improvements during the course of construction, and shall determine to its own satisfaction that the work done or material supplied by the General Contractor and subcontractors to whom disbursements are to be made out of each Advance has been properly done or supplied in accordance with applicable contracts with the General Contractor and such subcontractors. Neither Title Company nor any Lender shall be required to conduct on behalf of Borrower any inspection of the Improvements. No third party shall have the right to use or rely upon the reports of the Project Inspector, if any, or any other reports generated by any Lender, the Project Inspector, or any of Bank's other consultants for any purpose whatsoever, whether made prior to or after commencement of construction. By authorizing an Advance after any inspection of the Project by Bank or the Project Inspector, Bank shall not be deemed to waive any Default or Event of Default, or any right to require construction defects to be corrected, or to acknowledge that all construction conforms with the Plans and Specifications.

14. Adequacy of Funds. It is expressly understood and agreed that Title Company and Lenders do not assume any liability or responsibility for the satisfactory completion of the Project, for the adequacy of funds advanced or disbursed pursuant hereto and to the Loan Agreement and the Subordinate Loan Documents to complete the Project, for inspections during construction, or

for any acts on the part of Borrower or the General Contractor or the subcontractors to be performed in the construction of the Project.

15. Notices. Any notice or other communication to any party in connection with this Agreement (except as may be given verbally or by electronic transmission to the extent expressly permitted hereunder) shall be in writing and shall be sent by manual delivery, overnight courier or United States mail (postage prepaid) addressed to such party at the address specified on the signature page hereof, or at such other address as such party shall have specified to the other party hereto in writing. All periods of notice shall be measured from the date of delivery thereof if manually delivered, from the first Business Day after the date of sending if sent by overnight courier, or from four (4) days after the date of mailing if mailed. Any party may change its address for notices by a notice given not less than five (5) Business Days prior to the effective date of the change.

16. Documents. All documents required to be delivered by Borrower to Lenders (or any of them) or Title Company pursuant to this Agreement shall be in form and content acceptable to such Lender(s) or Title Company, as the case may be.

17. Closer. Title Company agrees that it is the “closer” for the transaction described in this Agreement, that it will disburse all payments to contractors, subcontractors, and others required by this Agreement. Title Company agrees to provide copies of such documentation to Lenders or Borrower and other records relating to the requirements of this paragraph upon written request of any Lender or Borrower, as the case may be. Title Company agrees to save, indemnify, defend, and hold each Lender harmless from any losses, claims, damages or costs of any kind and nature arising from or relating to Title Company’s failure to comply with the requirements of this paragraph, provided, however, Title Company shall not be obligated to indemnify any Lender with respect to any losses, claims, damages or costs which is determined by a final, non-appealable decision of a court of competent jurisdiction to have resulted solely from the gross negligence or willful misconduct of such Lender. This indemnity shall be effective notwithstanding any other indemnification provision or exculpation provision of this Agreement releasing Title Company from responsibilities for actions or omissions of Title Company in connection with this Agreement.

18. Fees. Borrower shall pay to title Company a disbursement fee of \$350.00 per disbursement (the “**Disbursement Fee**”), plus the actual cost of the title search conducted by Title Company for such disbursement, which shall be added to each disbursement request. The Disbursement Fee covers all costs associated with reviewing the draw request, issuing the date-down endorsements, processing the disbursements, as well as any applicable charges from Title Company’s bank (such as incoming wire fees). The Disbursement Fee is intended as full compensation for Title Company’s services as contemplated by this Agreement; provided, however, Borrower shall reimburse Title Company for all costs and expenses reasonably incurred by Title Company, including but not limited to reasonable attorneys’ fees and court costs, in connection with (a) Borrower’s failure to fulfill any condition for disbursement of any Funding Sources under this Agreement, (b) any services rendered by Title Company on behalf of Borrower or with respect to the Project and not provided for in this Agreement, (c) any assignment by any Lender(s) or Borrower of their respective interests in this Agreement or the transactions contemplated hereby, (d) any amendment or other modification of this Agreement or (e) the

institution of any action, suit or other proceeding against Title Company or to which Title Company is made a party, arising out of this Agreement or the transactions contemplated hereby, together with reasonable compensation agreed to between Borrower and Title Company as payment for the services described in clause (b) above rendered by Title Company. If any amount due to the Title Company is not paid within thirty (30) days of demand therefor, Title Company in its sole discretion may charge interest on such amount up to the highest rate permitted by applicable law.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

BORROWER:

**AMUNDSON FLATS, LIMITED
PARTNERSHIP**, a Minnesota limited partnership

By: Edina Group LLC, a Minnesota limited liability company, its General Partner

By: _____
Name: Christopher J. Stokka
Title: Chief Manager

[confirm signature block]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

GENERAL PARTNER:

EDINA GROUP, LLC, a Minnesota limited liability company

By: _____

Name: Christopher J. Stokka

Title: Chief Manager

Address:

Amundson Flats, Limited Partnership
7645 Lyndale Avenue South
Minneapolis, MN 55423
Attn: Christopher J. Stokka

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

CITY:

CITY OF EDINA, MINNESOTA, a
Minnesota statutory city

By: _____
James B. Hovland, Mayor

By: _____
Scott H. Neal, City Manager

Address:

City of Edina

Attn: _____

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

BANK:

U.S. BANK NATIONAL ASSOCIATION,
a national banking association

By: _____
Name: _____
Title: _____

Address:

U.S. Bank National Association
1307 Washington Avenue, Suite 300
St. Louis, Missouri 63103
Attention: Director of LIHTC Asset
Management

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

TITLE COMPANY:

FIRST AMERICAN TITLE INSURANCE
COMPANY

By: _____
Name: _____
Title: _____

Address:

First American Title Insurance Company
121 South 8th Street, Suite 1250
Minneapolis, Minnesota 55402
Attn: _____

EXHIBIT A

BUDGET

Attached