

SCATTERED SITES LLC
ASSIGNMENT AND ASSUMPTION OF MEMBERSHIP INTERESTS AND THIRD
AMENDMENT TO AMENDED AND RESTATED OPERATING AGREEMENT

This Assignment and Assumption of Membership Interests and Third Amendment to Amended and Restated Operating Agreement (this “Agreement”) is made as of June 30, 2023 (the “Effective Date”) by and among Nationwide Affordable Housing Fund 35 – Red Stone Equity Fund-2, LLC, a Delaware limited liability company (the “Investor Member”), Red Stone Equity Manager, LLC, a Delaware limited liability company (the “Special Member”, and together with the Investor Member may be referred to herein as the “Assignors”), Scattered Sites Development, LLC, a Wisconsin limited liability company (the “Manager”), and The Housing Authority of the City of Milwaukee, a public body corporate and politic organized under the laws of the State of Wisconsin (the “Assignee”).

Recitals

A. Reference is made to that certain Amended and Restated Operating Agreement of Scattered Sites LLC, a Wisconsin limited liability company (the “Company”), dated as of March 1, 2008, as amended by that certain First Amendment to Amended and Restated Operating Agreement dated as of April 18, 2008 and that certain Second Amendment to Amended and Restated Operating Agreement dated as of October 30, 2018 (the “Operating Agreement”).

B. The Company currently owns and operates the Apartment Complex as a low-income housing project developed to generate Tax Credits under Section 42 of the Code, and the Assignors have used their Tax Credits in connection therewith, all or a portion of which are subject to shortfall, disallowance or recapture by the Internal Revenue Service for certain non-compliance under Section 42 of the Code.

C. Under the terms and conditions set forth in this Agreement, as evidenced by their execution of this Agreement, the undersigned Consent to or acknowledge, as applicable: (i) the withdrawal of the Investor Member and the Special Member from the Company and the assignment of each of their respective Interests to the Assignee; (ii) the admission of the Assignee as the Substitute Investor Member in the Company, and (iii) the amendment or modification of certain other provisions of the Operating Agreement.

D. Under the terms hereof, the Assignors assign to the Assignee their respective Interests in exchange for the Purchase Price (as defined below), and the Assignee shall assume such Interests.

Now therefore, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound hereby, agree as follows:

Agreement

1. Capitalized Terms. Capitalized terms used and not defined herein have the meanings ascribed to them in the Operating Agreement. The Recitals set forth herein are true and correct in all material respects and are incorporated herein by reference.

2. Assignment of Interests. From and after the Effective Date, each of the Assignors irrevocably and unconditionally assigns, transfers and conveys to the Assignee all of its right, title and interest in and to its Interest, including, without limitation: (a) all of its right in the profits, losses, credits and distributions of the Company; (b) its capital accounts; (c) its right to repayment of any loans or advances made by it to the Company; and (d) all of its rights and claims now existing or hereafter arising to (i) all fees and payments due under the Operating Agreement or any other agreement affecting the Company or its property (except as required to be paid pursuant to this Agreement), and (ii) all other benefits, rights and claims of any kind whatsoever under the Operating Agreement, or any other agreement affecting the Company or its property. The Assignee agrees, as of the Effective Date, to accept such assignment and to act as the Substitute Investor Member of the Company and to be bound by all terms, conditions, obligations and rights of an Investor Member under the Operating Agreement. Assignee shall accept such assignment as follows:

HACM	99.991%
------	---------

3. Withdrawal of the Assignors; Admission of the Assignee; Consent. Pursuant to Sections 9.01 and 9.02 of the Operating Agreement, as of the Effective Date: (a) as evidenced by its signature on the execution page hereof, the Manager of the Company Consents to the withdrawal of the Assignors as members and the transfer of their respective Interests in the Company to the Assignee; (b) the Assignors hereby withdraw from the Company; and (c) the Assignee is admitted to the Company as an Investor Member holding an aggregate 99.991% Interest.

4. Purchase Price. As consideration for the transfer by the Assignors to the Assignee of their collective Interests, the Assignee shall, simultaneously with the execution of this Agreement, pay the Assignors an amount equal to \$42,000 (the "Purchase Price").

5. Representations and Warranties of the Assignors. Each of the Assignors represents and warrants that, as of the Effective Date: (a) it has good and marketable title to its Interest; (b) the Interest is free and clear of all liens, charges, security interests or encumbrances of any nature whatsoever affecting any portion of its Interest; and (c) it has all requisite power and authority to enter into and perform its obligations under this Agreement. The foregoing representations and warranties shall survive the assignment of the Interests to the Assignee and the admission of the Assignee to the Company, and the Assignors shall warrant and defend the same unto the Assignee, its successors and assigns, against the lawful claims and demands of all persons. The Assignee acknowledges and agrees that, except for the foregoing representations, neither the Assignors nor any affiliate of the Assignors has made any representation or warranty with respect to the Interests or any matter related thereto, including the Company, the Operating

Agreement or the Company's property, and that the Assignee is acquiring the Interests on an "AS IS, WHERE IS" basis.

6. Representations and Warranties of the Assignee.

A. With respect to (i) any holder of a lien on the fee interest in the property improved by the Apartment Complex or (ii) the Agency, the Assignee represents and warrants that it has obtained any and all required consents to consummate the transfer of the Interests and the assumption by the Assignee of all rights, duties and obligations of the Assignors under the Operating Agreement. The Assignee further represents and warrants that it has all requisite power and authority to enter into and perform its obligations under the Operating Agreement. The Assignee shall indemnify, defend and hold the Assignors harmless from and against any and all costs, expenses, claims, losses or damages, including reasonable attorneys' fees and consultants' fees, resulting from the failure by the Assignee to have obtained any such consent.

B. None of (i) the Assignee; (ii) any affiliate of the Assignee; (iii) any person controlled by the Assignee; (iv) any person who owns a controlling interest in or otherwise controls the Assignee; (v) any person otherwise having a direct or indirect beneficial interest (other than with respect to an interest in a publicly traded entity) in the Assignee or (vi) any person for whom the Assignee is acting as agent or nominee in connection with this investment, is a country, territory, person, organization or entity named on an OFAC List (as defined below) or a prohibited country, territory, person, organization or entity under any economic sanctions program administered or maintained by OFAC (as defined below). The Assignee will maintain in effect and enforce policies and procedures designed to ensure compliance by the Assignee, its subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws (as defined below) and applicable Sanctions (as defined below). As used herein, (i) "OFAC List" means any list of prohibited countries, individuals, organizations and entities that is administered or maintained by OFAC, including: (a) Section 1(b), (c) or (d) of Executive Order No. 13224 (September 23, 2001) issued by the President of the United States (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), any related enabling legislation or any other similar executive orders, (b) the List of Specially Designated Nationals and Blocked Persons maintained by OFAC, and/or on any other similar list maintained by OFAC pursuant to any authorizing statute, executive order or regulation or (c) a "Designated National" as defined in the Cuban Assets Control Regulations, 31 C.F.R. Part 515; (ii) "OFAC" means the U.S. Department of the Treasury's Office of Foreign Assets Control; (iii) "Anti-Corruption Laws" means all laws, rules and regulations of any jurisdiction applicable to the Assignee and its affiliated companies from time to time concerning or relating to bribery or corruption and (iv) "Sanctions" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by OFAC or the U.S. Department of State.

C. The foregoing representations, warranties and indemnity shall survive the assignment of the Interests by the Assignors to the Assignee, and the admission of the Assignee to the Company.

7. Reports to the Assignors. The Assignee covenants and agrees that it shall cause the Manager to provide the Assignors with all information and reports required under the

Operating Agreement, including, without limitation, any and all tax returns (including Forms K-1) and audited financial statements of the Company for the year in which the Effective Date occurs and all prior years, to be provided in accordance with the terms of and at the times set forth in the Operating Agreement; provided, however, that in the event that such tax returns are not provided within the time period(s) specified herein or in the Operating Agreement, the Assignee shall be obligated to pay to the Assignors the amount set forth in Section 13.04(i) of the Operating Agreement as liquidated damages for each day from the date upon which such tax returns are due until the date upon which such tax returns are provided to the Assignors.

8. Allocations. Nothing in this Agreement shall affect the allocation to the Assignors of profits, losses and other items of income, gain, loss, deduction, or credit allocable to the Assignors' Interests and attributable to any period before the Effective Date or any distribution or payments made to the Assignors in respect of the Interests before the Effective Date, even if such payments are distributed following the Effective Date. The foregoing covenant shall survive the assignment of the Interests by the Assignors to the Assignee, and the admission of the Assignee to the Company.

9. Transfer Tax. To the extent that any local and/or state governmental authority in the State of Wisconsin imposes or enforces a tax in connection with the transfer of the Interests (e.g., a tax on the consideration paid, or the fair market value of the Interests or the value of any controlling interest transferred, as determined by such government authority), then the Assignee shall promptly pay such tax and any costs related thereto. The Assignee, for itself and its successors and assigns, shall indemnify, defend and hold the Assignors harmless from and against all costs and liabilities arising out of the assessment of any tax or the Assignee's failure to pay any such transfer tax if and when due. This foregoing indemnity shall survive the assignment of the Interests by the Assignors to the Assignee, and the admission of the Assignee to the Company.

10. Amendment. This Agreement shall also constitute an amendment to the Operating Agreement. All references to the term Special Member in the Operating Agreement shall be deleted in their entirety and replaced with the term Investor Member. Each reference to the Assignors in the Operating Agreement shall be replaced with the name of the Assignee. In addition, the names, addresses and percentage interests of the Investor Member and the Special Member as set forth in Sections 5.01(c) and 16.08(a) are amended as follows:

Section 5.01(c)

Investor Members

Percentage Interest

HACM
809 North Broadway
Milwaukee, Wisconsin 53202
Attention: Willie Hines

99.991%

Section 16.08

To the Investor Members

HACM

809 North Broadway

Milwaukee, Wisconsin 53202

Attention: Willie Hines

With a copy to:

Michael Best & Friedrich LLP

790 North Water Street, Suite 2500

Milwaukee, Wisconsin 53202

Attention: Bret A. Roge, Esq.

11. Indemnification. As a material inducement for the Assignors to transfer their respective Interests to the Assignee, the Assignee hereby agrees to indemnify, defend and hold the Assignors and their respective Related Persons (as defined below; the “Assignor Indemnified Parties”) free and harmless from (i) any shortfall, disallowance or recapture of any Tax Credits; (ii) any penalties or interest imposed by the Internal Revenue Service, the Agency or any other governmental agency in connection with the Tax Credits and (iii) any other liability, claims, damages, penalties, costs, fees, charges, losses, causes of action, demands, expenses of any kind or nature (collectively, “Losses”), which Losses are related to, arise out of or are in any way connected with (A) the breach of any of the covenants in or terms and conditions of this Agreement or (B) the violation of any terms and conditions in or under the Tax Credit Obligations (as defined below) or the Project Documents (as defined below); provided, however, that the foregoing indemnity shall not apply to any consequential or punitive damages incurred by the Assignor Indemnified Parties. In connection with the foregoing, the Assignee shall also pay to the Assignor Indemnified Parties an amount sufficient to pay any tax liability owed by the Assignor Indemnified Parties resulting from the receipt of the amounts specified in the foregoing clauses (i), (ii) and (iii) of this Section 11 (such calculation to be made assuming the Assignor Indemnified Parties are subject to the highest federal and state tax rate imposed on corporate taxpayers under the Code at that time for the taxable year of the Assignor Indemnified Parties in which such payments are taken into income by the Assignor Indemnified Parties) together with interest on such amounts at the Prime Rate accruing from the date the Assignor Indemnified Parties remit funds to a taxing authority with respect to a Tax Credit Recapture Event. The foregoing indemnity and payment obligation shall survive through the Indemnity Term (as defined below). As used herein, (i) “Related Person” means, when used with respect to a person (including an entity such as the Assignors and their respective partners), (a) any affiliate or subsidiary of such person; (b) any person who holds a direct or indirect ownership interest in such person or in any affiliate of such person; (c) the respective officers, directors, trustees, managers, agents, employees and asset managers of such person, any affiliate of such person or any person who holds a direct or indirect ownership interest in such person or in any affiliate of such person and (d) the respective successors and assigns of any Related Person; (ii) “Project Documents” means any documents establishing terms for participation in a program

administered by the Agency or related to the status of the Apartment Complex as a low-income Section 42 affordable housing project (including, without implied limitation, the tenant income and rent restrictions applicable to the Apartment Complex) and all other documents relating to the Apartment Complex and by which the Company is bound, as amended or supplemented from time to time, including, without limitation, the Operating Agreement; (iii) “Tax Credit Obligations” means (a) all requirements pursuant to and under Section 42 of the Code that must be satisfied in order to receive and maintain Tax Credits for the Apartment Complex with respect to the “applicable fraction” of residential units in the Apartment Complex; (b) all obligations pursuant to and under the Project Documents and (c) any rules, regulations, policies or contractual obligations enforced by the Agency and applicable to the Apartment Complex through its receipt of Tax Credits under Section 42 of the Code and (iv) “Indemnity Term” means for so long as the Internal Revenue Service may assess tax liability against the Assignors in connection with a breach of any Tax Credit Obligations.

12. Release. The Manager, on behalf of the Company, itself and all of its principals and affiliates, by execution of this Agreement, hereby remises, releases and forever discharges the Assignors and their respective members, managers, directors, officers, employees, agents, and any of their successors or assigns, from any and all liability, claims, actions, or causes of action, known or unknown, asserted or unasserted, which they or the Company may have relating to or growing out of any action or inaction taken or not taken by the Assignors prior to the date hereof under the terms of the Operating Agreement or with respect to the Apartment Complex.

13. Delivery of Information. The Manager shall cause to be prepared and delivered to the Assignors, within five (5) “Business Days” (meaning Mondays through Fridays, inclusive, excluding legal holidays recognized by the State of Wisconsin) after receipt by the Company:

A. a copy of any notice of noncompliance or Internal Revenue Service Form 8823 issued by the Agency or its agent, or notice of any Internal Revenue Service proceeding involving the Assignee, the Company or the Manager, which may reasonably be expected by the Manager, the Company or the Assignors to result in the shortfall, disallowance or recapture of any Tax Credits with respect to the Apartment Complex;

B. a copy of any notice of a legal proceeding (including, without implied limitation, any eminent domain or a compliance proceeding) or any notice of alleged violations of law, and any notice of all actions taken, or proposed to be taken, affecting the Company or the Apartment Complex by any governmental or quasi-governmental agency or other person or entity which, in the Assignors’ reasonable determination, may result in the shortfall, disallowance or recapture of any Tax Credits;

C. any other correspondence or communication with the Company or any of its Members, to or from the Internal Revenue Service or the Agency related to the Apartment Complex; and

D. a copy of any notice of any default by the Company with respect to any loan secured by the Apartment Complex.

14. Intentionally Omitted.

15. Miscellaneous.

A. *Governing Law and Venue.* This Agreement, and the application and interpretation hereof, shall be governed by and construed in accordance with the law of the State of Wisconsin.

B. *Construction.* Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

C. *Headings and Pronouns.* The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Agreement or any provision hereof. All pronouns and any variation thereof shall be deemed to refer to masculine, feminine, or neuter, singular or plural as the identity of the person or persons may require.

D. *Waivers.* The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.

E. *Rights and Remedies Cumulative.* The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

F. *Severability.* If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

G. *Heirs, Successors and Assigns.* Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

H. *Third Parties.* None of the provisions of this Agreement shall be for the benefit of or enforceable by any third parties, including any creditor, except as required by the law.

I. *Integrated Agreement.* This Agreement constitutes the entire agreement among the parties with respect to the subject matter hereof. There are no other agreements, understandings, or undertakings which modify or supplement this Agreement.

J. *Recitals.* The Recitals to this Agreement are hereby incorporated into this Agreement as if fully set forth herein.

K. *Counterparts.* This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement, binding on all of the parties hereto. Any counterpart of this Agreement that has attached to it separate signature pages that together contain the signatures of all parties hereto or is executed by an attorney-in-fact on behalf of some or all of the parties hereto, shall for all purposes be deemed a fully executed instrument.

L. *Time is of the Essence.* Time is of the essence of all provisions of this Agreement.

[Remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

ASSIGNEE:

HOUSING AUTHORITY OF THE CITY OF
MILWAUKEE, a public body corporate and politic
organized under the laws of the State of Wisconsin

By: _____
Name: Willie Hines
Title: Executive Director

MANAGER:

Scattered Sites Development LLC,
a Wisconsin limited liability company

By: HOUSING AUTHORITY OF THE CITY
OF MILWAUKEE, a public body corporate
and politic organized under the laws of the
State of Wisconsin, its Manager

By: _____
Name: Willie Hines
Title: Executive Director

[Signature page 1 of 2 of Assignment and Assumption of Membership Interests and Second
Amendment to Amended and Restated Operating Agreement]

INVESTOR MEMBER:

NATIONWIDE AFFORDABLE HOUSING FUND
35 – RED STONE EQUITY FUND-2, LLC,
a Delaware limited liability company

By: RSEP MM, LLC, a Delaware limited
liability company, its managing member

By: _____

Name: _____

Title: _____

SPECIAL INVESTOR MEMBER:

RED STONE EQUITY MANAGER, LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

[Signature page 2 of 2 of Assignment and Assumption of Membership Interests and Second
Amendment to Amended and Restated Operating Agreement]