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# UNOFFICIAL COPY

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**THIS INSTRUMENT WAS PREPARED  
BY AND AFTER RECORDING RETURN TO:**  
Illinois Housing Development Authority  
401 North Michigan Avenue, Suite 900  
Chicago, Illinois 60611  
Attn: Josie Kotsioris  
Multifamily Department

Doc#: 0608744049 Fee: \$56.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 03/28/2006 12:05 PM Pg: 1 of 17

Property Identification No(s): 17-18-107-001 to 007, inclusive  
17-19-107-027 to 033, inclusive

## ILLINOIS AFFORDABLE HOUSING TAX CREDIT REGULATORY AGREEMENT

### Project Summary

Project Owner: The Anixter Village  
Project Owner's Address: 6610 N. Clark Street  
Chicago, IL 60626  
"Sponsor": The Anixter Village  
Project Name: Anixter Village Apartments  
Project Address: 2059 W. Washburne Avenue  
Chicago, IL  
County/MSA: Cook  
SHTC No.: SHTC-2283-0  
Project Unit Count: 14/15

**THIS REGULATORY AGREEMENT** (this "Agreement") is made as of the 1<sup>st</sup> day of March, 2006 by and between the Illinois Housing Development Authority (the "Authority") and the project owner, (the "Owner"), with its principal offices located at the office referred to above in the Project Summary.

### RECITALS:

**A.** The Owner is the holder of legal title of certain real property upon which a housing Project is erected, or to be erected, with the common address set forth above in the Project Summary, and legally described on **Exhibit A** attached to and made a part of this Agreement (the "Real Estate"). The Real Estate and the improvements to be constructed on it are collectively referred to in this Agreement as the "Project."

**B.** The Authority is administrator of the Affordable Housing Tax Credit Program (the "Program") for the State of Illinois, as authorized under Section 7.28 of the Illinois Housing Development Act (the "Act"), and the rules promulgated thereunder (the "Rules"). As Administrator of the Program, the Authority is responsible for reserving and allocating Affordable Housing Tax Credits ("Donation Credits") in connection with qualified Affordable Housing Projects. All capitalized terms used in this Agreement and not otherwise defined shall have the meanings established in the Rules.

Box 430

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C. The Sponsor, an Illinois not-for-profit corporation, has received a Donation for the Project, which is of financial benefit to Owner; the Authority has determined that the Project qualifies as an Affordable Housing Project and has allocated or will allocate Affordable Housing Tax Credits in connection with that Donation.

D. It is a requirement of the allocation of Affordable Housing Tax Credits that Owner and Sponsor enter into this Regulatory Agreement and consent to be regulated and restricted by the Authority as provided herein, and as provided for in the Act and the Rules. References herein to Owner shall also refer to Sponsor.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the allocation of Affordable Housing Tax Credits in connection with the Donation made to the Project, the Owner agrees as follows:

1. **Incorporation**. The foregoing recitals are incorporated in this Agreement by this reference.

2. **Act and Rules**. Owner agrees that for so long as this Agreement is in effect, its acts regarding the Project shall be in conformance with Section 7.28 of the Act and the Rules, as they may be amended and supplemented from time to time.

3. **Representations and Agreements**. Owner further represents and agrees that:

a. Fourteen (14) units shall be occupied by Households (as defined in **Paragraph 9** hereof) whose respective income, at the time of initial occupancy, does not exceed the income limits for Very Low Income Households (as defined in **Paragraph 9** hereof);

b. On forms approved by the Authority, Owner shall obtain from each prospective Very Low Income Household prior to its admission to the Project, a certification of income (the "Certification"). Owner shall submit such Certifications to the Authority in the manner prescribed by the Authority;

c. In the manner prescribed by the Authority, Owner shall obtain written evidence substantiating the information given on such Certifications and shall retain such evidence in its files at the Project for three (3) years after the year to which such evidence pertains. Within thirty (30) days after the end of each calendar year, Owner shall certify to the Authority that, at the time of such certification and during the preceding calendar year, Owner was in compliance with the requirements of this **Paragraph 3**, or, if Owner is not or has not been in compliance with such requirements, Owner shall give notice to the Authority of its failure to comply and the corrective action Owner is taking or has taken;

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d. Owner shall comply with the rent limitations contained in the definition of Affordable Housing Project in Section 355.103 of the Rules; Owner shall annually submit to the Authority for approval a schedule of rents for the units in Project subject to the income restrictions set forth in this Agreement; Owner shall not change the rent schedule for such units without the Authority's approval.

**4. Transfer or Change of Ownership.** Owner shall not, without the prior written approval of the Authority (which may be given or withheld in the Authority's reasonable discretion) and the United States of America, acting by and through the Secretary of Housing and Urban Development ("HUD"), transfer or change the ownership of the Project.

**5. Owner Duties.** In addition to, but not by way of limitation of, the other duties of Owner set forth in this Agreement, Owner shall comply with the following:

a. Audit. The Project and the books, contracts, records, documents and other papers relating to it, and the books and records relating to Owner, shall at all times be maintained in reasonable condition for, and shall be subject to, examination, inspection and copying by the Authority or its agent or representative upon reasonable prior notice during normal business hours.

b. Furnishing Information. At the request of the Authority, Owner shall furnish such operating reports, certifications and other information as may be required by the Authority to monitor the Project's compliance with this Agreement.

**6. Violation of Agreement by Owner.** Upon violation of any of the provisions of this Agreement by Owner, the Authority may give notice of such violation to Owner and shall give notice of such violation to HUD as provided in **Paragraph 16** hereof. If such violation is not corrected to the satisfaction of the Authority within thirty (30) days after such notice, the Authority may declare a default under this Agreement, effective on the date of notice of such declaration of default to Owner, and upon such default, and so long as such default is continuing, the Authority may do the following:

a. Apply to any court, state or federal, for specific performance of this Agreement, for an injunction against any violation of this Agreement, or for such other relief as may be appropriate. Because the injury to the Authority arising from a default under any of the terms of this Agreement would be irreparable and the amount of damages would be difficult to ascertain, Owner acknowledges and agrees that the Authority's remedies at law, in the event of a violation of this Agreement, would be inadequate to assure the Authority's public purpose under the Act; or

b. Exercise such other rights or remedies as may be available to the Authority under this Agreement, at law or in equity.

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If the Authority takes legal action to enforce this Agreement and prevails in its position, Owner shall pay the Authority's reasonable attorneys' fees, costs, disbursements, and other expenses in connection with such legal action.

The Authority's remedies are cumulative and the exercise of one shall not be deemed an election of remedies, nor foreclose the exercise of the Authority's other remedies. No waiver by the Authority of any breach of this Agreement shall be deemed to be a waiver of any other or subsequent breach. The failure or delay of the Authority in exercising any of its rights under this Agreement in any one or more instances, or the exercise of less than all of its rights in any one or more instances, shall not be deemed or construed as a waiver of any such rights.

**8. Termination of Liabilities.** In the event of a sale or other transfer of the Project, all of the duties, obligations, undertakings and liabilities of Owner or other transferor (the "Transferor") under the terms of this Agreement shall thereafter cease and terminate as to the Transferor, except as to any acts or omissions or obligations to be paid or performed by the Transferor that occurred or arose prior to such sale or transfer. As a condition precedent to the termination of the liability of the Transferor under this Agreement, the transferee of the Project (a "New Owner"), as a condition precedent to its admission as a New Owner, shall assume in writing, on the same terms and conditions as apply to the Transferor, all of the duties and obligations of the Transferor arising under this Agreement from and after the date of such sale or transfer. Such assumption shall be in form and substance acceptable to the Authority. Any such New Owner shall not be obligated with respect to matters or events that occur or arise before its admission as a New Owner.

**9. Definitions.**

a. "Very Low Income Household". As used in this Agreement, the phrase "Very Low Income Household" means a single person, family or unrelated persons living together whose adjusted income is less than or equal to fifty percent (50%) of the median income of the County, or the metropolitan statistical area set forth above in the Project Summary (the "Median Income"), adjusted for family size, as such adjusted income and median income are determined from time to time by the United States Department of Housing and Urban Project for purposes of Section 8 of the United States Housing Act of 1937.

b. "Household". As used in this Agreement, the word "Household" means a person, family or unrelated persons leasing a Unit in the Project.

**10. Term of Agreement; Covenants Run with Project.**

a. The term of this Agreement shall be ten (10) years from the date the building is placed in service. Placed in serviced shall mean the date on which the building is ready and available for its specifically assigned function, i.e., the date

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on which HUD issues its Permission to Occupy Project Mortgages (HUD Form 92485).

b. The covenants and agreements set forth in this Agreement shall encumber the Project and be binding on any New Owner and any other future owners of the Project and the holder of any legal, equitable or beneficial interest in it for the term of this Agreement.

c. Notwithstanding any of the provisions of this **Paragraph 10** and **Paragraphs 8** and **14** hereof, if the Project is foreclosed or title to the Project is transferred pursuant to a deed in lieu of foreclosure, this Agreement and all covenants and agreements contained in it shall automatically terminate upon either entry of a final, non-appealable order confirming the foreclosure sale and delivery of a deed to a purchaser at such a sale, or delivery of the deed in lieu of foreclosure to a new owner, as the case may be. Any such foreclosure or transfer that occurs prior to the maturity of the Loan shall not terminate the covenants and restrictions contained in this Agreement if such foreclosure or transfer is pursuant to an arrangement between Owner and any other party, a purpose of which is to terminate such covenants and restrictions.

11. **Amendment of Agreement.** This Agreement shall not be altered or amended without the prior written approval of the Authority or HUD.

12. **Execution of Conflicting Documents.** Owner warrants that it has not executed, and it agrees that it shall not execute, any other agreement with provisions contradictory, or in opposition, to the provisions of this Agreement, and that, in any event, except for the requirements of the HUD Loan Documents (as defined in the attached Rider), the requirements of this Agreement are and shall be paramount and controlling as to the rights and obligations set forth in such other agreement and supersede any other requirements in conflict with this Agreement.

13. **Partial Invalidity.** If any term, covenant, condition or provision of this Agreement, or its application to any circumstance, shall, at any time or to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of it to circumstances other than those as to which it is held invalid or unenforceable, shall not be affected by such determination and each term, covenant, condition and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14. **Successors.** Subject to the provisions of **Paragraph 8** hereof, this Agreement shall bind Owner, its legal representatives, successors in office or interest and assigns; however, Owner may not assign this Agreement, or any of its obligations under this Agreement, without the prior written approval of the Authority and HUD.

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**15. Captions.** The captions used in this Agreement are used only as a matter of convenience and for reference and in no way define, limit or describe its scope or intent.

**16. Notices.** Any notice, demand, request or other communication that any party may desire or may be required to give to any other party under this Agreement shall be given in writing, at the addresses set forth below, by any of the following means: (a) personal service; (b) overnight courier; or (c) registered or certified United States mail, postage prepaid, return receipt requested.

If to Owner: The address set forth above in the Project Summary

If to Authority:

Illinois Housing Development Authority  
401 N. Michigan Ave., Suite 900  
Chicago, Illinois 60611  
Attention: Legal Department

If to HUD:

Department of Housing and Urban Development  
Legal Dept., 26<sup>th</sup> Floor  
Chief Program Attorney  
77 West Jackson Blvd.  
Chicago, Illinois 60604  
HUD Project No. 071-HD128/IL06-Q021-006

Such addresses may be changed by notice to the other party given in the same manner as provided in this **Paragraph 16**. Any notice, demand, request or other communication sent pursuant to subsection (a) shall be served and effective upon such personal service. Any notice, demand, request or other communication sent pursuant to subsection (b) shall be served and effective one (1) business day after deposit with the overnight courier. Any notice, demand, request or other communication sent pursuant to subsection (c) shall be served and effective three (3) business days after proper deposit with the United States Postal Service.

**17. HUD-Required Provisions Rider.** The HUD-Required Provisions Rider attached to this Agreement is incorporated into this Agreement and shall remain a part of this Agreement so long as the Mortgage Note (as defined in the HUD-Required Provisions Rider) is held by HUD. Upon such time as HUD is no longer the insurer or holder of Mortgage Note or such time that the Mortgage Note is paid in full, the HUD-Required Provisions Rider shall no longer be a part of this Agreement.

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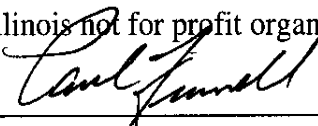
**AUTHORITY:**

**ILLINOIS HOUSING DEVELOPMENT  
AUTHORITY**

By: \_\_\_\_\_  
Josie Kotsioris, Tax Credit Manager  
Multifamily Finance Department

**OWNER:**

**THE ANIXTER VILLAGE,**  
an Illinois not for profit organization

By:  \_\_\_\_\_  
Paul Finnell  
Vice President

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**AUTHORITY:**

**ILLINOIS HOUSING DEVELOPMENT  
AUTHORITY**

By: Joë Kotsioris  
Joë Kotsioris, Tax Credit Manager  
Multifamily Finance Department

**OWNER:**

**THE ANIXTER VILLAGE,**  
an Illinois not for profit organization

By: \_\_\_\_\_  
Paul Finnell  
Vice President

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## HUD-REQUIRED PROVISIONS RIDER TO ILLINOIS HOUSING DEVELOPMENT AUTHORITY DONATION TAX CREDIT REGULATORY AGREEMENT

**THIS RIDER** (the "Rider") is attached to and made a part of that certain Illinois Affordable Housing Tax Credit Regulatory Agreement (the "Document"), dated as of March 1, 2006, made by **THE ANIXTER VILLAGE**, an Illinois not-for-profit corporation (the "Owner") and the Illinois Housing Development Authority (the "Authority"), relating to the property known as Anixter Village Apartments and located at 2059 W. Washburne Avenue, Chicago, Illinois. In the event of any conflict, inconsistency or ambiguity between the provisions of this Rider and the provisions of the Document, the provisions of this Rider shall control. All capitalized terms used herein and not otherwise defined herein shall have the meaning given to such terms in the Document. As used herein, the term "HUD" shall mean the United States of America acting by and through the Secretary of the Department of Housing and Urban Development; the term "Project" shall have the same meaning as in the HUD Regulatory Agreement described below, and the term "HUD Loan Documents" shall mean the following documents relating to the HUD mortgage loan for the Project (Project No. 071-HD128/IL06-Q021-006):

- A. Commitment for Capital Advance for the Project dated November 10, 2005, if and as amended, issued by HUD to Owner pursuant to Section 811 in the original amount of \$2,167,700;
- B. Capital Advance Agreement dated as of March 1, 2006 by and between the Owner and HUD;
- C. Mortgage Note dated as of March 1, 2006, made by the Owner payable to the order of HUD in the principal amount of \$2,167,700 (the "Mortgage Note");
- D. Mortgage dated as of March 1, 2006, made by Owner in favor of HUD and encumbering the project as security for the Mortgage Note (the "Mortgage");
- E. Security Agreement dated as of March 1, 2006, between the Owner, as Debtor, and HUD as secured party;

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- F. UCC financing statements made by the Owner, as Debtor, in favor of HUD as secured party;
  - G. Capital Advance Program Regulatory Agreement, dated as of March 1, 2006, between the Owner and HUD (the "HUD Regulatory Agreement"); and
  - H. Capital Advance Program Use Agreement, dated as of March 1, 2006, between the Owner and HUD.
- R-1 Notwithstanding anything in the Document to the contrary, the provisions of the Document are subordinate to all applicable Federal statutes, HUD regulations and related HUD directives and administrative requirements. The provisions of the Document are also expressly subordinate to the HUD Loan Documents. In the event of any conflict, inconsistency, or ambiguity between the Document and the provisions of applicable Federal statutes, HUD regulations, related HUD directives and administrative requirements, or HUD Loan Documents, the Federal statutes, HUD regulations, related HUD directives and administrative requirements and HUD Loan Documents shall control.
- R-2 Failure on the part of the Owner to comply with the covenants contained in the Document shall not serve as the basis for default on any HUD-held mortgage on the Project.
- R-3 Compliance by the Owner with the provisions and covenants of the Document and enforcement of the provisions and covenants contained in the Document, including but not limited to, any indemnification provisions or covenants, will not and shall not result in any claim or lien against the Project, any asset of the Project, the proceeds of the Mortgage, any reserve, or deposit required by HUD in connection with the Mortgage transaction or the rents or other income from the Project, other than distributable Residual Receipts (as that term is defined in the HUD Regulatory Agreement).
- R-4 No amendment to the Document made after the date of the HUD initial closing shall have any force or effect until and unless such amendment is approved in advance in writing by HUD. No amendment made after the aforesaid date to any HUD Loan Document shall be binding upon the Authority unless the Authority has consented thereto in writing.
- R-5 Unless waived in writing by HUD with respect to the Project, any action prohibited or required by HUD pursuant to applicable Federal law, HUD regulations, HUD directives and administrative requirements or the HUD Loan Documents, shall supersede any conflicting provision of the Document; and the performance or failure to perform of the Owner in accordance with such laws, regulations, directives, administrative requirements or HUD Loan Documents shall not constitute an event of default under the Document.

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- R-6 Any provision requiring the Owner to take any action necessary to preserve the Affordable Housing Tax Credits or prohibiting the Owner from taking any action that might jeopardize the tax credits is qualified to except actions prohibited or required by HUD pursuant to the National Housing Act, applicable capital advance regulations, and the HUD Loan Documents.
- R-7 So long as HUD is the holder of any mortgage on the Project or any indebtedness secured by a mortgage on the Project, the Owner shall not and is not permitted to pay any amount required to be paid under the provisions of the Document except from distributable Residual Receipts, as such term is defined in, and in accordance with the conditions prescribed in the HUD Regulatory Agreement.
- R-8 In the event of the appointment, by any court, of any person, other than HUD, as a receiver, as a mortgagee or party in possession, or in the event of any enforcement of any assignment of leases, rents, issues, profits, or contracts contained in the Document, with or without court action, no rents, revenue or other income of the Project collected by the receiver, person in possession or person pursuing enforcement as aforesaid, shall be utilized for the payment of interest, principal or any other amount due and payable under the provisions of the Document, except from distributable Residual Receipts in accordance with the HUD Regulatory Agreement. The receiver, person in possession or person pursuing enforcement shall operate the Project in accordance with all provisions of the HUD Loan Documents.
- R-9 A duplicate of each notice given, whether required or permitted to be given, under the provisions of the Document shall also be given to:

Department of Housing and Urban Development  
77 West Jackson Boulevard  
Chicago, IL 60604

Attention: Director of Multifamily Housing  
Project No. 071-HD128/IL06-Q021-006

HUD may designate any further or different addresses for such duplicate notices.

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- R-10 Notwithstanding anything in the Document to the contrary, and expressly excepting residential leases and subleases which conform to the HUD Regulatory Agreement and HUD directives and policies, the Owner and its successors and assigns may sell, convey, transfer, lease, sublease or encumber the Project or any part thereof, provided it obtains the prior written consent of HUD to any such sale, conveyance, transfer, lease, sublease or encumbrance. Such prior written consent of HUD shall be deemed the prior written consent of the Authority. Prior to the Owner requesting or receiving HUD consent to any such sale, conveyance, transfer, lease, sublease or encumbrance, it shall be the independent obligation hereunder of the Owner to send to the Authority a copy of all documents furnished or to be furnished to HUD in that regard, provided that nothing contained in this paragraph R-10 shall impose any requirement on HUD to obtain any written consent from the Authority, and provided further that the failure of the Owner to send such copies to the Authority at any time shall not impair or invalidate any HUD consent.
- R-11 The Document and all covenants and provisions therein and all lien rights created thereby, if any, shall automatically terminate in the event of a deed in lieu of foreclosure of any mortgage insured or held by HUD with respect to the Project or any portion thereof. Upon such termination, IHDA shall furnish to HUD such releases and other documentation as HUD shall deem necessary or convenient to confirm or evidence such termination.
- R-12 Notwithstanding anything in the Document to the contrary, the provisions of this HUD-Required Rider are for the benefit and are enforceable by HUD.
- R-13 This Rider may be executed in several counterparts, which shall be treated as originals for all purposes, and all so executed shall constitute one agreement, binding on all of the parties, notwithstanding that all parties are signatory to the original or the same counterpart. Any such counterpart shall be admissible into evidence as an original hereof against the party who executed it.

Executed as of the date set forth above.

[SIGNATURES ARE ON THE FOLLOWING PAGE]

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives, as of the day and year set forth above.

**AUTHORITY:**

**ILLINOIS HOUSING DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Josie Kotsioris, Tax Credit Manager  
Multifamily Finance Department

**OWNER:**

**THE ANIXTER VILLAGE,**  
an Illinois not for profit organization

By: *Paul Finnell*  
Paul Finnell  
Vice President

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**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives, as of the day and year set forth above.

**AUTHORITY:**

**ILLINOIS HOUSING DEVELOPMENT AUTHORITY**

By: *Josie Kotsioris*  
Josie Kotsioris, Tax Credit Manager  
Multifamily Finance Department

**OWNER:**

**THE ANIXTER VILLAGE,**  
an Illinois not for profit organization

By: \_\_\_\_\_  
Paul Finnell  
Vice President

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STATE OF ILLINOIS            )  
   ) SS  
 COUNTY OF COOK             )

I, the undersigned, a Notary Public in and for the County and State aforesaid, certify that **Josie Kotsioris**, personally known to me to be the Tax Credit Manager of the ILLINOIS HOUSING DEVELOPMENT AUTHORITY, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument in her capacity as Tax Credit Manager of the ILLINOIS HOUSING DEVELOPMENT AUTHORITY as her free and voluntary act and deed and as the free and voluntary act and deed of the ILLINOIS HOUSING DEVELOPMENT AUTHORITY for the uses and purposes therein set forth.

Given under my hand and official seal this 22nd day of March, 2006.



Cassandra Boose  
 Notary Public

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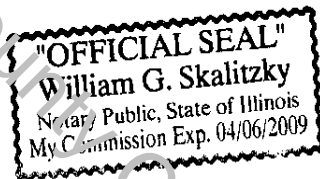
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STATE OF ILLINOIS                    )  
  ) SS  
COUNTY OF COOK                    )

I, the undersigned, a Notary Public in and for the County and State aforesaid, certify that Paul Finnell, personally known to me to be the Vice President of The Anixter Village, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument in his/her capacity as Vice President of The Anixter Village, as his/her free and voluntary act and deed and as the free and voluntary act and deed of The Anixter Village, for the uses and purposes therein set forth.

Given under my hand and official seal this 28<sup>th</sup> day of March,  
2006.

W. Skalitzky  
Notary Public



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## EXHIBIT A

### LEGAL DESCRIPTION

LOT 69 THROUGH 82 IN W.J. TEWKESBURY'S SUBDIVISION OF BLOCK 5 IN SUBDIVISION OF SECTION 19, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO PLAT THEREOF RECORDED MARCH 7, 1873 AS DOCUMENT 86280, IN COOK COUNTY, ILLINOIS.

Address: 2045-59 West Washburne  
2044-48 West 13<sup>th</sup> Street  
Chicago, Illinois 60608

P.I.N.s: 17-19-107-001 to 007  
17-19-107-027 to 033

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