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Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
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This Document has been prepared by:

William G. Skalitzky  
Applegate & Thorne-Thomsen  
322 South Green  
Suite 400  
Chicago, IL 60607

and after recording return to:

Paul Finnell  
c/o Lester and Rosalie Anixter Center  
6610 N. Clark Street  
Chicago, IL 60626-5062

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**RETENTION / RECAPTURE AGREEMENT FOR RENTAL PROJECTS NOT USING LOW INCOME HOUSING TAX CREDITS (LIHTCs)**

**AFFORDABLE HOUSING PROGRAM RECAPTURE AGREEMENT**

**THIS AGREEMENT** is entered into as of the 1<sup>st</sup> day of March 2006, by and between One Mortgage Partners Corp., a national banking association ("Bank"), The Anixter Village, an Illinois not for profit corporation ("Owner"), and Lester and Rosalie Anixter Center, an Illinois not for profit corporation, in its capacity as the sponsor for the affordable housing program project (hereinafter, Lester and Rosalie Anixter Center in its capacity as sponsor is referenced as "Sponsor"). The Bank, Owner and Sponsor are jointly referred to as the "parties."

**RECITALS:**

A. Pursuant to Section 721 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), the Federal Housing Finance Board ("Board") is required to cause each Federal Home Loan Bank ("FHLBank") to establish an affordable housing program ("AHP") to assist members of each FHLBank to finance affordable housing for very-low, low and moderate income households.

Box 430

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B. The Bank is a member of the Federal Home Loan Bank of Chicago ("Chicago Bank") and submitted an application dated September 12, 2005, ("the Application"), for an AHP subsidy in connection with certain real property commonly known as 2059 W. Washburne Ave, Chicago, Illinois, as described on Exhibit A attached hereto and incorporated herein by reference (the "Property").

C. The Owner will own the Project (as hereafter defined in paragraph 1) upon closing of a Capital Advance Grant (the "HUD Grant") from the United States Department of Housing and Urban Development ("HUD"), which HUD Grant will provide the majority of funds for the acquisition, construction, and operation of the Project under the HUD Section 811 Supportive Housing Program for Persons with Disabilities and known as HUD Project Number 071-HD128/IL06-Q021-006. The Owner will construct, own, and operate the Project in connection with the requirements of the HUD Grant, and will rent 15 units in the Project to very low income persons or families, and will provide one 2-bedroom manager's unit.

D. Pursuant to regulations (including, without limitation, those contained in 12 CFR Part 951) promulgated by the Board pursuant to FIRREA ("AHP Regulations"), members of each FHLBank are required to provide for the recapture of any subsidized advances or other subsidized assistance in connection with unused or improperly used AHP subsidies.

E. In connection with the AHP grant, Bank entered into that certain Affordable Housing Program Agreement for Rental Project ("Subsidy Agreement") dated January 12, 2006 with Chicago Bank and Sponsor for project no. 2005B0758, pursuant to which Bank and Sponsor agreed to be bound by AHP Regulations and perform certain monitoring functions with respect to the AHP Subsidy (defined in paragraph 1 below).

F. This Recapture Agreement sets forth those circumstances under which the Bank shall be entitled to a recapture of the AHP Subsidy proceeds from the Owner and Sponsor with regard to the Property.

## AGREEMENTS

1. Subsidy Amount. The parties acknowledge and agree that Bank has disbursed or will disburse forthwith the sum of \$172,500 to the Owner ("AHP Subsidy"), for use by the Owner in connection with the construction of the 15-unit Anixter Village Apartments (the "Project") in accordance with the Application. The term during which the Owner and Sponsor must comply with the AHP provisions of FIRREA to qualify for and maintain the AHP Subsidy is fifteen (15) years from the date of Project completion (the "Term"), at which time this Recapture Agreement shall terminate.

2. Affordability Requirements. Owner and Sponsor agree, during the term of this Agreement to manage and operate the Property as rental housing for very low, low, and/or moderate income households. For purposes of this Agreement, "Very-Low Income Households" shall mean households whose annual income is 50% or less of area median income, "Low Income Households" shall mean households whose annual income is 60% or less of area median

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income, and “Moderate Income Households” shall mean households whose annual income is 80% or less of area median income, as determined from time to time by HUD or as further provided in federal regulations. During the term of this Agreement, the Owner agrees to make fifteen (15) units affordable for and occupied by very-low income individuals with disabilities and their households.

3. Compliance Documentation. Owner and Sponsor shall provide to the Bank and Chicago Bank any information regarding the Project and use of the AHP Subsidy pursuant to the AHP Regulations as amended from time to time and as required by the Chicago Bank.

4. Compliance. Owner and Sponsor shall at all times comply with all laws, rules and regulations (including without limitation AHP Regulations) and with the provisions contained in the Application and those provisions contained in the Subsidy Agreement as they relate to the construction, ownership, management and operation of the Property.

5. Breach of Affordability or Reporting Requirements. In the event the Owner or Sponsor, at any time during the term of the Subsidy, defaults in its obligation to manage and operate the Property and provide compliance information as required pursuant to paragraph 3, above, or otherwise fails to comply with the terms of this Agreement, and such default continues for a period of 60 days after notice to Owner from Bank or such shorter period of time required to avoid a default by Bank under the Subsidy Agreement, it shall be an Event of Default of this Agreement and Owner shall immediately pay Bank that portion of the AHP Subsidy which may be recaptured from Bank by Chicago Bank.

Notwithstanding the foregoing, neither Owner nor Sponsor shall be deemed in default of its Affordability Requirements in the event any household of the Project has an increase in income that would otherwise disqualify such household from initial occupancy of a dwelling unit in the Project if (i) the Owner elects to charge a rent that is affordable as defined in 12 CFR section 951.1 of the AHP Regulations for the household occupying such unit, or (ii) the Owner or Sponsor has otherwise acted to cure any non-compliance with the Affordability Requirements within a reasonable period of time in accordance with applicable AHP Regulations, or (iii) the circumstances of non-compliance are eliminated through a modification of the terms of the application for the subsidy pursuant to Sections 951.7 or 951.12(a)(ii) of the AHP Regulations.

For so long as HUD is the holder of any mortgage on the Property or Project relating to the HUD Grant or any other indebtedness secured by a mortgage on the Property or Project, the Owner shall only repay any such recaptured AHP Subsidy from distributable Residual Receipts, as such term is defined in, and in accordance with the conditions prescribed in the HUD Regulatory Agreement.

6. Certifications. Owner and Sponsor hereby certify to Bank as follows:

(a) All the units in this Project will be open to income-qualified households of people with disability without regard to sex, race, creed, religion, sexual orientation, or type or degree of

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disability, provided at least one member of the household has a physical disability at initial occupancy.

(b) The AHP Subsidy shall only be for uses authorized under Section 951.3 of the Affordable Housing Regulations.

7. Sale or Refinancing. The Owner shall give written notice to the Bank and Chicago Bank within five days after any sale or refinancing of the Project occurring prior to the end of the 15-year AHP retention period. In the event of a sale or refinancing of the Project prior to the end of the 15-year AHP retention period, an amount equal to the full amount of the AHP Subsidy shall be repaid by the Owner and Sponsor to the Bank for payment to the Chicago Bank, unless the Project continues to be subject to a deed restriction, this Agreement or other legally enforceable retention agreement or mechanism incorporating the income-eligibility and affordability restrictions committed to in the Application for the duration of the 15-year AHP retention period.

8. Foreclosure. Upon any foreclosure resulting from any event of default under any mortgage on the Property securing the financing for the construction and operation of the Project described in the Application, the income-eligibility and affordability restrictions applicable to the Project shall terminate.

9. Indemnification and Survival.

(a) The Sponsor and Owner shall fully and unconditionally indemnify, defend and hold harmless the Bank from and against any judgments, losses, recapture, liabilities, damages (including consequential damages), costs, expenses of whatsoever kind or nature, including without limitation attorney's fees, expert witness fees, and any other professional fees and litigation expenses or other obligations incurred by the Bank that may arise in any manner out of actions or omissions which result from the Sponsor and Owner's performance or failure to perform pursuant to the terms of this Agreement. The representations, warranties, obligations and indemnification of and by the Sponsor and Owner shall survive the Term of this Agreement.

(b) Compliance or non-compliance by the Sponsor or Owner with the provisions and covenants of this Agreement or the Subsidy Agreement and enforcement of the provisions and covenants contained herein, including, without limitation, any indemnification provisions and recapture provisions, will not and shall not result in any claim or lien against the Project, any asset of the Project, the proceeds of the HUD Mortgage, any reserve or deposit required by HUD in connection with the Project or HUD Mortgage transaction, or the rents or other income from the Project, except as set forth in the Rider to Bank's Junior Mortgage dated as of even date herewith and executed by Owner, Bank and HUD.

10. Notices. All notices relating to this Agreement or required by the AHP Regulations shall be in writing and shall be delivered by hand or by prepaid courier (including, without limitation, Federal Express or other express mail service) or sent by registered or certified mail, postage prepaid, return receipt requested, through the United States Postal Service. Alternatively, notices, requests and demands may be served by facsimile transmission, provided that the same

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shall not be effective unless or until receipt of a complete, legible copy has been confirmed telephonically by, or by return facsimile from, the recipient. Such notices, requests and demands shall be deemed served when delivery is received or refused. Notices, requests and demands shall be addressed as follows:

If to Owner and  
Sponsor: The Anixter Village  
c/o Lester and Rosalie Anixter Center  
6610 N. Clark Street  
Chicago, IL 60626-5062  
Attention: Paul Finnell

With a copy to: Applegate & Thorne-Thomsen, P.C.  
322 South Green St., Suite 400  
Chicago, IL 60607  
Attention: Bill Skalitzky

If to Bank: One Mortgage Partners Corp.  
10 South Dearborn, 18<sup>th</sup> Floor  
Mail Code IL1-0357  
Chicago, IL 60670  
Attn: Beverly Meek

If to Chicago Bank: Federal Home Loan Bank of Chicago  
111 East Wacker Drive, Suite 800  
Chicago, Illinois 60601  
Attention: Community Investment  
Department

11. Subordination. Notwithstanding anything in this Recapture Agreement or in the Subsidy Agreement to the contrary, the rights granted under this Recapture Agreement or under the Subsidy Agreement shall be and are subject and subordinate to:

- a. the rights of HUD pursuant to the lien of that certain Mortgage of even date herewith executed and delivered by Owner to and in favor of The Secretary of Housing and Urban Development ("HUD Mortgage") securing repayment of a capital advance made pursuant to the Section 811 Program for HUD Project 071-HD128/IL06-Q021-006, which HUD Mortgage is recorded with the Recorder's Office of Cook County, Illinois ("Recorder's Office") concurrently herewith, and any other documents evidencing or securing such indebtedness, including the Regulatory Agreement of even date herewith executed and delivered by Owner to and in favor of The Secretary of the Department of Housing and Urban Development of Washington, D.C., ("HUD Regulatory Agreement"), which HUD Regulatory Agreement is recorded with the Recorder's Office concurrently herewith, and the Use Agreement by and among Owner and The Secretary of the



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Department of Housing and Urban Development of Washington D.C. (“HUD Use Agreement”) of even date herewith, which HUD Use Agreement is recorded with the Recorder's Office concurrently herewith. The HUD Mortgage, HUD Regulatory Agreement and HUD Use Agreement shall be recorded in the Recorder's Office in connection with the initial closing of the funding of the Project by HUD, and prior to commencement of construction of the Project;

- b. the Agreement for the Sale and Redevelopment of Land, as amended, between Mortgagor and the City of Chicago recorded concurrently herewith in the Recorder's Office;
  - c. the Regulatory and Land Use Restriction Agreement between Mortgagor and the Illinois Housing Development Authority made in conjunction with a grant from the Illinois Affordable Housing Trust Fund and recorded concurrently herewith in the Recorder's Office; and
  - d. the Illinois Affordable Housing Tax Credit Regulatory Agreement by and between Mortgagor and the Illinois Housing Development Authority recorded concurrently herewith in the Recorder's Office.
12. Successors and Assigns. The rights and obligations of the parties to this Recapture Agreement shall inure to the benefit of, and shall be binding upon, their respective successors and assigns.
13. Severability. In the event any provision of this Recapture Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
14. Execution of Counterparts. This Recapture Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
15. Entire Agreement. This Recapture Agreement sets forth all of the covenants, promises, agreements, conditions and understandings of the parties relating to the subject matter of this Recapture Agreement, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are herein set forth. This Recapture Agreement supersedes all prior written and oral communications relating to the subject matter of this Recapture Agreement.
16. Modification, Waiver and Termination. This Recapture Agreement and each provision hereof may be modified, amended, changed, altered, waived, terminated or discharged only by a written instrument signed by the party sought to be bound by such modification, amendment, change, alteration, waiver, termination or discharge, and with the prior written consent of HUD and Chicago Bank.

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17. Governing Law. This Recapture Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Illinois.

18. Headings. The headings of sections and paragraphs in this Agreement are for convenience only and shall not be construed to limit or define the content, scope or intent of the provisions hereof. As used in this Agreement, the singular shall include plural, and masculine, feminine and neuter pronouns shall be fully interchangeable, where the context so requires.

19. Nature of Remedies. Bank's remedies under this Agreement and any other document executed in connection with the AHP Subsidy shall be cumulative and concurrent and may be pursued singly, successively, or together against any or all of Sponsor, Owner and any other Obligors, and Bank may resort to every other right or remedy available at law or in equity without first exhausting the rights and remedies contained herein. Failure of Bank, for any period of time or on more than one occasion, to exercise any option hereunder shall not constitute a waiver of the right to exercise the same at any time during the continued existence of the Event of Default or in the event of any subsequent Event of Default. Bank shall not by any other omission or act be deemed to waive any of its rights or remedies hereunder unless such waiver is in writing and signed by Bank, and then only to the extent specifically set forth therein. A waiver in connection with one event shall not be construed as continuing or as a bar to or as a waiver of any right or remedy in connection with a subsequent event.

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**IN WITNESS WHEREOF**, the parties have executed this Affordable Housing Program Recapture Agreement as of the date first written above.

**BANK:**

One Mortgage Partners Corp.

By: *Beverly E. Meek*  
Name: *Beverly E. Meek*  
Title: *VICE-PRESIDENT*

**SPONSOR:**

Lester and Rosalie Anixter Center

By: *Paul Finnell*  
Paul Finnell, Vice President

**OWNER:**

The Anixter Village

By: *Paul Finnell*  
Paul Finnell, Vice President

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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

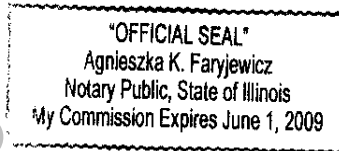
I, Agnieszka K. Faryjwicz, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT Beverly E. Meek personally known to me and known by me to be the Vice President of One Mortgage Partners Corp., a national banking association ("Bank") and the same person in whose name the above and foregoing instrument is executed, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her free and voluntary act, and as the free and voluntary act of said Bank for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 21<sup>st</sup> day of March, 2006.

Agnieszka K. Faryjwicz  
Notary Public

My Commission Expires:

June 01, 2009



STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, Kathie Soroka, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT Paul Finnell, personally known to me and known by me to be the Vice President of The Anixter Village, and the same person in whose name the above and foregoing instrument is executed, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act as both the Owner and Sponsor as each term is defined in the foregoing instrument, and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 22<sup>nd</sup> day of March, 2006.

Kathie Soroka  
Notary Public

My Commission Expires:



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STATE OF ILLINOIS                    )  
  ) SS.  
COUNTY OF COOK                    )

I, Kathie Soroka, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT Paul Finnell, personally known to me and known by me to be the Vice President of Lester and Rosalie Anixter Center, and the same person in whose name the above and foregoing instrument is executed, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said corporation, the Sponsor, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 22nd day of March, 2006.

Kathie Soroka  
Notary Public

My Commission Expires:



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**HUD Project No. 071-HD128/IL06-Q021-006**  
**Anixter Village Apartments**  
**Chicago, Illinois**

## EXHIBIT A

### Legal Description

LOTS 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 Avenue  
2044-48 West 13<sup>th</sup> Street  
Chicago, Illinois 60608

PINs: 17-19-107-001 through -007, inclusive  
17-19-107-027 through -033, inclusive

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