

CIRCULO REAL PROPERTY HOLDING CORPORATION

to

TOWN OF HEMPSTEAD LOCAL DEVELOPMENT CORPORATION

(TOWN OF HEMPSTEAD, NEW YORK)

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MORTGAGE AND SECURITY AGREEMENT

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Dated as of August 1, 2019

\$2,470,000

Town of Hempstead Local Development Corporation  
Tax-Exempt Revenue Refunding Bonds, Series 2019A-1  
(Circulo Real Property Holding Corporation/Evergreen Charter School Project)

and

\$11,170,000

Town of Hempstead Local Development Corporation  
Tax-Exempt Revenue Refunding Bonds, Series 2019A-2  
(Circulo Real Property Holding Corporation/Evergreen Charter School Project)

and

\$900,000

Town of Hempstead Local Development Corporation  
Taxable Revenue Refunding Bonds, Series 2019B  
(Circulo Real Property Holding Corporation/Evergreen Charter School Project)

134 Linden Avenue, Hempstead, NY 11550

Section: 34 Block: 380 Lots: 328 and 329

and

605 Peninsula Boulevard, Hempstead, NY 11550

Section: 34 Block: 380 Lots: 256, 454-455, 464, 467 and 470

After Recording Please Return to:

Nixon Peabody LLP  
1300 Clinton Square  
Rochester, New York 14604  
Attention: Terance V. Walsh, Esq.

## MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT, dated as of August 1, 2019 (this “**Mortgage**”), is given by CIRCULO REAL PROPERTY HOLDING CORPORATION, a not-for-profit corporation organized and existing under the laws of the State of New York and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “**Code**”), having an office at 20 West Park Avenue, Long Beach, New York 11561 (the “**Mortgagor**” or “**Institution**”) and the TOWN OF HEMPSTEAD LOCAL DEVELOPMENT CORPORATION, a local development corporation existing under the laws of the State of New York, having its principal office at 350 Front Street, 2nd Floor, Hempstead, New York 11550 (together with its successors and assigns, the “**Mortgagee**” or “**Issuer**”).

### R E C I T A L S:

WHEREAS, the Issuer was created pursuant to and in accordance with the provisions of the New York Membership Corporation Law as in effect in 1966, as superseded by Section 1411 of the New York Not-for-Profit Corporation Law (collectively, the “**Act**”) and is empowered under the Act to undertake the providing of projects of a character such as the Series 2019 Project for the Public Purposes of the State; and

WHEREAS, the Issuer proposes to issue its \$2,470,000 Tax-Exempt Revenue Refunding Bonds, Series 2019A-1 (Circulo Real Property Holding Corporation/Evergreen Charter School Project) (the “**Series 2019A-1 Bonds**”), and its \$11,170,000 Tax-Exempt Revenue Refunding Bonds, Series 2019A-2 (Circulo Real Property Holding Corporation/Evergreen Charter School Project) (the “**Series 2019A-2 Bonds**”; and, together with the Series 2019A-1 Bonds, the “**Series 2019A Bonds**”) and its \$900,000 Taxable Revenue Refunding Bonds (Circulo Real Property Holding Corporation/Evergreen Charter School Project) (the “**Series 2019B Bonds**”; and together with the Series 2019A Bonds, the “**Series 2019 Bonds**”), under Section 145 of the Internal Revenue Code of 1986, as amended (the “**Code**”), for the benefit of the Institution, for the purposes of, along with other available monies of the Institution: (A) paying all costs in connection with refunding the outstanding Civic Facility Revenue Bonds, Series 2007 (Circulo de la Hispanidad, Inc. Civic Facility) issued by the Town of Hempstead Industrial Development Agency (the “**IDA**”), in the amount of \$15,000,000 (the “**Series 2007 Bonds**”), for the benefit of Circulo de la Hispanidad, Inc., a not-for-profit corporation, organized and existing under the laws of the State of New York, and an Exempt Organization (the “**Organization**”), the proceeds of which Series 2007 Bonds were used to finance the costs of (i) the issuance of the Series 2007 Bonds, and (ii) the acquisition of an approximately 0.895 acre parcel of land located at 605 Peninsula Boulevard and the construction and equipping of an approximately 35,000 square foot two-story commercial building located thereon, and an adjacent approximately 0.1147 acre parcel of land located at 134 Linden Avenue, consisting of parking facilities, all located in the Village of Hempstead, Town of Hempstead, Nassau County, New York (collectively, the “**Facility**”) (clauses (i) and (ii) are collectively, the “**Series 2007 Project**”), which Facility will be conveyed by the Organization to the Institution and leased by the Institution to Evergreen Charter School, not-for-profit education corporation, organized and existing

under the laws of the State of New York and an Exempt Organization (the “**School**”), to be used as a charter school serving students in kindergarten through grade 8; (B) fund a debt service reserve fund and a repair and replacement fund; and (C) pay certain costs of issuance of the Series 2019 Bonds (subsections (A), (B) and (C) are collectively, the “**Series 2019 Project**”), the Facility will be owned by the Institution, and will initially be operated and/or managed by the School and the Organization is the sole member of the Institution); and

WHEREAS, the Issuer is issuing the Series 2019 Bonds pursuant to the terms of an Indenture of Trust, dated as of August 1, 2019 (the “**Indenture**”), by and between the Issuer and UMB Bank, N.A., as trustee (the “**Trustee**”); and

WHEREAS, contemporaneously with the execution of the Indenture, the Issuer will loan the proceeds of the Series 2019 Bonds to the Institution for the financing of the Series 2019 Project pursuant to a certain Loan Agreement, dated as of August 1, 2019 (the “**Loan Agreement**”), by and between the Issuer and the University; and

WHEREAS, the obligations of the Institution under the Loan Agreement, are evidenced by (i) a promissory note evidencing the loan by the Issuer to the Institution of the proceeds of the Series 2019A-1 Bonds, (ii) a promissory note evidencing the loan by the Issuer to the Institution of the proceeds of the Series 2019A-2 Bonds, and (iii) a promissory note evidencing the loan by the Issuer to the Institution of the proceeds of the Series 2019B Bonds, each dated August 8, 2019 and each from the Institution to the Issuer (collectively, the “**Notes**”); and

WHEREAS, the Series 2019 Bonds and the Institution’s obligations under the Loan Agreement and the Notes, will be secured by, among other things, this Mortgage in the principal amount of \$14,540,000, which is intended to be recorded in the Nassau County Clerk’s Office; and

WHEREAS, the Mortgagee will assign all of its right, title and interests in and to this Mortgage to the Trustee pursuant to a certain Assignment of Mortgage and Security Agreement, dated August 8, 2019 (the “**Assignment**”), given by the Mortgagee to the Trustee, which such Assignment is intended to be recorded in the Nassau County Clerk’s Office immediately after the recordation of this Mortgage.

#### GRANTING CLAUSE

NOW, THEREFORE, in order to secure payment of the principal sum of FOURTEEN MILLION FIVE HUNDRED FORTY THOUSAND AND 00/100 DOLLARS (\$14,540,000) in lawful money of the United States of America, the maximum principal amount which is or under any contingency may be secured by this Mortgage, to be paid according to the terms of the Loan Agreement, the Notes and the Series 2019 Bonds, with interest thereon to be computed at the per annum rate specified in the Loan Agreement, the Notes and the Series 2019 Bonds, together with redemption premium, if any, and any and all other sums which may from time to time become due and payable to the Mortgagee by reason of the exercise of any of its rights and remedies under the Indenture and all of the other Bond Documents (such principal, interest, fees, expenses and other amounts being

collectively referred to as the “**Payments**”), and to secure the payment and performance of all obligations of the Institution under the Loan Agreement and the Notes, and all of the other Bond Documents, and in consideration of Ten Dollars (\$10.00) in hand paid, receipt whereof is hereby acknowledged, Mortgagor does hereby mortgage, grant, bargain, sell, assign, transfer, pledge, warrant and grant a security interest unto the Mortgagee, its successors and assigns, the following described property, property rights and proceeds thereof (collectively, the “**Mortgaged Property**”) whether now owned or held or hereafter acquired:

A. The Land, as more particularly described in Exhibit A attached hereto (the “**Land**”);

B. All buildings, structures and other improvements, now or hereafter erected on the Land (collectively, the “**Improvements**”);

C. All of the right, title and interest of the Mortgagor in and to all streets, roads, pedestrian walkways, tunnels, vault areas and public places, opened or proposed, in front of, adjacent to or adjoining the Land, the Improvements or any part thereof and all air rights, development rights, parking areas, easements and rights of way, public or private, now or hereafter used in connection therewith (collectively, the “**Appurtenances**”);

D. All of the right, title and interest of the Mortgagor in and to all plans, specifications, surveys, licenses, permits, contracts, building materials, supplies, equipment, fixtures and fittings of every kind or character which are acquired in whole or in part for the purpose of being used or useful in connection with the acquisition, renovation, use, operation and equipping of the Mortgaged Property, whether such materials, supplies, equipment, fixtures and fittings are now owned or hereafter acquired by the Institution, whether now or hereafter actually located on or adjacent to the Land or not, and whether in storage or otherwise, wheresoever the same may be located, together with all additions thereto, substitutions therefor and replacements thereof and the proceeds thereof (collectively, the “**Building Materials**”);

E. All of the right, title and interest of the Mortgagor in and to all machinery, apparatus, equipment, fittings, fixtures and articles of personal property which are acquired in whole or in part for the purpose of being installed in, attached to or used in connection with the present or future use of the Land or the present or future operation or maintenance of the Improvements, whether such machinery, apparatus, equipment, fittings, fixtures and articles of personal property are now owned or hereafter acquired by the Institution, together with all additions thereto, substitutions therefor and replacements thereof and the proceeds thereof (collectively, the “**Equipment**”);

F. All of the right, title and interest of the Mortgagor in and to all awards heretofore made and hereafter to be made by reason of a taking or condemnation affecting the Land, the Improvements, the Appurtenances, the

Building Materials, the Equipment or any part thereof appurtenant thereto by competent authority as a result of the exercise of the power of eminent domain, including, but not limited to, any awards or payments for use and occupation or for change of grade of streets (collectively, the “**Condemnation Awards**”); and

G. All of the right, title and interest of the Mortgagor in and to all insurance proceeds heretofore paid and hereafter to be paid by reason of any loss or damage to the Improvements, the Building Materials, the Equipment or any part thereof by fire, flood or other casualty (collectively, the “**Casualty Insurance Proceeds**”).

All of which rights, titles, interests and estates, together with all other incidents of ownership therein and all further and additional rights, titles, interests and estates which the Mortgagor may hereafter acquire therein, are intended to be covered by the lien of this Mortgage and/or the security interest created hereby.

AND the Mortgagor does hereby covenant and agree with the Mortgagee as follows:

1. DEFINITIONS: All capitalized terms used in this Mortgage and not otherwise defined herein shall have the meanings assigned thereto in Schedule A of the Indenture. Said definitions, to the extent applicable, are hereby incorporated herein by reference.

2. PAYMENT OF INDEBTEDNESS: The Mortgagor covenants to pay the indebtedness evidenced by the Series 2019 Bonds, the Loan Agreement and the Notes in accordance with their terms.

3. CONDEMNATION AWARDS: The Mortgagor represents and warrants that no Condemnation proceedings have been commenced with respect to the Mortgaged Property and, to the best of the Mortgagor’s knowledge, no such Condemnation proceeding has been threatened. The Mortgagor shall not enter into any agreement for a Condemnation of the Mortgaged Property, or any part thereof, without the prior written consent of the Mortgagee. The Mortgagor shall promptly notify the Mortgagee in the event that the Mortgaged Property or any part thereof is taken by Condemnation, and the Mortgagor hereby irrevocably authorizes the Mortgagee and its officers and employees to appear in any Condemnation proceedings relating to any taking of the Mortgaged Property or any part thereof and to participate with the Mortgagor in the determination of any Condemnation Awards, to collect and receive any Condemnation Awards from the authorities making the same and to give receipts and acquittances therefor. By its acceptance of this Mortgage, the Mortgagee agrees to apply all Condemnation Awards in accordance with the provisions of Article VII of the Loan Agreement. The Mortgagor shall submit to the Mortgagee for prior approval the proposed amount of any Condemnation Award to be made by reason of any such taking. The Mortgagor hereby irrevocably appoints the Mortgagee its respective true and lawful agent and attorney-in-fact (which appointment shall be deemed to be an agency coupled with an interest), with full power of substitution, to appear in any such proceeding and to participate in the determination of any Condemnation Awards on behalf of the

Mortgagor in the event that, at the time of any such taking, any Event of Default shall have occurred and is continuing hereunder. The Mortgagor shall execute and deliver to the Mortgagee on demand such assignments and other instruments as the Mortgagee may require for such purposes and shall cause the Mortgagor to reimburse the Mortgagee for its costs (including reasonable legal fees and expenses) in the collection of any Condemnation Awards. Notwithstanding any Condemnation, the Mortgagor shall continue to pay the Loan Payments at the time and in the manner provided for in the Series 2019 Bonds, the Loan Agreement, the Notes and in this Mortgage and the Loan Payments shall not be reduced until any Condemnation Awards shall have been actually received and applied by the Mortgagee to the discharge of the Loan Payments in accordance with Article VII of the Loan Agreement. The Mortgagor shall file and prosecute its claim or claims for any Condemnation Awards in good faith and with due diligence and cause the same to be collected and paid over to the Mortgagee in accordance with the provisions of Section 7.2 of the Loan Agreement. The Mortgagor, further, hereby irrevocably appoints the Mortgagee and its officers and employees the attorney-in-fact of the Mortgagor (which appointment shall be deemed to be an agency coupled with an interest), with full power of substitution, to file, prosecute, settle, and compromise its claims for any Condemnation Awards, to receive any Condemnation Awards and to endorse any instruments with respect thereto. The Mortgagor further agrees that although it is hereby expressly agreed that the same shall not be necessary in any event, the Mortgagor shall, upon demand of the Mortgagee, make, execute and deliver to it any and all assignments and other instruments sufficient for the purpose of assigning any Condemnation Awards to the Mortgagee, free, clear and discharged of any encumbrances of any kind or nature whatsoever.

4. CASUALTY INSURANCE: The Mortgagor represents and warrants that the Mortgaged Property has not been damaged or destroyed by fire or other casualty. The Mortgagor shall at all times (a) comply with the insurance requirements contained in Sections 6.4, 6.5 and 6.6 of the Loan Agreement, (b) promptly notify the Mortgagee of any loss, damage or other casualty with respect to the Improvements, the Equipment or any part thereof, and (c) make such temporary repairs as are necessary for the protection of the Improvements. The Mortgagor shall not cause or permit any condition to exist on the Land or in the Improvements which would wholly or partially invalidate the insurance thereon. The Mortgagor hereby assigns to the Mortgagee all of its right, title and interest in and to the policies of insurance referred to in Section 6.4 of the Loan Agreement, including any unearned premiums thereon. The Mortgagor hereby irrevocably authorizes the Mortgagee to participate with the Mortgagor in the adjustment and compromise of any insurance claims for any loss, damage or other casualty with respect to the Improvements, the Equipment or any part thereof under the policies of insurance referred to in Section 6.4(a) of the Loan Agreement, to collect and receive any Casualty Insurance Proceeds from the insurers paying the same and to give receipts and acquittances therefor. By its acceptance of this Mortgage, the Trustee agrees to apply all Casualty Insurance Proceeds in accordance with the terms of Article VII of the Loan Agreement. The Mortgagor shall submit to the Mortgagee for prior approval the proposed amount of any Casualty Insurance Proceeds to be paid by reason of any such loss, damage or casualty. The Mortgagor hereby irrevocably appoints the Mortgagee its respective true and lawful agent and attorney-in-fact (which appointment shall be deemed to be an agency coupled with an interest), with full power of substitution, to participate in the adjustment and compromise of any Casualty Insurance Proceeds on behalf

of the Mortgagor in the event that, at the time of any such loss, damage or casualty, any Event of Default shall have occurred and is continuing hereunder. The Mortgagor shall execute and deliver to the Mortgagee on demand such assignments and other instruments as the Mortgagee may require for such purposes, and the Mortgagor shall reimburse the Mortgagee for its costs (including reasonable counsel fees and expenses) in the collection of any Casualty Insurance Proceeds.

5. TAXES: The Mortgagor shall comply with the requirements regarding payment of taxes contained in Section 6.3 of the Loan Agreement. In the event of the passage after the date of this Mortgage of any law of the state or municipality wherein the Mortgaged Property is located deducting from the value of land for the purposes of taxation any lien thereon, or changing in any way the laws for the taxation of mortgages or debts secured by mortgages for state or local purposes, or the manner of the collection of any such taxes so as to affect this Mortgage, or the Loan Payments, the Mortgagee shall have the right to give thirty (30) days' written notice to the owner of the Mortgaged Property requiring the full payment of the Payments, and if such notice be given, the Loan Payments shall become due, payable and collectible at the expiration of said thirty (30) days. Unless prohibited by applicable law, any notice given pursuant to this Section 5 requiring the payment of the Loan Payments shall provide an option to the Mortgagor, in lieu of such acceleration, to either pay to the Mortgagee an amount or amounts equal to any and all sums payable by the Mortgagee as taxes or otherwise by reason of such laws including taxes, if any, payable on the amounts so paid to the Mortgagee or, in the alternative, pay the Loan Payments in full. If the notice as provided above be given, the payment of said sums described in the preceding sentence or the Payments, as may be the case, shall become due, payable and collectible at the expiration of the thirty (30) day period referred to above. If at any time the United States of America, any state thereof or any governmental subdivision of any such state, shall require (i) revenue or other stamps to be affixed to the Series 2019 Bonds, the Loan Agreement, the Notes or this Mortgage, or (ii) the payment of any taxes or fees on this Mortgage, the Series 2019 Bonds, the Loan Agreement, or the Notes or in connection with the recording of this Mortgage or any amendment, extension or modification hereof, the Mortgagor will pay the same, with interest and penalties thereon, if any.

6. REMOVAL, DESTRUCTION, ALTERATION OR ABANDONMENT OF FACILITY: The Mortgagor shall comply with the requirements regarding removal, destruction, alteration or abandonment of the Mortgaged Property contained in Sections 6.1 and 7.1 of the Loan Agreement.

7. MAINTENANCE AND REPAIR OF IMPROVEMENTS AND EQUIPMENT: The Mortgagor shall comply with the requirements regarding the maintenance and repair of the Improvements and the Equipment contained in Section 6.1 of the Loan Agreement.

8. COMPLIANCE WITH LAWS AND ORDINANCES: The Mortgagor shall comply with the requirements regarding compliance with laws and ordinances relating to the use or occupancy of the Mortgaged Property contained in Section 8.8 of the Loan Agreement.

9. MECHANIC'S LIENS: The Mortgagor shall comply with the requirements regarding the discharge or bonding of mechanic's Liens contained in Section 8.9 of the Loan Agreement.

10. BOOKS AND RECORDS: The Mortgagor shall comply with the requirements regarding books and records contained in Section 8.7 of the Loan Agreement.

11. RECORDATION OF DOCUMENTS: The Mortgagee covenants that it will, at the cost and expense of the Mortgagor, record or cause the Mortgage and the Assignment to be recorded in all offices where recordation thereof is necessary.

12. ESTOPPEL CERTIFICATE: The Institution, within fifteen (15) days after notice and request therefor by the Trustee, will furnish a written statement duly acknowledged of the amount due on this Mortgage and whether any offsets or defenses exist against the debt secured hereby.

13. EVENTS OF DEFAULT: The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Mortgage:

(a) the Institution shall fail to pay on behalf of the Issuer (or cause to be paid) the principal of, redemption premium, if any, interest on or any other debt charges in respect of the Series 2019 Bonds when the same shall become due, whether on a Debt Service Payment Date, upon redemption, at maturity, upon acceleration, or otherwise; or

(b) the Institution shall fail to pay any amounts due and owing under the Loan Agreement, including, without limitation, Section 5.3(a) thereof, or under the Notes; or

(c) the Institution shall fail to observe or perform any covenant, condition or agreement on its part to be performed hereunder; or

(d) the occurrence and continuation of an Event of Default under the Loan Agreement or the Indenture;

(e) any "Event of Default" occurs under any of the other Bond Documents; or

(f) if the Mortgagor does or permits to be done anything that may in any way impair the lien of this Mortgage or materially impair the value of the Mortgaged Property or any of the Improvements or weaken or diminish the security intended to be given under and by virtue of this Mortgage; or

(g) the further assignment or encumbrance by the Mortgagor of the rents arising from the Mortgaged Property, or any part thereof, without the prior written consent of the Mortgagee in each instance; or

- (h) the further mortgage, pledge or encumbrance by the Mortgagor of the Mortgaged Property or any part thereof or any interest therein without the prior written consent of the Mortgagee; or
- (i) a breach by the Institution of its obligations under Section 9.1 of the Loan Agreement or if the Institution shall release or sell any Mortgaged Property without Mortgagee's prior written consent under Section 9.1 of the Loan Agreement, which consent may be given or withheld for no reason or given conditionally in Mortgagee's sole discretion.
- (j) if the Mortgagor shall:
  - (i) call a meeting of or make an assignment for the benefit of creditors,
  - (ii) file a petition in bankruptcy, under Title 11 of the U.S. Code, as amended (the "Bankruptcy Code"), or be adjudicated insolvent or bankrupt,
  - (iii) be the subject of an order for relief under the Bankruptcy Code, or petition or apply to any tribunal for the appointment of a receiver or a trustee for it or a substantial part of its assets,
  - (iv) file any petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future federal or state act or law relating to bankruptcy, insolvency, or other relief for debtors, whether now or hereafter in effect,
  - (v) have filed against it a petition, application or proceeding described above in subdivision (iv) or such a petition, application or proceeding shall have been commenced against it, which remains undismissed or unstayed for a period of thirty (30) days or more,
  - (vi) by any act or omission indicate its consent to, approval of or acquiescence in any petition, application or proceeding described above in subdivision (iv) or in the appointment of a custodian, receiver or any trustee for it or any substantial part of any of its property,
  - (vii) suffer any such custodianship, receivership or trusteeship to continue undischarged for a period of thirty (30) days or more,
  - (viii) conceal, remove or permit to be concealed or removed, any part of its property, with intent to hinder, delay or defraud its creditors or any of them,

- (ix) make or suffer a transfer of any of its property which may be fraudulent under any bankruptcy, fraudulent conveyance or similar law,
- (x) make any transfer of its property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid,
- (xi) shall suffer or permit, while insolvent, any creditor to obtain a lien upon any of its property through legal proceedings or distraint which is not vacated within thirty (30) days from the date thereof, or
- (xii) generally not pay its debts as such debts become due.

14. RIGHTS AND REMEDIES UPON DEFAULT: Upon the occurrence of any Event of Default hereunder, the Mortgagee may exercise any one or more of the following rights and remedies:

- (a) Right to Cure Default. The Mortgagee shall have the right, but not the obligation, to comply with, perform or observe any covenant or obligation which Mortgagor has failed to comply with, perform or observe under any of the Bond Documents and shall have the right to enter the Mortgaged Property at any time and from time to time for the purpose of curing such default, and any amounts so paid by the Mortgagee or the costs of such performance, together with all costs and expenses incurred by the Mortgagee in connection with such payment or performance, including, but not limited to, reasonable attorneys' fees and disbursements and interest on all such amounts, costs and expenses at the per annum rate of fifteen percent (15%), but in no event in excess of the maximum interest rate permitted by law, shall be paid by the Mortgagor to the Mortgagee on demand. Until so paid, all such amounts, costs and expenses, together with interest thereon, shall be secured by this Mortgage and, if not paid, may be added to the judgment in any foreclosure action.
- (b) Right to Accelerate Bonds. The Mortgagee may declare the entire unpaid principal amount, accrued interest and any other fees and expenses evidenced by the Loan Agreement, the Notes and the Series 2019 Bonds and secured by this Mortgage to be due and payable, in which event said amount shall immediately become due and payable.
- (c) Right to Foreclose Mortgage. The Mortgagee may foreclose this Mortgage and sell, if permitted by law, or petition to be sold, the Mortgaged Property in one or more parcels or in several interests or portions in such manner as a court of competent jurisdiction may direct. If permitted by law, the Mortgagee or the Trustee may foreclose this Mortgage for any portion of the indebtedness or any other sums secured hereby which are then due and payable, subject to the continuing Lien of this Mortgage for the balance of the

indebtedness not then due. If any real property transfer tax shall be due and payable upon the conveyance of the Mortgaged Property or any portion thereof pursuant to a judicial sale in any foreclosure action or by deed in lieu of foreclosure, the Mortgagor shall pay the same. In the event that the Mortgagor fails to pay any such tax within fifteen (15) days after notice and demand for payment is given by the Mortgagee, the Mortgagee may pay the same, and any amount thereof so paid by the Mortgagee, together with all costs and expenses incurred by the Mortgagee in connection with such payment, including, but not limited to, reasonable legal fees and disbursements, and interest on all such amounts, costs and expenses at the per annum rate of ten percent (10%), but in no event in excess of the maximum interest rate permitted by law, shall be paid by the Mortgagor to the Mortgagee on demand. The Mortgagee shall apply all proceeds of a foreclosure first, to all reasonable costs and expenses, including legal fees and expenses and costs incurred in connection with the foreclosure of this Mortgage, second, to the payment of all outstanding taxes and special assessments, and third, to the payment of the indebtedness secured hereunder. Until so paid, all such amounts, costs and expenses, together with interest thereon, shall be secured by this Mortgage and, if not paid, may be added to the judgment in any foreclosure action.

(d) Right to Appointment of Receiver. The Mortgagee shall be entitled, without notice, without regard to the adequacy of any security for the indebtedness secured hereby and without regard to the solvency of the Mortgagor, to have a receiver, trustee, liquidator or conservator appointed with all the rights and powers permitted under the laws of the State. Such receiver shall have and may enforce all of the rights and remedies of the Mortgagee under subsection (c) hereof to the maximum extent permitted by law.

(e) Right to Sell Mortgaged Property. The Mortgagee shall have the right to sell for cash or upon credit the Mortgaged Property or any part thereof and all estate, claim, demand, right, title and interest of Mortgagor therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law.

(f) Right to Institute an Action, Suit or Proceeding. The Mortgagee shall have the right to institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note, the Loan Agreement or in the other Bond Documents.

(g) Right to Recover on Note. The Mortgagee shall have the right to recover judgment on the Note either before, during or after any proceedings for the enforcement of this Mortgage or the other Bond Documents.

(h) Rights under the Uniform Commercial Code. The Mortgagee shall have the right to exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Building Materials and the Equipment, or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the Building Materials and Equipment, and (ii) request Mortgagor at its expense to assemble the Building Materials and Equipment and make it available to Mortgagee at a convenient place acceptable to Mortgagee. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Building Materials and Equipment sent to Mortgagor in accordance with the provisions hereof at least five (5) days prior to such action, shall constitute commercially reasonable notice to Mortgagor.

(i) Right to Apply Sums in Accordance with Bond Documents. The Mortgagee shall have the right to apply any sums then deposited or held in escrow or otherwise by or on behalf of Mortgagee in accordance with the terms of the Loan Agreement, the Note, this Mortgage or any other Bond Document to the payment of the following items in any order in its uncontrolled discretion: real estate taxes; insurance premiums; interest on the unpaid principal balance of the Note; unpaid principal balance of the Note; and all other sums payable pursuant to the Note, the Loan Agreement, this Mortgage and the other Bond Documents, including without limitation advances made by Mortgagee pursuant to the terms of this Project Loan Mortgage.

(j) Possession of the Mortgaged Property. Upon the occurrence of any Event of Default hereunder, it is agreed that the Mortgagor, if it is then the occupant of the Mortgaged Property or any part thereof, shall immediately surrender possession of the space so occupied to the Mortgagee, custodian, trustee, receiver, liquidator or conservator of the Mortgaged Property, as may be the case, and if the Mortgagor is permitted to remain in possession, the possession shall be as a month-to-month tenant of the Mortgagee, and, on demand, the Mortgagor shall pay to the Mortgagee monthly, in advance, a reasonable rental for the space so occupied and in default thereof the Mortgagor may be dispossessed by the usual summary proceedings. The covenants herein contained may be enforced by a receiver of the Mortgaged Property or any part thereof. Nothing in this Section 14(j) shall be deemed to be a waiver of the provisions of this Mortgage prohibiting the sale or other disposition of the Mortgaged Property without the Mortgagee's prior written consent.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of Mortgaged Property, this Mortgage shall continue as a lien and security interest on the remaining portion of the Mortgaged Property unimpaired and without loss of priority.

15. RIGHTS AND REMEDIES HEREUNDER NOT EXCLUSIVE: The rights and remedies of the Mortgagee hereunder shall be in addition to its rights and remedies under the laws of the State, including, but not limited to, its rights and remedies under Section 254 of the Real Property Law of the State of New York. Nothing contained in this Mortgage shall be construed as requiring the Mortgagee to pursue any particular right or remedy for the purpose of procuring the satisfaction of the obligations and indebtedness secured hereby, and the Mortgagee may exercise any or all of its rights and remedies under the Bond Documents or otherwise provided by law in its sole discretion. No failure of the Mortgagee to insist upon the strict performance by the Mortgagor of any of its covenants or obligations under the Bond Documents, and no delay by the Mortgagee in exercising any of its rights or remedies thereunder or otherwise provided by law, shall be deemed to be a waiver of such covenants or obligations or to preclude the exercise of such rights or remedies, and the Mortgagee, notwithstanding any such failure or delay, shall have the right thereafter to insist upon the strict performance by the Mortgagor of any and all of its covenants and obligations under the Bond Documents and to exercise any and all of its rights and remedies thereunder or otherwise provided by law. All rights and remedies of the Mortgagee shall be cumulative and may be exercised singly or concurrently. Notwithstanding anything herein contained to the contrary, the Mortgagor: (i) will not (A) at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any stay or extension or moratorium law, any exemption from execution or sale of the Mortgaged Property or any part thereof, wherever enacted, now or at any time hereafter in force, which may affect any of the terms, covenants, conditions or obligations of this Mortgage, or (B) claim, take or insist upon any benefit or advantage of any law now or hereafter in force providing for the valuation or appraisal of the Mortgaged Property, or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provision hereof, or pursuant to the decree, judgment or order of any court of competent jurisdiction; (ii) waives all benefit or advantage of any such law or laws; (iii) covenants not to hinder, delay or impede the execution of any power herein granted or delegated to the Mortgagee, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted; and (iv) waives all right to have the Mortgaged Property, or any other property of the Mortgagor to which the Mortgagee has, or may in the future have, a claim, marshaled upon any foreclosure hereof.

16. COSTS OF SUIT: If any action, suit or proceeding is commenced by or against the Mortgagee, including a foreclosure action affecting the Mortgaged Property or any part thereof or the Lien of this Mortgage, the Mortgagee may appear, defend, prosecute, retain counsel and take such other action as the Trustee shall deem advisable, and the costs thereof (including reasonable legal fees and expenses and all applicable statutory costs, allowances and disbursements), together with interest thereon at the per annum rate of fifteen percent (15%), but in no event in excess of the maximum interest rate permitted by law, shall be paid by the Mortgagor to the Mortgagee on demand. Until so paid, all such costs, together with interest thereon, shall be secured by this Mortgage and, if not paid, may be added to the judgment in any foreclosure action.

17. NOTICES: All notices, demands and other communications required or permitted to be given or made pursuant to the terms hereof to the Mortgagee shall be in writing and shall be hand delivered against written receipt therefor or sent by registered or certified mail or by overnight delivery and sent to the party to whom the notice, demand or

other communication is being made at its address set forth above. All such notices, demands and other communications to Mortgagor shall be addressed to Circulo Real Property Holding Corporation, at 20 West Park Avenue, Long Beach, New York 11561, Attention: Executive Director, with a copy to Moritt Hock & Hamroff LLP, 400 Garden City Plaza, Suite 202, Garden City, NY 11530, Attention: Seth Stein, Esq., and Mortgagor shall likewise send all such notices, demands and other communications to Mortgagee and such notices, demands or other communications shall be addressed to the Town of Hempstead Local Development Corporation, 350 Front Street, 2nd Floor, Hempstead, New York 11550, Attention: Executive Director. Copies of all notices, demands and other communication required or permitted to be given or made pursuant to the terms hereof shall also be sent to the offices of UMB Bank, N.A., as the Trustee, 2 South Broadway, Suite 600, St. Louis, Missouri 63102, Attn: Corporate Trust Services. Any party may change the place that notices, demands or other communications are to be sent by written notice delivered in accordance with this Mortgage.

18. SECURITY AGREEMENT: This Mortgage shall also constitute a security agreement under Article 9 of the Uniform Commercial Code of the State with respect to, and the Mortgagor hereby grants to the Mortgagee a security interest in, all Building Materials, Equipment, Condemnation Awards, Casualty Insurance Proceeds, general intangibles and other contract rights described in the granting clauses of this Mortgage. Certain of the Mortgaged Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land and this Mortgage upon being filed for record in the real estate records of the county where such fixtures are situated, shall operate as a financing statement filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Mortgaged Property that is or may become fixtures. The Mortgagor hereby authorizes Mortgagee to file any additional financing statements, amendments thereto, continuation statements and other instruments as the Mortgagee may require in order to impose, confirm, renew or perfect the security interest created hereby upon said collateral. In furtherance of the foregoing, the Mortgagor hereby irrevocably appoints the Mortgagee its respective true and lawful agent and attorney-in-fact (which appointment shall be deemed to be an agency coupled with an interest), with full power of substitution, to file on its behalf any such financing statements, amendments thereto, continuation statements and other instruments. In addition to its other rights and remedies hereunder, the Mortgagee shall have and may enforce all of the rights and remedies of a secured party under the Uniform Commercial Code of the State.

19. SPECIAL OBLIGATION: This Mortgage is made pursuant to the Indenture, and the Loan Agreement and is subject to all the provisions thereof as if they were fully set forth in and made part of this Mortgage. Without intending to modify the foregoing sentence, the obligations of the Mortgagee in this Mortgage contained shall be subject to the limitations with respect to the Mortgagee's liability set forth in the Indenture, and all of the provisions of this Mortgage shall be read and construed subject to such limitations.

20. PLEDGE OF PLEDGED REVENUES: In order to secure the payment of the principal amount of the Series 2019 Bonds issued under the Indenture, and the payment of the premium, if any, Sinking Fund Payments and interest on the Series 2019 Bonds issued under the Indenture, and to secure the payment and performance of the Institution's

obligations under the Loan Agreement, the Notes, the Mortgage, and the other Institution Documents, the Institution hereby grants a security interest in and pledges, assigns, transfers and sets over to the Trustee the Pledged Revenues. As used herein, "Pledged Revenues" shall mean all receipts, revenues, income or other moneys received by or on behalf of the Institution from the operations of all the Institution's facilities, including from the Lease Agreement, all the proceeds, product, offspring, rent and profits of all the Institution's facilities and all other income available to the Institution from any other source, all proceeds of insurance available to the Institution pursuant to or required by the Loan Agreement (including rights and proceeds under policies of business interruption insurance, but not under policies of casualty insurance) and all rights to receive the same including present and future accounts, accounts receivable, contract rights, contracts and agreements, proceeds from the sale of general intangibles, documents, instruments and inventory and all proceeds from any thereof owned, leased or used by the Institution in the conduct of all or any part of its business operated in all the Institution's facilities, all investment income, gifts, bequests, contributions, grants and donations, excluding only grants, gifts, bequests, contributions and other donations and any income derived therefrom to the extent specifically restricted by the donor or grantor to a special object or purpose or certain purposes, and all supporting evidence and documents relating to any of the above-described property, including, without limitation, payment records, correspondence, together with all books of account and ledgers in which the same are reflected or maintained, all whether now owned or existing or hereafter arising or coming into existence.

21. HOLD HARMLESS PROVISIONS:

(a) The Institution agrees that the Issuer, its members, officers, agents (except the Institution) and employees shall not be liable for and agrees to defend, indemnify, release and hold the Issuer, its members, officers, agents (except the Institution) and employees harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the Mortgaged Property or arising by reason of or in connection with the use thereof or under this Mortgage, or (ii) liability from any and all claims under the Americans with Disability Act or any other law or regulation or from the intentional waste of the Mortgaged Property, or (iii) liability arising from or expense incurred by the Issuer's financing or refinancing the acquisition, construction, renovation and/or equipping of the Mortgaged Property, including without limiting the generality of the foregoing, all claims arising from the breach by the Institution of any of their covenants contained herein and all causes of action and reasonable attorneys' fees and any other expenses incurred in defending any claims, suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities or expenses of the Issuer are not incurred or do not result from the gross negligence or intentional or willful wrongdoing of the Issuer or any of its members, officers, agents (except the Institution) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Issuer, or any of its members, officers, agents (except for the Institution) or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law.

(b) Notwithstanding any other provisions of this Mortgage, the obligations of the Institution pursuant to this Section 21 shall remain in full force and effect after the termination and discharge of this Mortgage until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters herein described and the payment of all reasonable expenses and charges incurred by the Issuer, or its respective members, officers, agents (except the Institution) and employees, relating to the enforcement of the provisions herein specified.

(c) In the event of any claim against the Issuer or its members, officers, agents (except the Institution) or employees by any employee or contractor of the Institution or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Institution hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, disability benefits or other employee benefit acts.

22. LIEN LAW COVENANT: The Mortgagor shall receive the proceeds of the Series 2019 Bonds subject to the trust fund provisions of Section 13 of the Lien Law.

23. MISCELLANEOUS: This Mortgage may not be waived, changed or discharged orally, but only by an agreement in writing signed by the Issuer, the Institution and the Trustee. As used herein, the singular shall include the plural as the context requires. The covenants, obligations and warranties hereunder shall run with the land and bind the Issuer subject to Section 21 hereof, the Institution, their respective successors and assigns and all subsequent owners, encumbrancers, tenants, subtenants and occupants of the Mortgaged Property and shall inure to the benefit of the Mortgagee, the Trustee, their successors and assigns and all subsequent holders of this Mortgage. The paragraph captions used herein are for convenience of reference only and shall not be deemed to be a part of this Mortgage for any other purpose. In the event of any conflict between the provisions of Section 254 of the Real Property Law of the State and the provisions of this Mortgage, the provisions of this Mortgage shall control. This Mortgage may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. If the Mortgagor shall request the Mortgagee's consent or approval pursuant to any of the provisions of this Mortgage or otherwise, and the Mortgagee shall fail or refuse to give, or shall delay in giving, such consent or approval, the Mortgagor shall in no event make, or be entitled to make, any claim for damages (nor shall the Mortgagor assert, or be entitled to assert, any such claim by way of defense, set-off, or counterclaim) based upon any claim or assertion by the Mortgagor that the Mortgagee unreasonably withheld or delayed its consent or approval, and the Mortgagor hereby waives any and all rights that it may have, from whatever source derived, to make or assert any such claim. The Mortgagor's sole remedy for any such failure, refusal, or delay shall be an action for a declaratory judgment, specific performance, or injunction, and such remedies shall be available only in those instances where the Mortgagee has expressly agreed in writing not to unreasonably withhold or delay its consent or approval or where, as a matter of law, the Mortgagee may not unreasonably withhold or delay the same.

24. PRIORITY OF LIEN: This Mortgage shall constitute a first priority mortgage Lien on and security interest in all of the collateral described in the Granting Clauses herein.

25. RESIDENTIAL REAL PROPERTY. This Mortgage does not cover real property principally improved or to be improved by one (1) or more structures containing in the aggregate not more than six (6) residential dwelling units, each having its own separate cooking facilities.

26. MAXIMUM SECURED INDEBTEDNESS. Notwithstanding provisions hereof to the contrary, the maximum amount of principal indebtedness secured hereby at execution or which under any contingency may become secured hereby at any time hereafter is \$14,540,000 plus all interest, late payment and prepayment charges in respect thereof, plus all amounts expended by the Mortgagee following a default hereunder to enforce, defend and/or maintain the lien of this Mortgage or to protect the Mortgaged Property encumbered by this Mortgage, or the value thereof, including, without limitation, all amounts in respect of insurance premiums and all real estate taxes, charges and assessments imposed by law upon said premises, or any other amount, cost or charge to which Mortgagee may become subrogated upon payment as a result of Mortgagor's failure to pay as required by the terms of the Loan Agreement.

27. WAIVER OF TRIAL BY JURY. THE MORTGAGOR HEREBY WAIVES THE RIGHT TO TRIAL BY JURY, THE RIGHT TO CLAIM ANY OFFSET AND THE RIGHT TO ASSERT A COUNTERCLAIM IN ANY ACTION OR PROCEEDING BROUGHT BY THE MORTGAGEE TO ENFORCE ANY OF ITS RIGHTS UNDER THE NOTE OR UNDER THIS MORTGAGE.

28. CONSENT TO JURISDICTION; WAIVERS.

(a) The Mortgagor hereby consents to the jurisdiction of the courts of the State of New York and the state where the Mortgaged Property is located if the Mortgaged Property is not located in the State of New York in any actions, suits or proceedings arising out of or in connection with the Note or this Mortgage. In addition, the Mortgagor irrevocably and unconditionally waives any objection which the Mortgagor may now or hereafter have to the laying of venue of any of the aforesaid actions, suits, or proceedings arising out of or in connection with the Note or this Mortgage brought in any of the aforesaid courts, and hereby further irrevocably and unconditionally waives the right to plead or claim that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum; and

(b) The Mortgagor waives the requirements of personal service in connection with any actions, suits or proceedings arising out of or in connection with the Note or this Mortgage, and consents that all service of process may be made by certified mail, return receipt requested, addressed to the Mortgagor at the address of the Mortgagor set forth above in Section 17 as such address may be changed as therein set forth.

29. GOVERNING LAW. This Mortgage shall be construed in accordance with the laws of the State of New York.

30. FURTHER ASSURANCES. The Mortgagor will, at the request of the Mortgagee and at the cost and expense of the Mortgagor (a) promptly correct any defect, error or omission which may be discovered in the contents of this Mortgage, or in the execution, acknowledgment or recordation hereof, or (b) promptly do, execute, acknowledge and deliver any and all such further acts, deeds, conveyances, mortgages, deeds of trust, amendments, supplements, assignments, estoppel certificates, financing statements and continuations thereof, notices of assignment, transfers, certificates, assurances and other instruments as the Mortgagee may reasonably require from time to time in order to (i) effectuate the purposes of this Mortgage, (ii) subject to the lien and security interest hereby created any of the Mortgagor's properties, rights or interests covered or now or hereafter intended to be covered hereby, (iii) perfect and maintain such lien and security interest, or (iv) convey, grant, assign, transfer and confirm unto the Mortgagee the rights granted or now or hereafter intended to be granted to the Mortgagee hereunder or under any other instrument executed in connection with this Mortgage or which the Mortgagor may be or become bound to convey, mortgage or assign to the Mortgagee in order to carry out the intention or facilitate the performance of the provisions of this Mortgage. The Mortgagor hereby appoints the Mortgagee as its attorney-in-fact to execute, acknowledge and deliver for and in the name of the Mortgagor any and all of the instruments mentioned in this Section 30 and this power, being coupled with an interest, shall be irrevocable as long as any part of the debt secured hereby remains unpaid.

31. RIGHT OF INSPECTION. The Mortgagee and its agents shall have the right to enter and inspect the Mortgaged Property at all reasonable times upon reasonable notice.

32. RESTRICTIONS ON FURTHER ENCUMBRANCES. The Mortgagor shall not, without first obtaining the prior consent of the Mortgagee in each such instance:

(a) mortgage, convey or grant a lien subordinate to this Mortgage on the Mortgaged Property, or on any or all of the Land, Improvements, Equipment, Building Materials or Appurtenances of which it is comprised except to the Mortgagee; or

(b) create or permit to exist any easement or restrictive covenant affecting the Mortgaged Property.

Consent to one such transaction shall not be deemed to be a waiver of the right to require such consent to future or successive transactions.

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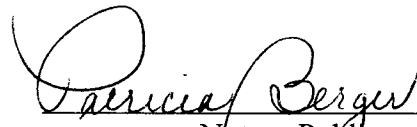
IN WITNESS WHEREOF, the Institution has caused this Mortgage to be duly executed as of the day and year first above written.

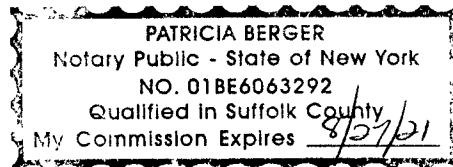
**CIRCULO REAL PROPERTY HOLDING CORPORATION**

By: \_\_\_\_\_  
Name: Sarah E. R. Brewster  
Title: Executive Director

STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF NASSAU     )

On the 7th day of August in the year 2019, before me, the undersigned, personally appeared Sarah E. R. Brewster, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public



[Signature Page to Mortgage and Security Agreement]

## EXHIBIT A

### LEGAL DESCRIPTION OF MORTGAGED PROPERTY

**ALL** that certain plot, piece or parcel of land with the buildings and improvements thereon erected, situate, lying and being in the Incorporated Village of Hempstead, Town of Hempstead, County of Nassau and State of New York, bounded and described as follows:

**BEGINNING** at the corner formed by the intersection of the northerly side of Sycamore Avenue with the easterly side of Peninsula Boulevard;

**RUNNING THENCE** northerly and along the easterly side of Peninsula Boulevard the following 2 courses and distances:

1. North 9 degrees 30 minutes 11 seconds west, 53.95 feet;
2. North 17 degrees 04 minutes 45 seconds east, 152.15 feet to the corner of the easterly side of Peninsula Boulevard with the southerly side of Linden Avenue;

**THENCE** south 72 degrees 01 minutes 41 seconds east and along the southerly side of Linden Avenue, 173.26 feet;

**THENCE** south 17 degrees 58 minutes 19 seconds west, 100.00 feet;

**THENCE** south 72 degrees 01 minute 41 seconds east, 104.00 feet;

**THENCE** south 17 degrees 58 minutes 13 seconds west, 100.00 feet to the northerly side of Sycamore Avenue;

**THENCE** north 72 degrees 01 minutes 41 seconds west and along the northerly side of Sycamore Avenue, 250.00 feet to the corner first mentioned and the point or place of **BEGINNING**.

**TOGETHER** with the right, title and interest, if any, of the party of the first part, in and to any streets and roads abutting the above described premises, to the center line thereof.

#### **For Information Only:**

134 Linden Avenue, Hempstead, NY 11550

Section: 34 Block: 380 Lots: 328 and 329

and

605 Peninsula Boulevard, Hempstead, NY 11550

Section: 34 Block: 380 Lots: 256, 454-455, 464, 467 and 470