

## TAX REGULATORY AGREEMENT

In connection with the issuance by the Town of Hempstead Local Development Corporation (the “**Issuer**”) of its \$13,640,000 Tax-Exempt Revenue Refunding Bonds, Series 2019A (Circulo Real Property Holding Corporation/Evergreen Charter School Project) (the “**Bonds**”), pursuant to 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 in furtherance of the covenants of (a) Circulo Real Property Holding Corporation (the “**Borrower**”), a supporting organization of Circulo de la Hispanidad, Inc. (“**CDLHI**”), in Section 4.8 of the Loan Agreement dated as of August 1, 2019 (the “**Loan Agreement**”) by and between the Issuer and the Borrower, and (b) the Issuer in Section 4.8 of the Loan Agreement, and pursuant to the applicable provisions of the Code and the Treasury Regulations, the Issuer, the Borrower, and the Evergreen Charter School (“**Evergreen**”) enter into the following Tax Regulatory Agreement (the “**Tax Regulatory Agreement**”). For purposes of this Tax Regulatory Agreement, all appendices attached hereto have been provided by Bond Counsel to assist the Issuer, the Borrower and Evergreen in complying with the covenants contained in the Loan Agreement, the Indenture and this Tax Regulatory Agreement.

**SECTION I. DEFINITIONS.** Capitalized terms used herein, and not otherwise defined herein, have the meanings set forth in Appendix I attached hereto, or, if not defined therein, in the Indenture.

### SECTION II. REPRESENTATIONS.

**A. Purposes.** The Bonds are being issued on the date hereof (the “**Issue Date**”) for the purpose of making a loan to the Borrower, a not-for-profit corporation organized and existing under the laws of the State of New York and exempt from federal taxation pursuant to Section 501(c)(3) of the Code. Proceeds from the Bonds are being loaned to the Borrower to be used, along with other available funds, for the following purposes:

**1. Project.** To current refund the outstanding Civic Facility Revenue Bonds, Series 2007 (Circulo de la Hispanidad, Inc. Civic Facility) (the “**2007 Bonds**”) issued by the Town of Hempstead Industrial Development Agency (the “**IDA**”), for the benefit of CDLHI, 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 Code, the proceeds of which Series 2007 Bonds were used to finance the costs of (a) the issuance of the 2007 Bonds, (b) 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 (c) the acquisition of 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**”), which Facility will be conveyed by CDLHI to the Borrower and leased by the Borrower to Evergreen, a not-for-profit education corporation, organized and existing under the laws of the State of New York and an organization described in Section 501(c)(3) of the Code, to be used as a charter school serving students in kindergarten through grade 8;

**2. Debt Service Reserve Fund.** To fund a debt service reserve fund and a repair and replacement fund; and

**3. Costs of Issuance.** To pay certain costs of issuance and other delivery date expenses of the Bonds (paragraphs 1, 2 and 3 are collectively, the “**Project**”).

The Facility will be owned by the Borrower, and will initially be operated and/or managed by Evergreen. CDLHI is the sole member of the Borrower.

Following the issuance of the 2007 Bonds, the Facility was not generating sufficient revenues, which resulted in a payment default on the 2007 Bonds. In particular, all scheduled principal and interest payments were not made on the 2007 Bonds, and all amounts on deposit in the debt service reserve fund for the 2007 Bonds were drawn. As part of the repayment of the 2007 Bonds, the current holders have agreed to waive certain accrued and unpaid interest, as well as a portion of the outstanding principal on the 2007 Bonds. The amount being paid to the holders of the 2007 Bonds was determined on an arms' length basis, and the holders of the 2007 Bonds are not purchasing any of the Bonds.

**B. Definition of Issue.** All of the Bonds: (1) were sold at substantially the same time (*i.e.*, less than 15 days before or after August 8, 2019, the sale date of the Bonds), (2) were sold pursuant to the same plan of financing; and (3) are reasonably expected to be paid from substantially the same source of funds. Except as described below, there are no other governmental obligations which: (1) were or will be sold at substantially the same time as the Bonds (*i.e.*, less than 15 days before or after the sale date of the Bonds), (2) were or will be sold pursuant to the same plan of financing with the Bonds; and (3) are reasonably expected to be paid from substantially the same source of funds as will be used to pay the Bonds (determined without regard to guarantees from unrelated persons).

At the same time as the Bonds are sold, the Issuer sold its \$900,000 Taxable Revenue Refunding Bonds, Series 2019B (Circulo Real Property Holding Corporation/Evergreen Charter School Project) (the "**Taxable Bonds**"). The Bonds and the Taxable Bonds are not part of the same issue in accordance with Section 1.150-1(c)(2) of the Treasury Regulations.

**C. Post-Issuance Compliance Procedures.** The Issuer, the Borrower and Evergreen understand that compliance with the covenants and representations contained in this Tax Regulatory Agreement after the Issue Date and while the Bonds are outstanding is necessary to ensure the interest on the Bonds remains excludable from gross income for federal income tax purposes. The Borrower and Evergreen agree to periodically monitor the requirements applicable to the Bonds and described in this Tax Regulatory Agreement, and take such action to ensure such requirements are complied with. If the Issuer, the Borrower or Evergreen determine that there is an unexpected failure to satisfy the requirements—whether set forth in this Tax Regulatory Agreement or otherwise—for maintaining the exclusion of interest on the Bonds from federal gross income under Section 103 of the Code, it shall immediately evaluate, with the assistance of Bond Counsel, the availability of the remedies as provided under the Code, including Treasury Regulation Section 1.141-12 and other IRS guidance provided as to remediation of violations of Sections 103 and 141-150 of the Code.

The federal income tax limitations and restrictions described herein require ongoing monitoring and compliance based on actual facts and circumstances after the date hereof. The Borrower and Evergreen will regularly monitor compliance with such requirements. The Borrower or Evergreen will contact Bond Counsel as to any elements of the requirements in such sections that they do not feel proficient in, and will seek additional guidance. In addition, the Issuer, the Borrower, and Evergreen are aware that there are procedures for self-reporting and correcting any post-issuance compliance violations, including procedures such as those described in Appendix X as well as the IRS Voluntary Closing Agreement Procedure.

The Borrower and Evergreen understand that they are responsible for monitoring and ensuring that the requirements of this Tax Regulatory Agreement and the Code are satisfied after the Issue Date.

**D. Statement as to Facts, Estimates and Circumstances.** The facts and estimates set forth in this Tax Regulatory Agreement on which the Issuer's, the Borrower's, and Evergreen's expectations as to the amount and use of the Gross Proceeds of the Bonds are based are made to the best of the

knowledge and belief of the undersigned officers of the Issuer, the Borrower, and Evergreen. Except with respect to Sections III.G, III.H.3 X.C, XII, XIV, and XV, the Issuer's representations regarding the matters contained in this Tax Regulatory Agreement are solely based on the representations, expectations, and covenants of the Borrower and Evergreen contained herein, and the representations set forth in the exhibits hereto, including the representations of CDLHI, attached hereto as Exhibit I.

**E. Responsible Person.** The undersigned are authorized officers of the Issuer, the Borrower, and Evergreen responsible for the issuance of the Bonds, and are not aware of any facts or circumstances that would cause him or her to question the accuracy or reasonableness of any certification, representation or warranty made in this Tax Regulatory Agreement.

**SECTION III. REASONABLE EXPECTATIONS AS TO FACTS, ESTIMATES AND CIRCUMSTANCES.** The Issuer, the Borrower and Evergreen make the following representations and statements of fact and expectation on the basis of which it is not expected that the Gross Proceeds of the Bonds will be used in a manner that will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code:

**A. Application of Sale Proceeds of the Bonds.**

**1. Total Sales Proceeds; No Overissuance.** The net amount to be received from the sale of the Bonds (the "Sale Proceeds") will be \$13,640,000.00, which amount represents the par amount of the Bonds (\$13,640,000.00). The Sale Proceeds and the investment earnings thereon do not exceed the amount necessary for the purposes set forth in Section II.A.

**2. Project Fund—Redemption Account.** On the Issue Date, an amount of Sale Proceeds of the Bonds equal to \$12,232,475.98 will be deposited into the Series 2007 Bonds Redemption Account of the Project Fund and used to pay a portion of the redemption price of the 2007 Bonds on the date hereof.

**3. Debt Service Reserve Fund.** On the Issue Date, an amount of Sale Proceeds of the Bonds equal to \$1,136,771.26 will be deposited into the Series 2019A Bonds Account of the Debt Service Reserve Fund. The amount of Sale Proceeds of the Bonds deposited into the Debt Service Reserve Fund or any other debt service reserve fund may not exceed 10 percent of the Principal Amount (defined in Section III.H.6 below) of the Bonds. The amount of the Debt Service Reserve Fund Requirement for the Bonds and the Taxable Bonds is equal to \$1,202,006.26, which is equal to the debt service on the Bonds for the Bond Year ending December 1, 2023.

**4. Project Fund—Costs of Issuance Account.** On the Issue Date, an amount of Sale Proceeds of the Bonds equal to \$188,895.56 will be deposited into the Costs of Issuance Account of the Project Fund and used to pay a portion of the costs of issuance and other delivery date expenses of the Bonds.

**5. Underwriter's Discount.** On the Issue Date, an amount of Sale Proceeds of the Bonds equal to \$81,857.20 will be used to pay underwriter's discount for the Bonds.

**B. Other Funds.**

**1. Taxable Bonds.** The Sale Proceeds of the Taxable Bonds will be applied as follows: (1) \$65,235.00 will be deposited into the Series 2019B Bonds Account of the Debt Service Reserve Fund; (2) \$572,084.70 will be deposited into the Costs of Issuance Account of the Project Fund and used to pay costs of issuance and other delivery date expenses of the Taxable Bonds and the Bonds,

(3) \$25,000.00 will be deposited into the Repair and Replacement Fund, and (4) \$237,680.30 will be used to pay a portion of the underwriter's discount for the Bonds and the underwriter's discount for the Taxable Bonds.

2. **2007 Bonds—Debt Service Fund.** An amount of funds equal to \$1,195,025.96 are currently on deposit in the debt service fund for the 2007 Bond. Such amounts will be applied on the date hereof to the redemption of the 2007 Bonds.

3. **2007 Bonds—Unspent Proceeds.** There are currently no unspent Proceeds of the 2007 Bonds.

4. **No Other Amounts.** Other than the amounts described in this subsection B, there are no other funds or accounts which were expected to be used to pay debt service on the 2007 Bonds (pursuant to any instrument that secures or otherwise relates to the 2007 Bonds) or with respect to which there was an assurance that such funds or accounts would be available to pay debt service on the 2007 Bonds if the IDA or CDLHI encountered financial difficulties.

5. **Transferred Proceeds.**

a. **General.** At the time that Proceeds of the Bonds are used to discharge any of the outstanding principal on the 2007 Bonds, Proceeds of the 2007 Bonds become transferred proceeds of the Bonds ("**Transferred Proceeds**") and cease to be Proceeds of the 2007 Bonds. The amount of Proceeds of the 2007 Bonds that become Transferred Proceeds is an amount equal to the total Proceeds of the 2007 Bonds at the time of that discharge multiplied by a fraction, the numerator of which is the principal amount of the 2007 Bonds discharged with Proceeds of the Bonds, and the denominator of which is the total outstanding principal amount of the 2007 Bonds, immediately prior to that discharge. For purposes of this section, "principal amount" means, in reference to a Plain Par Bond, its stated principal amount, and in reference to any other bond, its present value.

b. **Allocation.** Investments of Proceeds of the 2007 Bonds are allocated to the Transferred Proceeds by consistent application of either the ratable allocation method or the representative allocation method. Under the ratable allocation method, a ratable portion of each investment of proceeds of the 2007 Bonds is allocated to Transferred Proceeds. Under the representative allocation method, representative portions of the portfolio of investments of proceeds of the 2007 Bonds are allocated to the Transferred Proceeds. Whether a portion is representative is based on all the facts and circumstances, including, without limitation, whether the current yields, maturities and current unrealized gains and losses on the particular allocated investments are reasonably comparable to those of the unallocated investments in the aggregate. In addition, if a portion of Nonpurpose Investments is otherwise representative, it is within the Borrower's discretion to allocate the portion from whichever source of funds it deems appropriate.

c. **Amount of Transferred Proceeds.** See paragraph 3. There will be no Transferred Proceeds.

C. **Investment Proceeds.**

1. All investment income or earnings on amounts held in the Project Fund, the Renewal Fund, the Subaccounts of the Accounts of the Bond Fund or any other special fund held under any of the Bond Documents (other than the Rebate Fund) shall be deposited upon receipt by the Trustee

into the Subaccounts of the Interest Account of the Bond Fund and used to pay the interest component of the next upcoming Debt Service Payment. Investment income or earnings from the Debt Service Reserve Fund and Repair and Replacement Fund shall be held in each such Fund until each such Fund is fully funded to its maximum requirement.

2. Within thirty (30) days after the end of each Computation Period, the Trustee, at the written direction of an Authorized Representative of the Borrower, shall transfer to the Rebate Fund instead of the Project Fund or the Interest Account of the Bond Fund an amount of the investment earnings on the funds and accounts hereunder, such that the amount transferred to the Rebate Fund is equal to that amount as is set forth as the Rebate Amount in a written certificate delivered by the Borrower to the Trustee pursuant to this Tax Regulatory Agreement and the Indenture.

**D. Funds and Accounts.**

1. **Project Fund.** Proceeds of the Bonds on deposit in the Series 2007 Redemption Account of the Project Fund will be used to redeem the 2007 Bonds. Proceeds of the Bonds on deposit in the Costs of Issuance Account of the Project Fund will be used to pay costs of issuance and other delivery date expenses of the Bonds.

2. **Bond Fund.** The Bond Fund will be used primarily to achieve a proper matching of revenues with principal and interest payments on the Bonds within each Bond Year and will be depleted at least annually, except for a reasonable carryover amount not to exceed the greater of (i) the earnings on amounts in such funds for the immediately preceding Bond Year; or (ii) one-twelfth of the principal and interest payments on the Bonds for the immediately preceding Bond Year. Amounts deposited in the Bond Fund and its subaccounts (other than any reasonable carryover amount permitted under the preceding sentence) are expected to be used to pay debt service on the Bonds within a 13-month period beginning on the date of deposit therein.

As provided in Section 4.06(d) of the Indenture, moneys transferred to the Subaccounts of the Bond Fund from the Project Fund (the "**Transferred Amounts**") pursuant to Section 4.04(c) hereof or from the Renewal Fund pursuant to Section 4.07(b) hereof shall be invested, at the written direction of the Institution, with yield not in excess of the yield on the Bonds, or in investments that are tax-exempt obligations as described in Section 148(b)(3) of the Code, and such moneys and earnings thereon shall be applied only to pay the principal for the Bonds as they become due and payable or the Redemption Price of the Bonds subject to redemption pursuant to Section 3.01 of the Indenture (including by operation of Sinking Fund Payments).

3. **Renewal Fund.** In accordance with Section 4.07 of the Indenture, the net proceeds resulting from any insurance award, condemnation award or recovery from any contractor or subcontractor with respect to the Facility shall be deposited in the Renewal Fund. Such amounts will be applied either to redeem the Bonds or be used to rebuild the Facility. If such amounts are to be used to redeem the Bonds, they will be transferred to the Bond Fund. If such amounts are to be used to rebuild the Project, they will be retained in the Renewal Fund. Amounts retained in the Renewal Fund are not reasonably expected to be used directly or indirectly to pay principal or interest on the Bonds, nor is there any reasonable assurance that amounts on deposit in the fund will be available to pay principal or interest on the Bonds, even if the Issuer, the Borrower or Evergreen encounter financial difficulties.

4. **Rebate Fund.** Amounts in the Rebate Fund shall be applied to make payments to the Department of Treasury of the United States of America (the "**U.S. Treasury**") as required by the Code to be rebated to the U.S. Treasury. Amounts on deposit in the Rebate Fund are not reasonably

expected to be used directly or indirectly to pay principal or interest on the Bonds, nor is there any reasonable assurance that amounts on deposit in the fund will be available to pay principal or interest on the Bonds, even if the Issuer, the Borrower or Evergreen encounter financial difficulties.

**5. Debt Service Reserve Fund.** In the event there shall be on any Debt Service Payment Date, a deficiency in the Bond Fund (a "**Payment Deficiency**"), with respect to the Bonds or the Taxable Bonds, the Trustee shall make up any such deficiency from the Debt Service Reserve Fund to the extent of the amounts in the Debt Service Reserve Fund, by the withdrawal of monies from the Debt Service Reserve Fund, to the extent available and by the sale or redemption of securities held in the Debt Service Reserve Fund sufficient to make up any deficiency. Upon repayment of the Taxable Bonds, amounts in the Series 2019B Bonds Account of the Debt Service Reserve Fund will be transferred to the Series 2019A Bonds Account of the Debt Service Reserve Fund.

The Underwriter (as defined below) has represented that, the establishment and continued existence of the Debt Service Reserve Fund was a vital and necessary factor in its purchase of the Bonds at the interest rate and terms that the Bonds were sold.

**6. Repair and Replacement Fund.** Payments shall be made from the Repair and Replacement Fund upon receipt by the Trustee of a written requisition from an Authorized Representative of the Institution and (unless such consent right is waived) consented to by the Majority Bondholder or the Construction Monitor, setting forth the amount and the payee for the purpose of paying the cost of extraordinary maintenance and replacements, capital improvements and renovations and capital projects which may be required to keep the Facility in sound condition, including, but not limited to replacement of equipment, replacement of any roof or other structural component, exterior painting and the replacement of heating, air conditioning, plumbing and electrical equipment.

**7. Lease Agreement.** Pursuant to Section 29(iv) of the lease agreement between the Borrower and Evergreen (the "**Lease**"), Evergreen covenants and agrees to maintain at least (a) 30 Days Cash on Hand as of the last day of Fiscal Year 2019, (b) 40 Days Cash on Hand as of the last day of Fiscal Year 2020, and (c) 50 Days Cash on Hand as of the last day of Fiscal Year 2021 and as of the last day of each Fiscal Year thereafter. "Days Cash on Hand" means: (i) the sum of cash, cash equivalents, liquid investments and unrestricted marketable securities (valued at the lower of cost or market) of Evergreen, as shown on Evergreen's audited financial statements for each Fiscal Year; divided by (ii) the quotient of Operating Expenses (as defined in the Lease), as shown on the audited financial statements for the preceding Fiscal Year, divided by 365.

The Days Cash on Hand requirement will be tested as of June 30 in each Fiscal Year, commencing June 30, 2019. Evergreen may spend its cash, cash equivalents, liquid investments and unrestricted marketable securities between annual testing dates without any other restriction other than to be in compliance with the Days Cash on Hand requirement by the next annual testing date. Evergreen will employ its auditor to provide to the Trustee, any requesting Bondholder and the Borrower, by no later than December 15 of each year, commencing December 15, 2019, with a certification of the Days Cash on Hand as of the preceding June 30 test date.

If the Days Cash on Hand is less than (x) 30 Days Cash on Hand as of the last day of Fiscal Year 2019, (y) 40 Days Cash on Hand as of the last day of Fiscal Year 2020, and (z) 50 Days Cash on Hand as of the last day of Fiscal Year 2021 and as of the last day of each Fiscal Year thereafter, then Evergreen will promptly employ an Independent Consultant (as defined in the Lease) to review and analyze the operations and administration of Evergreen within 60 days, promptly submit written reports and make such recommendations (a copy of each such report and recommendations shall be delivered to

the Borrower, the Issuer, the Trustee, the Majority Bondholder and any requesting Bondholder) as to the operation and administration of Evergreen as such Independent Consultant deems appropriate, including any recommendation as to a revision of the methods of operation of Evergreen. Evergreen agrees to implement any recommendations by the Independent Consultant and, to the fullest extent practicable and allowed by law and consistent with its covenants hereunder, to fully adopt and carry out such recommendations.

Evergreen reasonably expects to be able to satisfy the foregoing during the term of the Bonds. The Days Cash on Hand requirement is intended to help ensure that Evergreen has sufficient funds on hand to fund its operations, as well as to maintain its overall creditworthiness. Evergreen believes that, in light of its current and projected revenues and expenses and their business operations generally, the requirements of Section 29(iv) of the Lease are reasonable and consistent with future operating and financial needs, and therefore, the Days Cash on Hand requirement is reasonable for the purposes for which it is maintained.

**8. No Other Funds.** Other than the funds specifically described in this Tax Regulatory Agreement, no fund or account which secures or otherwise relates to the Bonds has been established, nor are any funds or accounts expected to be established, pursuant to any instrument. Except as described herein, there are no funds or accounts from which the amounts deposited therein will be reasonably expected to be used to pay debt service on the Bonds or as to which there is a reasonable assurance that amounts on deposit therein will be available to pay debt service on the Bonds in the event that the Issuer, the Borrower or Evergreen encounter financial difficulties. Neither the Issuer nor the Borrower or Evergreen has entered into an agreement to maintain any amounts at a particular level for the direct or indirect benefit of the holders of the Bonds or a guarantor of the Bonds.

If there is an event of default by the Borrower or Evergreen under the Bond and loan documents (including the Lease), the expenditure of certain funds may become subject to the approval of the Trustee or otherwise, which may cause such amounts to become Replacement Proceeds of the Bonds. In such instance, the Borrower and Evergreen shall consult with Bond Counsel regarding whether such amounts are Replacement Proceeds.

**E. Replacement Proceeds.**

**1. In general.** No portion of the amounts received from the sale of the Bonds will be used as a substitute for other funds which were otherwise to be used as a source of financing for the Project and which have been or will be used to acquire, directly or indirectly, Investment Property producing a yield in excess of the Bond Yield for the Bonds and neither the Issuer nor the Borrower or Evergreen reasonably expects as of the Issue Date that the term of the Bonds will be longer than is reasonably necessary for the governmental purposes of the Bonds as set forth in Section II.A. above.

**2. Other Replacement Proceeds.** The weighted average maturity of the Bonds is 17.1222 years, which does not exceed the 120 percent of the average reasonably expected economic life of the Project. See Section X.A.

**3. Solicitation of Funds.** Except as set forth in paragraph 9 of Exhibit F, neither the Borrower nor Evergreen nor any person acting on their behalf has solicited, or will solicit, any funds specifically to be used for the payment of the costs of the Project expected to be paid directly or indirectly from the Proceeds of the Bonds. To the extent that: (a) the Borrower or Evergreen receive any grants or gifts restricted to the Project (the "**Restricted Amounts**"), (b) the Bonds are still outstanding, and (c) the Restricted Amounts are not applied to additional Project costs (including the repayment of indebtedness

that financed Project costs), such amounts will be Replacement Proceeds and will be applied to prepay (or defease to the first call date) Bonds as soon as possible after the receipt thereof by the Borrower or Evergreen, as applicable, unless the Borrower and Evergreen receives an opinion of Bond Counsel to the effect that the failure to so use such amounts will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

**F. Reimbursement.** No Proceeds of the Bonds will be used to reimburse the Borrower or Evergreen for any costs paid prior to the Issue Date. To the extent that any Proceeds from the 2007 Bonds were used to reimburse CDLHI for any expenditures paid prior to the issue date of the 2007 Bonds, the requirements of Section 1.150-2 of the Treasury Regulations were complied with. See Exhibit I.

**G. Purpose Investment Yield.** The Loan Agreement creates an obligation (the “**Program Investment**”) that qualifies as a program investment within the meaning of Section 1.148-1(b) of the Treasury Regulations in that it is part of a governmental program in which:

1. the program involves the origination or acquisition by the Issuer of purpose investments (*e.g.*, the Program Investment);

2. at least 95% of the cost of the purpose investments acquired under the program represents one or more loans to a substantial number of persons representing the general public, States or political subdivisions, 501(c)(3) organizations, persons who provide housing and related facilities, or any combination of the foregoing;

3. at least 95% of the receipts from the purpose investments will be used to pay debt service on issues that finance the program, to pay or reimburse administrative costs of those issues or of the program, to pay or reimburse anticipated future losses directly related to the program, to finance additional purpose investments for the same general purpose of the program, or to redeem and retire governmental obligations at the next earliest possible date of redemption;

4. Section 2.2(i) of the Loan Agreement prohibits the Borrower (or any related party, as defined in Section 1.150-1(b) of the Treasury Regulations, to the Borrower) from purchasing the Bonds in an amount related to the amount of the Program Investment, and Section 29(vii) of the Lease provides that Evergreen (or any related party, as defined in Section 1.150-1(b) of the Treasury Regulations, to Evergreen) shall not purchase the Bonds in an amount related to the amount of the Program Investment; and

5. the Issuer does not waive the right to treat the investment as a Program Investment.

For purposes of calculating the yield on the Program Investment, the Issuer reasonably expects and has assumed that:

1. the Borrower shall pay the costs of issuing the Bonds;

2. the Borrower has paid a non-refundable application fee to the Issuer in the amount of \$3,000.00;

3. the Borrower shall pay or cause to be paid to the Issuer on the Issue Date the Issuer’s administrative fee in the amount of \$78,037.25 (which includes the Issuer’s administrative fee of \$72,700.00 plus the Initial Compliance Fee of \$3,000 and the public notice fees of \$2,337.25). The

Institution shall pay to the Issuer an Annual Compliance Fee of \$1,500 on or before January 1 of each year commencing on January 1, 2020 and continuing through the term of the Loan Agreement, as well as certain additional fees described in Section 5.3 of the Loan Agreement; and

4. the Borrower shall pay an amount sufficient to pay debt service on the Bonds, provided that the Borrower's payments are treated as paid on the date the Borrower ceases to receive the benefit of earnings on those amounts.

Based on the foregoing, the yield on the Program Investment (adjusted for qualified administrative costs of issuing, carrying, or repaying the Bonds, including any underwriters' discount) does not exceed the yield on the Bonds by more than 1.50%.

**H. Bond Yield**

1. **In general.** The yield on the Bonds is the discount rate that, when used in computing the present value on the Issue Date of all the expected payments of principal and interest and fees for qualified guarantees that are paid and to be paid on the Bonds, produces an amount equal to the present value, using the same discount rate, of the aggregate issue price of the Bonds on the Issue Date.

2. **Issue Price.** Based on the representations of Roosevelt & Cross Inc. (the "Underwriter"), as of the Issue Date of the Bonds, the aggregate issue price of the Bonds is \$13,640,000.00, the face amount of the Bonds (\$13,640,000.00). See Exhibit A.

3. **Qualified Hedges.** The Issuer, the Borrower, and Evergreen have not entered into any "hedge" (within the meaning of Treasury Regulation Section 1.148-4(h)(2)(i)) with respect to the Bonds. The Issuer, the Borrower, and Evergreen will not enter into any hedges with respect to the Bonds without an opinion of Bond Counsel that such hedge will not adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes. CDLHI did not enter into any hedges with respect to the 2007 Bonds.

4. **Callable Premium Bonds.** None of the Bonds are subject to optional early redemption and were sold at an issue price that exceeds the stated redemption price at maturity by more than ¼ of 1 percent multiplied by the product of the stated redemption price at maturity and the number of complete years to the first optional redemption date for the Bonds.

5. **Yield.** Based upon calculations provided by the Underwriter, the yield on the Bonds is 6.7883133182 percent. See Exhibit C.

6. **Yield Limitations on the Bonds.** The Issuer, the Borrower, and Evergreen have been advised by Bond Counsel that the following yield restrictions and rebate requirements should apply to the Bonds.

Fund or Account	Temporary Period of Unrestricted Investment	Restriction After Temporary Period*	Automatically Excepted From Rebate (Y)/(N)**
Project Fund—Series 2007 Redemption Account	90 days	Bond Yield plus 1/1000 of 1%	N

Project Fund—Costs of Issuance Account	13 months	Bond Yield plus 1/8 of 1%	N
Bond Fund (other than the Transferred Amounts)	13 months	Bond Yield plus 1/1000 of 1%	N
Debt Service Reserve Fund, not in excess of Reserve Fund Limit	Unlimited	None	N
Debt Service Reserve Fund, in excess of Reserve Fund Limit	None	Bond Yield plus 1/1000 of 1%	N
Renewal Fund	N/A	None	Y
Repair and Replacement Fund (portion allocable to the Bonds, excluding Proceeds of the Taxable Bonds)	30 days	Bond Yield plus 1/1000 of 1%	N
Rebate Fund***	N/A	None	Y
Replacement Proceeds	30 days	Bond Yield plus 1/1000 of 1%	N
Investment Proceeds	1 year	Bond Yield plus 1/8 of 1%	N

\* In the event that any Gross Proceeds are subject to a materially higher yield spread of the Bond Yield plus 1/8 of 1 percentage point and any other Gross Proceeds are subject to materially higher yield spread of the Bond Yield plus 1/1000 of 1 percentage point, then all of the Gross Proceeds are subject to a materially higher yield spread of the Bond Yield plus 1/1000 of one percent.

\*\* See Appendices II and V.

\*\*\* Amounts on deposit in this fund are not reasonably expected to be used directly or indirectly to pay principal or interest on the Bonds, nor is there any reasonable assurance that amounts on deposit in the fund will be available to pay principal or interest on the Bonds, even if the Issuer, the Borrower or Evergreen encounter financial difficulties. Accordingly, amounts in this fund are subject to yield restriction and rebate only to the extent that they constitute Proceeds. The Issuer, the Borrower, and Evergreen should consult with Bond Counsel if proceeds are deposited into the Rebate Fund.

**6. Debt Service Reserve Fund.** The Debt Service Reserve Fund for the Bonds may be invested without regard to yield restriction to the extent that such allocated amount does not exceed the least of the following three limitations (i) 10 percent of the Principal Amount of the Bonds (\$1,364,000.00); (ii) maximum annual principal and interest on the Bonds (\$1,202,006.26); or (iii) 125 percent of the average annual principal and interest on the Bonds (\$1,452,187.69) (the “**Reserve Fund Limit**”). The amounts in (i), (ii) and (iii) shall be determined once all draws on the Bonds have been made. Any amounts in excess of the Reserve Fund Limit will not be invested at a yield in excess of the Bond Yield. For purpose of this section, “**Principal Amount**” means, in reference to a Plain Par Bond, its stated principal amount, and in reference to any other bond, its issue price. The Issuer, the Borrower and Evergreen may comply with this yield restriction requirement by making “yield reduction payments” to the extent provided in Section 1.148-5(c) of the Treasury Regulations.

**SECTION IV. REBATE REQUIREMENT, CALCULATION AND PAYMENT.** The Bonds are subject to the Rebate Requirement of Section 148(f) of the Code. The Treasury Regulations

promulgated thereunder are described in Appendix II. The Treasury Regulations provide various spending exceptions to the Rebate Requirement which provide generally that if certain spend down and other requirements are satisfied earnings on certain proceeds are excepted from the Rebate Requirement. The spending exceptions to the Rebate Requirement are described in Appendix V.

**A. Elections.** The Borrower hereby acknowledged that it has instructed the Issuer that certain elections be made, and does hereby consent to the making of such elections by the Issuer, under Section 148(f)(4)(C) of the Code, relating to the rebate requirement. The Borrower will take all necessary actions to permit the Issuer to comply with the rebate requirement for the Bonds.

**B. 2007 Bonds.** Any rebate amount due with respect to the 2007 Bonds shall be paid by CDLHI within 60 days of the final redemption of such bonds.

**SECTION V. ALLOCATION AND ACCOUNTING RULES.** The Bonds are subject to the allocation and accounting rules described in Appendix III for purposes of allocating Gross Proceeds to the Bonds, allocating Gross Proceeds to investments, and allocating Gross Proceeds to expenditures. For example, the Borrower and Evergreen understand that the allocation of Proceeds to expenditures may be done on a specific tracing method, a "gross-proceeds-spent-first" method, a "first-in-first-out" method or a "ratable allocation" method, so long as the method used is consistently applied and that the allocation and accounting rules are described summarily in Appendix III. As described in Appendix III, the Borrower and Evergreen will account for the allocation of Proceeds to expenditures not later than the earliest of (A) 18 months after the later of (1) the date the expenditure is paid or (2) the date the Project, if any, that is financed by the issue is placed in service, or (B) by the date 60 days after the fifth anniversary of the Issue Date or the date 60 days after the retirement of the issue, if earlier. Payments to Related Persons are not expenditures for purposes of federal income tax accounting.

**SECTION VI. PROHIBITED INVESTMENTS AND DISPOSITIONS.** Upon the purchase or sale of a Nonpurpose Investment, Gross Proceeds of an issue are not allocated to a payment for that Nonpurpose Investment in an amount greater than, or to a receipt from that Nonpurpose Investment in an amount less than, the fair market value of the Nonpurpose Investment as of the purchase or sale date. The fair market value of a Nonpurpose Investment is adjusted to take into account Qualified Administrative Costs allocable to the investment. Thus, Qualified Administrative Costs increase the payments for, or decrease the receipts from, a Nonpurpose Investment. The requirements contained in Appendix IV are applicable to the Bonds.

**SECTION VII. RESTRICTIONS ON NONGOVERNMENTAL USE AND USE TO MAKE LOANS.**

**A. In general.** No portion of the Proceeds of the Bonds is reasonably expected to be or will be used in such a manner that:

1. Any property financed with the Bonds is owned by a person other than a 501(c)(3) organization or a state or local governmental unit;
2. An amount exceeding 5 percent of the Net Proceeds of the Bonds is used either (a) in an unrelated trade or business (as defined in Section 513(a) of the Code) of the Borrower or Evergreen, or any other 501(c)(3) organization ("**Unrelated Use**"), or (b) for a private business use (as defined in Section 141(b) of the Code, and as more fully described in this section), excluding use by the Borrower or Evergreen, or any other 501(c)(3) organization with respect to their activities that do not constitute an Unrelated Use ("**Private Use**"); and

3. An amount exceeding the lesser of \$5,000,000 or 5% of the Proceeds of the Bonds is to be used to make or finance loans either (a) to any person other than a state or local governmental unit or the Borrower or Evergreen (with respect to its activities that do not constitute an Unrelated Use), or (b) to the Borrower or Evergreen for use in an activity that constitutes an Unrelated Use (“**Private Loans**”).

**B. Rules of Application.** No portion of the Proceeds of the Bonds will be used for any Unrelated Use, Private Use or Private Loans with respect to the Proceeds of the Bonds in excess of the limits set forth in paragraph A. unless an opinion of Bond Counsel is obtained prior to such use or loans that the exclusion from gross income of interest on the Bonds will not be adversely affected by such use or loans. This requirement is imposed individually against each issue of bonds without regard to the use of Proceeds of any other issue of outstanding bonds. The application of the Unrelated Use, Private Use and Private Loan limitations must take into account both reasonable expectations as of the Issue Date regarding the expected uses of the Proceeds of the Bonds (and the facilities financed with such Proceeds) throughout the stated term of the Bonds (that is, until the final stated maturity date) as well as any deliberate actions that may occur during the actual term of the Bonds (without regard to those reasonable expectations).

**C. Private Business Use.** As more fully defined in Section 141(b) of the Code and Regulation Section 1.141-3, any activity carried on by a person other than a natural person is generally treated as a Private Use. Both actual and beneficial use by a nongovernmental person may be treated as Private Use. In most cases, there will be Private Use only if a nongovernmental person has special legal entitlements to use the financed property under an arrangement with the Issuer or the Borrower. In general, a nongovernmental person is treated as causing Private Use of Proceeds and the financed property as a result of ownership; actual or beneficial use of property pursuant to a lease, or a management or incentive payment contract; or certain other arrangements such as a take or pay or other output-type contract. Use as a member of the general public is not Private Use. With respect to property that is not available for use by the general public, Private Use may be established on the basis of a “special economic benefit” to one or more nongovernmental persons, even if they have no special legal entitlements to use of the property. In addition, proceeds of the Bonds used to pay Costs of Issuance are treated as used for a Private Use. Appendix VII set forth guidelines for certain other uses that will not constitute Private Use.

**D. Management and Other Service Contracts.** Except as set forth in paragraph 1 and 2 of Exhibit F, the Borrower and Evergreen have not entered into, do not expect to enter into, and will not until the Bonds are paid in full enter into any compensation arrangement (a “**Service Contract**”) with any person or organization (that is not a state or political subdivision of a state or a 501(c)(3) organization using the Project in furtherance of the organization’s exempt purposes) (a “**Service Provider**”) which provide for such Service Provider to provide services (such as management services for the entire Project, or for a specific department that is part of the Project), manage, operate or use any part of the Project that do not satisfy the guidelines (including the exceptions contained therein) set forth in either Revenue Procedure 2017-13 (which generally modifies and supersedes guidelines provided in Revenue Procedure 2016-44) or Revenue Procedure 97-13 (as modified by Revenue Procedure 2001-39 and as amplified by Section 3.02 of Notice 2014-67), as applicable, and as described in Appendix VIII, or any subsequent applicable guidance, or meet the exceptions from Private Use contained in Appendix VII, unless the Borrower and CBWCHC first receives an opinion of Bond Counsel that such Service Contract will not adversely affect the exclusion of interest on the Bonds from gross income for purposes of federal income taxation.

**E. Research.** No portion of the Project (other than the property described in paragraph 3 of Exhibit F) shall be used for any research sponsored by persons other than governmental units or 501(c)(3) organizations (hereafter, "private-sponsor") unless (1) the use of the resulting technology by the sponsor is permitted only on the same terms as used by any non-sponsoring unrelated party, and the price paid is determined at the time the technology is available for use; or (2) the research is performed under an arrangement whereby (a) a single sponsor agrees, or multiple, unrelated private sponsors agree to fund Borrower or Evergreen-performed basic research; (b) the research to be performed and the manner in which it is to be performed is determined by the Borrower or Evergreen; (c) title to any patent or other product incidentally resulting from the basic research lies exclusively with the Borrower or Evergreen; and (d) the sponsor or sponsors are entitled to no more than a nonexclusive, royalty-free license to use the product of any such research. The rights of the federal government and its agencies mandated by the Bayh-Dole Act will not cause a research agreement to fail to meet the requirements of (2), provided that the requirements of (2)(b) and (2)(c) are met, and the license granted to any party other than the Borrower or Evergreen to use the product of the research is no more than a nonexclusive, royalty-free license. See Revenue Procedure 2007-47.

**F. Maintenance of Exempt Status of the Bonds.** Until the Bonds are paid in full, the Borrower and Evergreen do not expect to and shall not perform any act, enter into any agreement, or use or permit the Project, to be used in any manner, or for any Private Use or Unrelated Use that could adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds. So long as the Bonds are outstanding, and prior to the Borrower or Evergreen performing any act or entering into any agreement relating to the Project, or using or permitting the Project to be used in any manner, that could constitute an Unrelated Use or a Private Use of the Project in excess of the limits described in this Section, the Borrower and Evergreen covenant and agree to provide written notice to the Issuer of its proposed action and agrees that the Issuer shall have the right to receive an opinion of Bond Counsel satisfactory to the Issuer to the effect that such contemplated act, agreement or use will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds or cause Evergreen to lose its Exempt Status (as defined below), a copy of which shall have been received by the Borrower and Evergreen prior to the time the Borrower and Evergreen shall do such act.

**G. Term of Restrictions.** The restrictions on the use of the Project contained in this section shall terminate on the later of the date the Bonds are paid in full or the end of the measurement period (as defined in Treasury Regulation Section 1.141-3) for the Bonds.

**H. Non-Qualified Use and Other Uses.** The Private Use, Unrelated Use, Private Loans and certain other expected uses of the Project, along with certain restrictions thereon, are set forth in paragraph 1 of Exhibit F.

#### **SECTION VIII. \$150 MILLION CAP; LIMITS ON RESIDENTIAL RENTAL PROPERTY.**

**A. \$150 Million Cap.** At least 95% of the Net Proceeds of the Bonds were to be used to finance capital expenditures (as defined in paragraph (g) of Appendix III) paid after August 5, 1997. As a result, the \$150 million cap set forth in Section 145(b) of the Code does not apply to the Bonds. In addition, the Borrower represents that the Borrower and any other Test-Period Beneficiary of the Project or any Related Persons thereof is and will not be the beneficiary or beneficiaries of more than \$150 million outstanding tax-exempt bonds which could be subject to the \$150 million limitation of section 145(b) of the Code and which are not qualified hospital bonds within the meaning of Section 145(c) of the Code. The Borrower covenants to take no action to cause the \$150 million limitation to be exceeded. See Exhibit F.

**B. Residential Rental Property.** No portion of the facilities financed with the Bonds consists of the acquisition of existing residential rental property for family units, within the meaning of Section 145(d) of the Code.

**SECTION IX. 501(c)(3) STATUS.** In executing this Tax Regulatory Agreement, the Borrower and Evergreen have each reviewed its articles of incorporation, charter documents, bylaws, contracts, and other relevant information with particular attention to the organization, operation, use and management of the financed facilities. The Borrower and Evergreen represent and certify as follows, as applicable:

**A. 501(c)(3) Status.** The Borrower and Evergreen are each an organization described in Section 501(c)(3) of the Code, or corresponding provisions of prior law, is exempt from federal income tax under Section 501(a) of the Code and: (1) the Borrower and Evergreen have received a letter or other notification from the IRS to that effect (copies of which is attached hereto as Exhibit C), and such letter or other notification has not been modified, limited or revoked; (2) the Borrower and Evergreen are in compliance with all terms, conditions and limitations, if any, contained in such letter or other notification and is in compliance with the requirements for exemption under Section 501(c)(3) of the Code; (3) the facts and circumstances which form the basis of such letter or other notification as represented to the IRS continue to exist and no other material facts or circumstances have arisen which could affect the validity of such letter or other notification; (4) the Borrower and Evergreen are exempt from federal income taxes under Section 501(a) of the Code; (5) subsequent to the Borrower's and Evergreen's last audit by the IRS, if any, each continues to be recognized as an organization described in Section 501(c)(3) of the Code; (6) the Borrower and Evergreen are not currently under audit and knows of no facts which could lead to the loss of its Exempt Status (as defined below); and (7) the Borrower and Evergreen have filed all necessary federal tax and information returns, reports, declarations or extensions that are due and required to be filed. The Borrower and Evergreen agree herein not to perform any act or enter into any agreement which shall adversely affect the federal income tax status of the Borrower and Evergreen, including their status as an organization described in Section 501(c)(3) of the Code ("**Exempt Status**"), and shall conduct its operations in a manner that will conform to the standards necessary to qualify the Borrower and Evergreen as organizations described in Section 501(c)(3) of the Code or any successor provision of federal income tax law.

**B. Transactions with Directors, Staff, Employees or Board.** Except as set forth in paragraph 4 of Exhibit E, each of the Borrower and Evergreen: (1) has not made or given, and will not make or give, loans or advances to or enter into any other transactions with the directors, employees or staff of the Borrower or Evergreen or members of the Borrower's or Evergreen's governing board bearing interest at less than a fair market interest rate or in an amount other than fair market value, unless foregone interest on any such loan is treated as compensation or otherwise allowable under the Code; (2) has not made, and will not make, purchases from or sales to persons in control of the Borrower or Evergreen in a manner that is inconsistent with Section 4958 of the Code; (3) has not used, and will not use, its funds to pay personal expenses of the directors, employees or staff of the Borrower or Evergreen or members of the Borrower's or Evergreen's governing board, unless treated as compensation; (4) has not acted, and will not act, as guarantor for any loan made by banks (or other parties) to, directors, employees or staff of the Borrower or Evergreen or members of the Borrower's or Evergreen's governing board; and (5) has not entered into, and will not enter into, any contracts with members of the Borrower's or Evergreen's governing board (or Related Persons) in a manner that is inconsistent with Section 4958 of the Code, unless the Borrower and Evergreen have received an opinion of Bond Counsel that such action would not affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds. The Borrower and Evergreen hereby represent that all amounts in the transactions set forth in paragraph 4 to Exhibit F with regard to this section represent reasonable amounts considering the nature of the recipient's services and skills and, except as described therein, such amounts are reported as

compensation for federal income tax purposes. The Borrower and Evergreen hereby represent that the transactions set forth in paragraph 4 to Exhibit F were approved with any interested parties who are on the board of trustees of the Borrower or Evergreen not participating in any vote regarding such transactions.

**C. Purchase and Sale of Assets At Fair Market Value.** Except as set forth in paragraph 5 of Exhibit F, the Borrower and Evergreen have not (1) purchased assets for the Borrower or Evergreen for an amount greater than the fair market value thereof; or (2) sold assets of the Borrower or Evergreen for an amount less than the fair market value thereof. The Borrower and Evergreen do not expect to and will not (1) purchase assets for the Borrower or Evergreen for an amount greater than the fair market value thereof; or (2) sell assets of the Borrower or Evergreen for an amount less than the fair market value thereof to the extent such purchase or sale is inconsistent with the Borrower's or Evergreen's Exempt Status.

**D. Affiliation Agreements For-Profit Affiliates; Business Ventures.**

1. Except as set forth in paragraph 6 of Exhibit F, or to the extent within the limits set forth in Section VII, no affiliation agreement that the Borrower or Evergreen have entered into or will enter into with another entity will result in any portion of the Proceeds of the Bonds being expended or otherwise used for an Unrelated Use or a Private Use.

2. Except as set forth in paragraph 6 of Exhibit F, or to the extent within the limits set forth in Section VII, the Bonds has not entered into and will not enter into any business ventures with for-profit entities (including business ventures in which the Borrower or Evergreen is a member of any partnership or joint venture) that result in any portion of the proceeds of the sale of the Bonds being expended or otherwise used for an Unrelated Use or a Private Use.

3. Except as set forth in paragraph 6 of Exhibit F, no corporation which is a Related Person to the Borrower or Evergreen and uses any portion of the Project is a nongovernmental person other than an organization described in Section 501(c)(3) of the Code.

**E. Governing Board; Use of Facilities.** Except as set forth in paragraph 7 of Exhibit F (and therein only to the extent the following activities and facilities relate to or constitute a portion of the Project), the operation of the following facilities has been and is expected to continue to be as described in this section:

1. The members of the Borrower's and Evergreen's governing board are derived from a cross-section of the community.

2. All of the Borrower's and Evergreen's facilities are operated primarily for students, program participants, visitors, employees and staff of the Borrower or Evergreen on Borrower or Evergreen business.

**SECTION X. COMPLIANCE WITH REQUIREMENTS OF SECTION 147 OF THE CODE.** The following private activity bond requirements have been met:

**A. Economic Life.** The Bonds have a weighted average maturity that does not exceed 120 percent of the average reasonably expected economic life of the Project. The average reasonably expected economic life of the Project is set forth on Exhibit E. For the purposes of determining the average reasonably expected economic life of such facilities: the average reasonably expected economic life shall be determined as of the later of (1) the Issue Date; or (2) the date the facilities are placed in

service (or expected to be placed in service); and land shall not be taken into account (unless 25 percent or more of the Net Proceeds of the Bonds are used to finance land, in which case land shall be given a 30 year life).

**B. Prohibited Facilities.** Neither the Issuer nor the Borrower or Evergreen will use any of the Proceeds of the Bonds to provide any airplane, skybox or other private luxury box, facility used for gambling, massage parlors, stadiums, or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

**C. TEFRA.** The issuance of the Bonds was approved by the Supervisor of the Town of Hempstead on August 1, 2019 following a public hearing on February 11, 2019, notification of which was published on January 27, 2019 in *Newsday*. Attached as Exhibit H, are copies of the notices of public hearing and the Supervisor's approval required by Section 147(f) of the Code. The Borrower will not expend Proceeds of the Bonds on the Project for any purpose other than the purposes listed in the notice of public hearing without an opinion of Bond Counsel that such expenditure will not adversely affect the exclusion from gross income of interest on the Bonds for federal tax purposes.

**SECTION XI. LIMITATION ON FINANCING OF ISSUANCE COSTS.** The Borrower will not apply more than 2% of the Proceeds of the Bonds to finance costs of issuance in accordance with Section 147(g) of the Code. "**Costs of Issuance**" shall mean those costs incurred in connection with the issuance of the Bonds, including, but not limited to, underwriter's spread or compensation, counsel fees relating to the issuance of the bonds (including Bond Counsel, purchaser's counsel, and Borrower counsel), financial advisor fees, paying agent and certifying and authenticating agent fees, accountant fees, printing costs, costs of engineering and feasibility studies necessary to the issuance of the bonds (as opposed to such studies related solely to the completion of the Project), certain trustee fees and costs incurred in connection with the public approval process. See Exhibit G.

**SECTION XII. BONDS ISSUED IN REGISTERED FORM.** In accordance with Section 149(a) of the Code, the Bonds are being issued in registered form.

**SECTION XIII. NO FEDERAL GUARANTEE.** The Bonds are not federally guaranteed within the meaning of Section 149(b) of the Code. A bond will be federally guaranteed if (A) the payment of principal or interest with respect to such bond is guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof), (B) such bond is issued as part of an issue and 5 percent or more of the proceeds of such issue is to be (i) used in making loans the payment of principal or interest with respect to which are to be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof), or (ii) invested (directly or indirectly) in federally insured deposits or accounts, or (C) the payment of principal or interest on such bond is otherwise indirectly guaranteed (in whole or in part) by the United States (or an agency or instrumentality thereof). Notwithstanding the foregoing, the Proceeds of the Bonds may be invested in any investment guaranteed by the following agencies of the United States: (a) the Federal Housing Administration; (b) the Veterans Administration; (c) the Federal National Mortgage Association; (d) the Federal Home Loan Mortgage Corporation; or (e) the Government National Mortgage Association. Moreover, the Issuer may invest the Proceeds of the Bonds (a) during an initial temporary period until such Proceeds are needed for the purpose for which the Bonds were issued; (b) in a bona fide debt service fund; (c) in a reasonably required reserve or replacement fund; (d) in obligations issued by the U.S. Treasury; (e) in obligations issued pursuant to Section 21B(d)(3) of the Federal Home Loan Bank Act, as amended by Section 511(a) of the Financial Borrowers Reform, Recovery, and Enforcement Act of 1989, or any successor provision; or (f) in a refunding escrow.

**SECTION XIV. INFORMATION REPORTING.** The Issuer and the Borrower have reviewed the IRS Form 8038 to be filed in connection with the issuance of the Bonds, a copy of which are attached hereto in Exhibit B, and all of the information contained therein is, to the best of the Issuer's and the Borrower's knowledge, true and complete.

**SECTION XV. NOT POOLED FINANCING BONDS.** No Proceeds of the Bonds will be used to make or finance loans to 2 or more ultimate borrowers within the meaning of Section 149(f) of the Code.

**SECTION XVI. HEDGE BONDS.** As of the issue date of the 2007 Bonds, CDLHI reasonably expected that at least 85 percent of the Net Sale Proceeds of the 2007 Bonds would be used to carry out the governmental purpose of the 2007 Bonds within three years of the issue date thereof. In determining such expectations, CDLHI did not take into account any expectations as to changes in interest rates or in provisions of the Code (or in the regulations and rulings thereunder). No more than 50 percent of the Proceeds of the 2007 Bonds was invested in Nonpurpose Investments having a substantially guaranteed yield for four years or more.

**SECTION XVII. ABUSIVE ARBITRAGE DEVICE.** The Issuer, the Borrower, and Evergreen represent that the Bonds are not and will not be part of a transaction or series of transactions that has the effect of (A) enabling the Issuer, the Borrower, Evergreen or any related person to exploit the difference between tax-exempt and taxable interest rates to obtain a material financial advantage, or (B) overburdening the tax-exempt bond market by, among other reasons, issuing more bonds, issuing bonds earlier, or allowing bonds to remain outstanding longer than is otherwise reasonably necessary to accomplish the governmental purposes of the bonds.

**SECTION XVIII. SALE OF PROJECT.** Neither the Borrower nor Evergreen expects to sell or otherwise dispose of any portion of the Project before the last maturity date of the Bonds, except such minor portions thereof as may be disposed of due to normal wear, obsolescence, or depreciation in the ordinary course of business, or for easement or other similar purposes. The Borrower and Evergreen will inform the Issuer of any change in use of the Proceeds of the Bonds prior to such change and will take any remedial action necessary to prevent a change in use of the Proceeds of the Bonds to a different use from the use for which such Proceeds are expected to be used as of the Issue Date that would adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

**SECTION XIX. TAX QUESTIONNAIRE.** The Borrower and Evergreen submitted to Bond Counsel Due Diligence Questionnaires Supporting Borrower's and Evergreen's Representations as to Information Regarding Tax-exempt Bond Qualification on May 7, 2009 and May 15, 2019, respectively, including all amendments and supplements thereto (the "**Tax Questionnaire**"). The Borrower and Evergreen represent that the information provided in the Tax Questionnaire is, except to the extent modified by the representations contained herein, true, accurate and factually complete on the date hereof and the Borrower and Evergreen are not aware of any fact which would cause the representations to not be materially true, and factually accurate and complete.

**SECTION XX. RECORD KEEPING.** In order for the interest on the Bonds to be excludable from gross income for federal and state tax purposes, records must be maintained to support the representations, certifications and expectations set forth in this Tax Regulatory Agreement (including the exhibits hereto) until the date that is six (6) years after the last of the Bonds will be retired, and if any of the Bonds are refunded with the proceeds of tax-exempt obligations other than the Bonds ("**Refunding Obligations**"), the date that is six (6) years after the last of the Refunding Obligations will be retired. The records that must be retained include, but are not limited to:

- A. Basic records and documents relating to the Bonds;
- B. Documentation evidencing the expenditure of Bond Proceeds;
- C. Documentation evidencing the use of a project by public and private sources (i.e., copies of management contracts, research agreements, leases, etc.);
- D. Documentation evidencing all sources of payment or security for the Bonds;
- E. Documentation evidencing compliance with the timing and allocation of expenditures of Bond Proceeds;
- F. Documentation pertaining to any investment of Gross Proceeds (including the purchase and sale of securities, SLGs subscriptions, yield calculations for each class of investments, actual investment income received from the investment of Gross Proceeds, guaranteed investment contracts, and rebate calculations); and
- G. Records of all amounts paid to the United States pursuant to Section IV above.

The Borrower and Evergreen agree to maintain such records, provided that the Borrower understands that the Borrower is responsible for maintaining the records referred to the Rebate Requirement in this section with respect to the Bonds and any Refunding Obligations.

**SECTION XXI. SURVIVAL ON DEFEASANCE OR PAYMENT.** Notwithstanding anything in this Tax Regulatory Agreement or the Bonds to the contrary, the obligation to remit the Rebate Requirement to the U.S. Treasury and to comply with all other requirements contained in this Tax Regulatory Agreement shall survive the defeasance of the Bonds.

**SECTION XXII. AMENDMENTS.** This Tax Regulatory Agreement sets forth the information, representations, and procedures necessary in order for Bond Counsel to render its opinion regarding the exclusion of interest on the Bonds from gross income for purposes of Federal income taxation and may be amended or supplemented from time to time to maintain such exclusion only with the approval of Bond Counsel.

Notwithstanding any other provision herein, the covenants and obligations contained herein may be and shall be deemed modified to the extent the Issuer secures an opinion of Bond Counsel that any action required hereunder is no longer required or that some further action is required in order to maintain the exclusion of interest on the Bonds from gross income for purposes of federal income taxation. Such opinion shall be provided to the Borrower to the extent it relates to actions within the control of the Borrower.

**SECTION XXIII. SUPPLEMENTATION OF THIS CERTIFICATE.** The Borrower and Evergreen should periodically seek advice as to the propriety of requesting the review of and supplements to this Tax Regulatory Agreement.

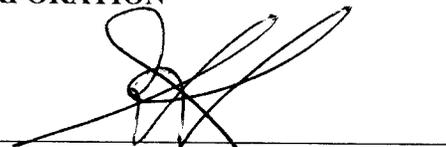
Dated: August 8, 2019

**TOWN OF HEMPSTEAD LOCAL  
DEVELOPMENT CORPORATION**

By: 

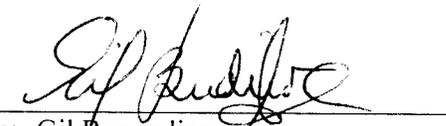
Name: Frederick E. Parola  
Title: Executive Director and  
Chief Executive Officer

**CIRCULO REAL PROPERTY HOLDING  
CORPORATION**

By: 

Name: Sarah E. R. Brewster  
Title: Executive Director

**EVERGREEN CHARTER SCHOOL**

By: 

Name: Gil Bernardino  
Title: President

**ACKNOWLEDGED BY:**

**UMB BANK, N.A.**

By:   
Name: Laura Roberson  
Title: Senior Vice President

**Exhibits**

Exhibit A	Issue Price Certificate
Exhibit B	Form 8038
Exhibit C	IRS Determination Letters
Exhibit D	Final Numbers
Exhibit E	Average Reasonably Expected Economic Life
Exhibit F	Non-Qualified Use
Exhibit G	Costs of Issuance
Exhibit H	TEFRA Materials
Exhibit I	Certificate of CDLHI

**Appendices**

Appendix I	Definitions
Appendix II	Rebate Requirement
Appendix III	Allocation and Accounting Rules
Appendix IV	Value of Investments
Appendix V	Spending Exceptions to Rebate
Appendix VI	Transferred Proceeds
Appendix VII	De Minimis Private Use Exceptions
Appendix VIII	Contract Guidelines
Appendix IX	Eligible Mixed-use Projects
Appendix X	Post-Issuance Compliance

Exhibit A

**Issue Price Certificate**

Town of Hempstead Local Development Corporation  
Hempstead, New York

Nixon Peabody LLP  
New York, New York

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

Gentlemen and Ladies:

The undersigned ("**R&C**") hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the "**Bonds**").

1. **Issue Price.** As of the date of this certificate, for each Maturity of the Bonds, the first price at which at least 10% of such Maturity of the Bonds was sold to the Public is the respective price listed in Schedule A.
2. **Debt Service Reserve Fund.** In R&C's opinion, the establishment and continued existence of the Debt Service Reserve Fund (as provided in the Indenture securing the Bonds) was and is a vital and necessary factor in the sale of the Bonds at the interest rate, yield and other terms of the Bonds.
3. **Lease.** Pursuant to Section 29(iv) of the lease agreement between the Institution and Evergreen (the "**Lease**"), Evergreen covenants and agrees to maintain at least (a) 30 Days Cash on Hand as of the last day of Fiscal Year 2019, (b) 40 Days Cash on Hand as of the last day of Fiscal Year 2020, and (c) 50 Days Cash on Hand as of the last day of Fiscal Year 2021 and as of the last day of each Fiscal Year thereafter. R&C believes the terms of Section 29(iv) of the Lease to be reasonable.
4. **2007 Bonds.** The Bonds are being issued to refinance the Town of Hempstead Industrial Development Agency Civic Facility Revenue Bonds, Series 2007 (Circulo de la Hispanidad, Inc. Civic Facility) (the "**2007 Bonds**"), issued on behalf of Circulo de la Hispanidad, Inc. The 2007 Bonds had payment defaults following issuance, and as part of the repayment of the 2007 Bonds, the holders have agreed to waive certain accrued and unpaid interest, as well as a portion of the outstanding principal on the 2007 Bonds. The amount being paid to the holders of the 2007 Bonds was determined on an arms' length basis, and the holders of the 2007 Bonds are not purchasing any of the Bonds.
5. **Right of First Refusal.** The initial purchaser of the Bonds has a right of first refusal to purchase any future bonds issued by or on behalf of the School. In R&C's opinion, the yield on the Bonds would not have been lower in the absence of such right.
6. **Underwriter' Fees.** Based on our experience in similar transactions, the amount paid as underwriter's fees or discount in connection with the sale and issuance of the Bonds is reasonable and customary under the circumstances and was negotiated on an arms' length basis.

7. **Defined Terms.**

(a) *Institution* means Circulo Real Property Holding Corporation.

(b) *Issuer* means the Town of Hempstead Local Development Corporation.

(c) *Maturity* means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.

(d) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term "related party" for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(e) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is August 8, 2019.

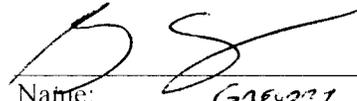
(f) *School* means Evergreen Charter School.

(g) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Issuer and the Institution (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents R&C's interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer, the Institution and the School with respect to certain of the representations set forth in the Tax Certificate and with respect to compliance with the federal income tax rules affecting the Bonds, and by Nixon Peabody LLP in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of Internal Revenue Service Form 8038, and other federal income tax advice it may give to the Issuer, the Institution and the School from time to time relating to the Bonds. Nothing in this certificate represents the R&C's interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder. The representations set forth herein are not necessarily based on personal knowledge of R&C and may be based on either inquiry deemed adequate by the undersigned or institutional knowledge (or both) regarding the matters set forth herein, and, in certain cases, the undersigned is relying on representations made by another underwriter. Although certain information furnished in this certificate has been derived from other purchasers, bond houses and brokers and cannot be independently verified by us, we have no reason to believe it to be untrue or incorrect in any material respect.

Dated: August 8, 2019

**ROOSEVELT & CROSS INC.**

By:   
Name: Gregory L. Caczi, Jr.  
Title: Authorized Signatory

*[Signature Page of the Issue Price Certificate--Circulo]*

**Schedule A to Issue Price Certificate—Bond Sale Information**

<b>Maturity</b>	<b>Amount</b>	<b>Rate</b>	<b>Yield</b>	<b>Price</b>
12/01/2029	\$2,470,000	6.150%	6.150%	100.000
12/01/2044	\$11,170,000	6.800%	6.800%	100.000

**Exhibit B**

**Form 8038**



NIXON PEABODY LLP  
ATTORNEYS AT LAW

NIXONPEABODY.COM  
@NIXONPEABODYLLP

**Bruce M. Serchuk**  
*Partner*  
T 202-585-8267  
bserchuk@nixonpeabody.com

Nixon Peabody LLP  
799 9th Street NW  
Suite 500  
Washington, DC 20001-4501  
202-585-8000

August 19, 2019

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Internal Revenue Service Center  
Ogden, Utah 84201

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

Ladies and Gentlemen:

Enclosed is the Form 8038 Information Return for Tax-Exempt Private Activity Bond  
Issues, for the above-referenced issue.

Thank you for your attention to this matter.

Sincerely yours,

Bruce M. Serchuk

70151520000093939949

**Information Return for Tax-Exempt Private Activity Bond Issues**

(Under Internal Revenue Code section 149(e))  
 ▶ See separate instructions.

OMB No. 1545-0720

▶ Go to [www.irs.gov/Form8038](http://www.irs.gov/Form8038) for instructions and the latest information.

<b>Part I Reporting Authority</b>		Check if Amended Return <input type="checkbox"/>
1 Issuer's name <b>Town of Hempstead Local Development Corporation</b>		2 Issuer's employer identification number <b>11-2798949</b>
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address) <b>350 Front Street, Second Floor</b>	Room/suite	5 Report number (For IRS Use Only) <b>1</b> <input type="checkbox"/> <input type="checkbox"/>
6 City, town, or post office, state, and ZIP code <b>Hempstead, New York 11530</b>		7 Date of issue (MM/DD/YYYY) <b>08/08/19</b>
8 Name of issue <b>See note below.</b>		9 CUSIP number <b>424882KN1</b>
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information <b>Frederick E. Parola, Executive Director</b>		10b Telephone number of officer or other employee shown on 10a <b>516-489-3179</b>

<b>Part II Type of Issue (Enter the issue price.)</b>		Issue Price
11 Exempt facility bond:		
a Airport (sections 142(a)(1) and 142(c))	11a	
b Docks and wharves (sections 142(a)(2) and 142(c))	11b	
c Water furnishing facilities (sections 142(a)(4) and 142(e))	11c	
d Sewage facilities (section 142(a)(5))	11d	
e Solid waste disposal facilities (section 142(a)(6))	11e	
f Qualified residential rental projects (sections 142(a)(7) and 142(d)) (see instructions)	11f	
Meeting 20-50 test (section 142(d)(1)(A)) <input type="checkbox"/>		
Meeting 40-60 test (section 142(d)(1)(B)) <input type="checkbox"/>		
Meeting 25-60 test (NYC only) (section 142(d)(6)) <input type="checkbox"/>		
Has an election been made for deep rent skewing (section 142(d)(4)(B))? <input type="checkbox"/> Yes <input type="checkbox"/> No		
g Facilities for the local furnishing of electric energy or gas (sections 142(a)(8) and 142(f))	11g	
h Facilities allowed under a transitional rule of the Tax Reform Act of 1986 (see instructions)	11h	
Facility type		
1986 Act section		
i Qualified enterprise zone facility bonds (section 1394) (see instructions)	11i	
j Qualified empowerment zone facility bonds (section 1394(f)) (see instructions)	11j	
k Other (see instructions)	11k	
l Qualified public educational facility bonds (sections 142(a)(13) and 142(k))	11l	
m Mass commuting facilities (sections 142(a)(3) and 142(c))	11m	
n Qualified highway or surface freight transfer facilities (sections 142(a)(15) and 142(m))	11n	
o Other (see instructions)		
p Local district heating or cooling facilities (sections 142(a)(9) and 142(g))	11p	
q Other (see instructions)	11q	
12a Qualified mortgage bond (section 143(a))	12a	
b Other (see instructions)	12b	
13 Qualified veterans' mortgage bond (section 143(b)) (see instructions) ▶	13	
Check the box if you elect to rebate arbitrage profits to the United States <input type="checkbox"/>		
14 Qualified small issue bond (section 144(a)) (see instructions) ▶	14	
Check the box for \$10 million small issue exemption <input type="checkbox"/>		
15 Qualified student loan bond (section 144(b))	15	
16 Qualified redevelopment bond (section 144(c))	16	
17 Qualified hospital bond (section 145(c)) (attach schedule—see instructions)	17	
18 Qualified 501(c)(3) nonhospital bond (section 145(b)) (attach schedule—see instructions)	18	13,640,000.00
Check box if 95% or more of net proceeds will be used only for capital expenditures ▶ <input checked="" type="checkbox"/>		
19 Nongovernmental output property bond (treated as private activity bond) (section 141(d))	19	
20a Other (see instructions)		
b Reissuance (see instructions)	20b	
c Other. Describe (see instructions) ▶	20c	

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 49973K

Form 8038 (Rev. 9-2018)

Note to Line 8: Tax-Exempt Revenue Refunding Bonds, Series 2019A (Circulo Real Property Holding Corporation/Evergreen Charter School Project)

<b>Part III Description of Bonds</b> (Complete for the entire issue for which this form is being filed.)				
(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21 12/01/44	\$ 13,640,000.00	\$ 13,640,000.00	17.1222 years	6.7883 %

<b>Part IV Uses of Proceeds of Issue</b> (including underwriters' discount)		Amount
22	Proceeds used for accrued interest	22 0.00
23	Issue price of entire issue (enter amount from line 21, column (b))	23 13,640,000.00
24	Proceeds used for bond issuance costs (including underwriters' discount)	24 237,969.83
25	Proceeds used for credit enhancement	25 0.00
26	Proceeds allocated to reasonably required reserve or replacement fund	26 1,136,771.26
27	Proceeds used to refund prior tax-exempt bonds. Complete Part VI	27 0.00
28	Proceeds used to refund prior taxable bonds. Complete Parts V and VI	28 12,232,475.98
29	Add lines 24 through 28	29 13,607,216.87
30	Nonrefunding proceeds (subtract line 29 from line 23, enter amount here, and complete Part V)	30 32,783.13

<b>Part V Description of Property Financed</b>		Amount
Caution: Do not complete for qualified student loan bonds, qualified mortgage bonds, or qualified veterans' mortgage bonds.		
31	<b>Type of Property Financed:</b>	
a	Land	31a
b	Buildings and structures	31b
c	Equipment with recovery period of more than 5 years	31c
d	Equipment with recovery period of 5 years or less	31d
e	Other. Describe (see instructions) Issuer Fee, Title Insurance	31e 32,783.13
32	North American Industry Classification System (NAICS) of the projects financed.	
a	NAICS Code	Amount of nonrefunding proceeds
b	813319	\$ 32,783.13
c	NAICS Code	Amount of nonrefunding proceeds
d		\$

<b>Part VI Description of Refunded Bonds</b> (Complete this part only for refunding bonds.)		Amount
33	Enter the remaining weighted average maturity of the tax-exempt bonds to be refunded	years
34	Enter the remaining weighted average maturity of the taxable bonds to be refunded	9.2613 years
35	Enter the last date on which the refunded tax-exempt bonds will be called (MM/DD/YYYY)	08 / 08 / 2019
36	Enter the date(s) the refunded bonds were issued (MM/DD/YYYY)	03 / 07 / 2007

<b>Part VII Miscellaneous</b>	
37	Name of governmental unit(s) approving issue (see the instructions) <b>Town Supervisor of the Town of Hempstead, New York,</b> Hearing Date: 02/11/2019, Approval Date: 08/01/2019
38	Check the box if you have designated any issue under section 265(b)(3)(B)(i)(III) <input type="checkbox"/>
39	Check the box if you have elected to pay a penalty in lieu of arbitrage rebate <input type="checkbox"/>
40a	Check the box if you have identified a hedge and enter the following information <input type="checkbox"/>
b	Name of hedge provider
c	Type of hedge
d	Term of hedge
41	Check the box if the hedge is superintegrated <input type="checkbox"/>
42a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC)
b	Enter the final maturity date of the GIC (MM/DD/YYYY) / /
c	Enter the name of the GIC provider
43	Check the box if the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated in accordance with the requirements under the Code and Regulations (see instructions) <input checked="" type="checkbox"/>
44	Check the box if the issuer has established written procedures to monitor the requirements of section 148 <input checked="" type="checkbox"/>
45a	Enter the amount of reimbursement if some portion of the proceeds was used to reimburse expenditures 0.00
b	Enter the date the official intent was adopted (MM/DD/YYYY) / /
46	Check the box if the issue is comprised of qualified redevelopment, qualified small issue, or exempt facilities bonds, and provide name and EIN of the primary private user <input type="checkbox"/>

Name ▶

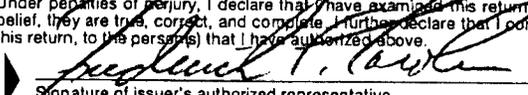
EIN

**Part VIII Volume Caps**

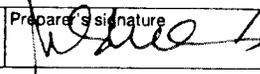
		Amount
47	Amount of state volume cap allocated to the issuer. <b>Attach copy of state certification</b>	47
48	Amount of issue subject to the unified state volume cap	48
49	Amount of issue not subject to the unified state volume cap or other volume limitations:	49 13,640,000.00
a	Of bonds for governmentally owned solid waste facilities, airports, docks, wharves, environmental enhancements of hydroelectric generating facilities, or high-speed intercity rail facilities	49a
b	Under a carryforward election. Attach a copy of Form 8328 to this return	49b
c	Under transitional rules of the Tax Reform Act of 1986. Enter Act section ▶	49c
d	Under the exception for current refunding (section 146(i) and section 1313(a) of the Tax Reform Act of 1986)	49d
50a	Amount of issue of qualified veterans' mortgage bonds	50a
b	Enter the state limit on qualified veterans' mortgage bonds	50b
51a	Amount of section 1394(f) volume cap allocated to issuer. <b>Attach copy of local government certification</b>	51a
b	Name of empowerment zone ▶	
52	Amount of section 142(k)(5) volume cap allocated to issuer. <b>Attach copy of state certification</b>	52

**Signature and Consent**

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the persons that I have authorized above.


8/17/19  
 Signature of issuer's authorized representative Date Frederick E. Parola, CEO  
Type or print name and title

**Paid Preparer Use Only**

Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	Preparer's PTIN
Bruce M. Serchuk		8/19/19	<input type="checkbox"/>	P01067708
Firm's name ▶ Nixon Peabody LLP	Firm's EIN ▶ 16-0764720		Phone no. 202-585-8000	
Firm's address ▶ 799 9th Street NW, Suite 500, Washington, DC 20001				

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

**Form 8038—Information Return for Tax-Exempt Private Activity Bond Issues  
Attachment**

**Line 18**

1. Name of Organization: Circulo Real Property Holding Corporation; Evergreen Charter School
2. Employer Identification Number: 83-1227110; 26-4652712
3. Amount of Bonds benefiting the Organization: \$13,640,000

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**INTERNAL REVENUE SERVICE  
CENTER  
OGDEN, UTAH 84201**



9590 9402 4663 8323 3904 49

2

7015 1520 0000 9393 9949

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

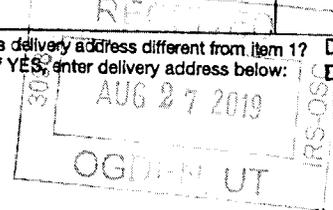
X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No



3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

**U.S. Postal Service™  
CERTIFIED MAIL® RECEIPT**  
Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®

7015 1520 0000 9393 9949

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- Return Receipt (hardcopy) \$
- Return Receipt (electronic) \$
- Certified Mail Restricted Delivery \$
- Adult Signature Required \$
- Adult Signature Restricted Delivery \$

Postage

\$

Total

\$

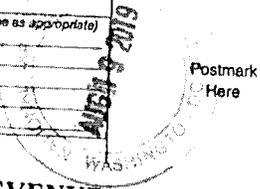
State

Street

City

City

**INTERNAL REVENUE SERVICE  
CENTER  
OGDEN, UTAH 84201**



PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

**Exhibit C**

**IRS Determination Letters**

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: **NOV 09 2018**  
  
CIRCULO REAL PROPERTY HOLDING  
CORPORATION  
C/O MORITT HOCK & HAMROFF LLP  
RACHEL FERNBACH  
400 GARDEN CITY PLAZA STE 202  
GARDEN CITY, NY 11530

Employer Identification Number:  
83-1227110  
DLN:  
17053205315028  
Contact Person:  
ERIC KAYE ID# 31612  
Contact Telephone Number:  
(877) 829-5500  
  
Accounting Period Ending:  
December 31  
Public Charity Status:  
509(a)(3)  
Form 990/990-EZ/990-N Required:  
Yes  
Effective Date of Exemption:  
July 11, 2018  
Contribution Deductibility:  
Yes  
Addendum Applies:  
No

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

Specifically, we determined you're a Type I supporting organization under IRC Section 509(a)(3). A Type I supporting organization is operated, supervised, or controlled by one or more publicly supported charities.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to [www.irs.gov/charities](http://www.irs.gov/charities). Enter "4221-PC" in the search bar

Letter 947

CIRCULO REAL PROPERTY HOLDING

to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephen A. Neaton".

Director, Exempt Organizations  
Rulings and Agreements

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: **MAY 20 2010**

EVERGREEN CHARTER SCHOOL  
C/O RACHEL FERNBACK, ESQUIRE  
MORITT, HOCK, HAMROFF & HOROWITZ  
400 GARDEN CITY PLAZA  
GARDEN CITY, NY 11530

Employer Identification Number:  
26-4652712  
DLN:  
100126016  
Contact Person:  
JOYCE DARBY ID# 95011  
Contact Telephone Number:  
(877) 829-5500  
Accounting Period Ending:  
July 31  
Public Charity Status:  
170(b)(1)(A)(ii)  
Form 990 Required:  
Yes  
Effective Date of Exemption:  
January 13, 2009  
Contribution Deductibility:  
Yes  
Addendum Applies:  
Yes

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

Please see enclosed Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, for some helpful information about your responsibilities as an exempt organization.

Letter 947 (DO/CG)

EVERGREEN CHARTER SCHOOL

We have sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Choi". The signature is stylized with a large initial "R" and a cursive "C".

Robert Choi  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure: Publication 4221-PC

EVERGREEN CHARTER SCHOOL

INFORMATION FOR CHARTER SCHOOLS

You are not subject to the specific publishing requirements of Revenue Procedure 75-50, 1975-2 C.B., page 587, as long as you are operating under a contract with the local government. If your method of operation changes to the extent that your charter is terminated, cancelled, or not renewed, you should notify us. You will also be required to comply with Revenue Procedure 75-50.

**Exhibit D**

**Final Numbers**

TABLE OF CONTENTS

Town of Hempstead Local Development Corporation  
Series 2019 Tax-Exempt and Taxable Revenue Bonds  
(Circulo Real Property Holding Corporation)

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Final Numbers - 8/5/2019

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Escrow Requirements . . . . .	6
Detailed Bond Debt Service . . . . .	7
Bond Debt Service . . . . .	11
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Proof of Arbitrage Yield . . . . .	15
Bond Summary Statistics . . . . .	17
Cost of Issuance . . . . .	18

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## SOURCES AND USES OF FUNDS

Town of Hempstead Local Development Corporation  
Series 2019 Tax-Exempt and Taxable Revenue Bonds  
(Circulo Real Property Holding Corporation)

---

Final Numbers - 8/5/2019

Sources:	Tax-Exempt	Taxable	Total
Bond Proceeds:			
Par Amount	13,640,000.00	900,000.00	14,540,000.00
Other Sources of Funds:			
Release of Bond Fund	1,195,025.96		1,195,025.96
	14,835,025.96	900,000.00	15,735,025.96
Uses:			
Project Fund Deposits:			
R&R Fund		25,000.00	25,000.00
Refunding Escrow Deposits:			
PV cost of cashflows	13,427,501.94		13,427,501.94
Other Fund Deposits:			
Debt Service Reserve Fund	1,136,771.26	65,235.00	1,202,006.26
Delivery Date Expenses:			
Cost of Issuance	188,895.56	572,084.70	760,980.26
Underwriter's Discount	81,857.20	237,680.30	319,537.50
	270,752.76	809,765.00	1,080,517.76
	14,835,025.96	900,000.00	15,735,025.96

BOND PRICING

Town of Hempstead Local Development Corporation  
 Series 2019 Tax-Exempt and Taxable Revenue Bonds  
 (Circulo Real Property Holding Corporation)

Final Numbers - 8/5/2019

Bond Component	Maturity Date	Amount	Rate	Yield	Price
Tax-Exempt A-1:	12/01/2029	2,470,000	6.150%	6.150%	100.000
Tax-Exempt A-2:	12/01/2044	11,170,000	6.800%	6.800%	100.000
Taxable B:	12/01/2022	900,000	6.250%	6.250%	100.000
		14,540,000			

Dated Date	08/08/2019	
Delivery Date	08/08/2019	
First Coupon	09/01/2019	
Par Amount	14,540,000.00	
Original Issue Discount		
Production	14,540,000.00	100.000000%
Underwriter's Discount	-319,537.50	-2.197644%
Purchase Price	14,220,462.50	97.802356%
Accrued Interest		
Net Proceeds	14,220,462.50	

BOND MATURITY TABLE

Town of Hempstead LDC  
Tax-Exempt

Maturity Date	Tax-Exempt A-1	Tax-Exempt A-2	Total
06/01/2023	145,000		145,000
12/01/2023	150,000		150,000
06/01/2024	155,000		155,000
12/01/2024	155,000		155,000
06/01/2025	160,000		160,000
12/01/2025	170,000		170,000
06/01/2026	170,000		170,000
12/01/2026	180,000		180,000
06/01/2027	185,000		185,000
12/01/2027	185,000		185,000
06/01/2028	195,000		195,000
12/01/2028	200,000		200,000
06/01/2029	210,000		210,000
12/01/2029	210,000		210,000
06/01/2030		220,000	220,000
12/01/2030		225,000	225,000
06/01/2031		240,000	240,000
12/01/2031		240,000	240,000
06/01/2032		255,000	255,000
12/01/2032		255,000	255,000
06/01/2033		270,000	270,000
12/01/2033		275,000	275,000
06/01/2034		290,000	290,000
12/01/2034		295,000	295,000
06/01/2035		310,000	310,000
12/01/2035		315,000	315,000
06/01/2036		335,000	335,000
12/01/2036		335,000	335,000
06/01/2037		360,000	360,000
12/01/2037		355,000	355,000
06/01/2038		385,000	385,000
12/01/2038		380,000	380,000
06/01/2039		405,000	405,000
12/01/2039		410,000	410,000
06/01/2040		440,000	440,000
12/01/2040		435,000	435,000
06/01/2041		470,000	470,000
12/01/2041		465,000	465,000
06/01/2042		500,000	500,000
12/01/2042		500,000	500,000
06/01/2043		530,000	530,000
12/01/2043		535,000	535,000
06/01/2044		570,000	570,000
12/01/2044		570,000	570,000
	2,470,000	11,170,000	13,640,000

BOND MATURITY TABLE

Town of Hempstead LDC  
Taxable

Maturity Date	Taxable B
12/01/2019	130,000
06/01/2020	120,000
12/01/2020	125,000
06/01/2021	125,000
12/01/2021	130,000
06/01/2022	135,000
12/01/2022	135,000
	900,000

SUMMARY OF BONDS REFUNDED

Town of Hempstead Local Development Corporation  
 Series 2019 Tax-Exempt and Taxable Revenue Bonds  
 (Circulo Real Property Holding Corporation)

Final Numbers - 8/5/2019

Bond	Maturity Date	Interest Rate	Par Amount	Call Date	Call Price
2007:					
TERM	02/15/2037	7.000%	14,450,000.00	08/08/2019	89.560
			14,450,000.00		

ESCROW REQUIREMENTS

Town of Hempstead Local Development Corporation  
Series 2019 Tax-Exempt and Taxable Revenue Bonds  
(Circulo Real Property Holding Corporation)

Final Numbers - 8/5/2019

Period Ending	Interest	Principal Redeemed	Redemption Premium	Total
08/08/2019	486,081.94	14,450,000.00	-1,508,580.00	13,427,501.94
	486,081.94	14,450,000.00	-1,508,580.00	13,427,501.94

DETAILED BOND DEBT SERVICE

Town of Hempstead LDC  
Tax-Exempt

Tax-Exempt A-1

Period Ending	Principal	Coupon	Interest	Debt Service
09/01/2019			9,705.04	9,705.04
12/01/2019			37,976.25	37,976.25
03/01/2020			37,976.25	37,976.25
06/01/2020			37,976.25	37,976.25
09/01/2020			37,976.25	37,976.25
12/01/2020			37,976.25	37,976.25
03/01/2021			37,976.25	37,976.25
06/01/2021			37,976.25	37,976.25
09/01/2021			37,976.25	37,976.25
12/01/2021			37,976.25	37,976.25
03/01/2022			37,976.25	37,976.25
06/01/2022			37,976.25	37,976.25
09/01/2022			37,976.25	37,976.25
12/01/2022			37,976.25	37,976.25
03/01/2023			37,976.25	37,976.25
06/01/2023	145,000	6.150%	37,976.25	182,976.25
09/01/2023			35,746.88	35,746.88
12/01/2023	150,000	6.150%	35,746.88	185,746.88
03/01/2024			33,440.63	33,440.63
06/01/2024	155,000	6.150%	33,440.63	188,440.63
09/01/2024			31,057.50	31,057.50
12/01/2024	155,000	6.150%	31,057.50	186,057.50
03/01/2025			28,674.38	28,674.38
06/01/2025	160,000	6.150%	28,674.38	188,674.38
09/01/2025			26,214.38	26,214.38
12/01/2025	170,000	6.150%	26,214.38	196,214.38
03/01/2026			23,600.63	23,600.63
06/01/2026	170,000	6.150%	23,600.63	193,600.63
09/01/2026			20,986.88	20,986.88
12/01/2026	180,000	6.150%	20,986.88	200,986.88
03/01/2027			18,219.38	18,219.38
06/01/2027	185,000	6.150%	18,219.38	203,219.38
09/01/2027			15,375.00	15,375.00
12/01/2027	185,000	6.150%	15,375.00	200,375.00
03/01/2028			12,530.63	12,530.63
06/01/2028	195,000	6.150%	12,530.63	207,530.63
09/01/2028			9,532.50	9,532.50
12/01/2028	200,000	6.150%	9,532.50	209,532.50
03/01/2029			6,457.50	6,457.50
06/01/2029	210,000	6.150%	6,457.50	216,457.50
09/01/2029			3,228.75	3,228.75
12/01/2029	210,000	6.150%	3,228.75	213,228.75
	2,470,000		1,109,478.87	3,579,478.87

DETAILED BOND DEBT SERVICE

Town of Hempstead LDC  
Tax-Exempt

Tax-Exempt A-2

Period Ending	Principal	Coupon	Interest	Debt Service
09/01/2019			48,527.44	48,527.44
12/01/2019			189,890.00	189,890.00
03/01/2020			189,890.00	189,890.00
06/01/2020			189,890.00	189,890.00
09/01/2020			189,890.00	189,890.00
12/01/2020			189,890.00	189,890.00
03/01/2021			189,890.00	189,890.00
06/01/2021			189,890.00	189,890.00
09/01/2021			189,890.00	189,890.00
12/01/2021			189,890.00	189,890.00
03/01/2022			189,890.00	189,890.00
06/01/2022			189,890.00	189,890.00
09/01/2022			189,890.00	189,890.00
12/01/2022			189,890.00	189,890.00
03/01/2023			189,890.00	189,890.00
06/01/2023			189,890.00	189,890.00
09/01/2023			189,890.00	189,890.00
12/01/2023			189,890.00	189,890.00
03/01/2024			189,890.00	189,890.00
06/01/2024			189,890.00	189,890.00
09/01/2024			189,890.00	189,890.00
12/01/2024			189,890.00	189,890.00
03/01/2025			189,890.00	189,890.00
06/01/2025			189,890.00	189,890.00
09/01/2025			189,890.00	189,890.00
12/01/2025			189,890.00	189,890.00
03/01/2026			189,890.00	189,890.00
06/01/2026			189,890.00	189,890.00
09/01/2026			189,890.00	189,890.00
12/01/2026			189,890.00	189,890.00
03/01/2027			189,890.00	189,890.00
06/01/2027			189,890.00	189,890.00
09/01/2027			189,890.00	189,890.00
12/01/2027			189,890.00	189,890.00
03/01/2028			189,890.00	189,890.00
06/01/2028			189,890.00	189,890.00
09/01/2028			189,890.00	189,890.00
12/01/2028			189,890.00	189,890.00
03/01/2029			189,890.00	189,890.00
06/01/2029			189,890.00	189,890.00
09/01/2029			189,890.00	189,890.00
12/01/2029			189,890.00	189,890.00
03/01/2030			189,890.00	189,890.00
06/01/2030	220,000	6.800%	189,890.00	409,890.00
09/01/2030			186,150.00	186,150.00
12/01/2030	225,000	6.800%	186,150.00	411,150.00
03/01/2031			182,325.00	182,325.00
06/01/2031	240,000	6.800%	182,325.00	422,325.00
09/01/2031			178,245.00	178,245.00
12/01/2031	240,000	6.800%	178,245.00	418,245.00
03/01/2032			174,165.00	174,165.00
06/01/2032	255,000	6.800%	174,165.00	429,165.00
09/01/2032			169,830.00	169,830.00
12/01/2032	255,000	6.800%	169,830.00	424,830.00
03/01/2033			165,495.00	165,495.00
06/01/2033	270,000	6.800%	165,495.00	435,495.00
09/01/2033			160,905.00	160,905.00
12/01/2033	275,000	6.800%	160,905.00	435,905.00
03/01/2034			156,230.00	156,230.00
06/01/2034	290,000	6.800%	156,230.00	446,230.00
09/01/2034			151,300.00	151,300.00
12/01/2034	295,000	6.800%	151,300.00	446,300.00

DETAILED BOND DEBT SERVICE

Town of Hempstead LDC  
Tax-Exempt

Tax-Exempt A-2

Period Ending	Principal	Coupon	Interest	Debt Service
03/01/2035			146,285.00	146,285.00
06/01/2035	310,000	6.800%	146,285.00	456,285.00
09/01/2035			141,015.00	141,015.00
12/01/2035	315,000	6.800%	141,015.00	456,015.00
03/01/2036			135,660.00	135,660.00
06/01/2036	335,000	6.800%	135,660.00	470,660.00
09/01/2036			129,965.00	129,965.00
12/01/2036	335,000	6.800%	129,965.00	464,965.00
03/01/2037			124,270.00	124,270.00
06/01/2037	360,000	6.800%	124,270.00	484,270.00
09/01/2037			118,150.00	118,150.00
12/01/2037	355,000	6.800%	118,150.00	473,150.00
03/01/2038			112,115.00	112,115.00
06/01/2038	385,000	6.800%	112,115.00	497,115.00
09/01/2038			105,570.00	105,570.00
12/01/2038	380,000	6.800%	105,570.00	485,570.00
03/01/2039			99,110.00	99,110.00
06/01/2039	405,000	6.800%	99,110.00	504,110.00
09/01/2039			92,225.00	92,225.00
12/01/2039	410,000	6.800%	92,225.00	502,225.00
03/01/2040			85,255.00	85,255.00
06/01/2040	440,000	6.800%	85,255.00	525,255.00
09/01/2040			77,775.00	77,775.00
12/01/2040	435,000	6.800%	77,775.00	512,775.00
03/01/2041			70,380.00	70,380.00
06/01/2041	470,000	6.800%	70,380.00	540,380.00
09/01/2041			62,390.00	62,390.00
12/01/2041	465,000	6.800%	62,390.00	527,390.00
03/01/2042			54,485.00	54,485.00
06/01/2042	500,000	6.800%	54,485.00	554,485.00
09/01/2042			45,985.00	45,985.00
12/01/2042	500,000	6.800%	45,985.00	545,985.00
03/01/2043			37,485.00	37,485.00
06/01/2043	530,000	6.800%	37,485.00	567,485.00
09/01/2043			28,475.00	28,475.00
12/01/2043	535,000	6.800%	28,475.00	563,475.00
03/01/2044			19,380.00	19,380.00
06/01/2044	570,000	6.800%	19,380.00	589,380.00
09/01/2044			9,690.00	9,690.00
12/01/2044	570,000	6.800%	9,690.00	579,690.00
	11,170,000		14,654,417.44	25,824,417.44

DETAILED BOND DEBT SERVICE

Town of Hempstead LDC  
Taxable

Taxable B

Period Ending	Principal	Coupon	Interest	Debt Service
09/01/2019			3,593.75	3,593.75
12/01/2019	130,000	6.250%	14,062.50	144,062.50
03/01/2020			12,031.25	12,031.25
06/01/2020	120,000	6.250%	12,031.25	132,031.25
09/01/2020			10,156.25	10,156.25
12/01/2020	125,000	6.250%	10,156.25	135,156.25
03/01/2021			8,203.13	8,203.13
06/01/2021	125,000	6.250%	8,203.13	133,203.13
09/01/2021			6,250.00	6,250.00
12/01/2021	130,000	6.250%	6,250.00	136,250.00
03/01/2022			4,218.75	4,218.75
06/01/2022	135,000	6.250%	4,218.75	139,218.75
09/01/2022			2,109.38	2,109.38
12/01/2022	135,000	6.250%	2,109.38	137,109.38
	900,000		103,593.77	1,003,593.77

## BOND DEBT SERVICE

Town of Hempstead Local Development Corporation  
 Series 2019 Tax-Exempt and Taxable Revenue Bonds  
 (Circulo Real Property Holding Corporation)

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Final Numbers - 8/5/2019

Period Ending	Principal	Coupon	Interest	Debt Service
06/30/2020	250,000	6.250%	783,549.99	1,033,549.99
06/30/2021	250,000	6.250%	948,183.76	1,198,183.76
06/30/2022	265,000	6.250%	932,402.50	1,197,402.50
06/30/2023	280,000	** %	915,683.76	1,195,683.76
06/30/2024	305,000	6.150%	897,935.02	1,202,935.02
06/30/2025	315,000	6.150%	879,023.76	1,194,023.76
06/30/2026	340,000	6.150%	859,190.02	1,199,190.02
06/30/2027	365,000	6.150%	837,972.52	1,202,972.52
06/30/2028	380,000	6.150%	815,371.26	1,195,371.26
06/30/2029	410,000	6.150%	791,540.00	1,201,540.00
06/30/2030	430,000	** %	766,017.50	1,196,017.50
06/30/2031	465,000	6.800%	736,950.00	1,201,950.00
06/30/2032	495,000	6.800%	704,820.00	1,199,820.00
06/30/2033	525,000	6.800%	670,650.00	1,195,650.00
06/30/2034	565,000	6.800%	634,270.00	1,199,270.00
06/30/2035	605,000	6.800%	595,170.00	1,200,170.00
06/30/2036	650,000	6.800%	553,350.00	1,203,350.00
06/30/2037	695,000	6.800%	508,470.00	1,203,470.00
06/30/2038	740,000	6.800%	460,530.00	1,200,530.00
06/30/2039	785,000	6.800%	409,360.00	1,194,360.00
06/30/2040	850,000	6.800%	354,960.00	1,204,960.00
06/30/2041	905,000	6.800%	296,310.00	1,201,310.00
06/30/2042	965,000	6.800%	233,750.00	1,198,750.00
06/30/2043	1,030,000	6.800%	166,940.00	1,196,940.00
06/30/2044	1,105,000	6.800%	95,710.00	1,200,710.00
06/30/2045	570,000	6.800%	19,380.00	589,380.00
	14,540,000		15,867,490.09	30,407,490.09

FORM 8038 STATISTICS

Town of Hempstead Local Development Corporation  
 Series 2019 Tax-Exempt and Taxable Revenue Bonds  
 (Circulo Real Property Holding Corporation)

Final Numbers - 8/5/2019

Dated Date 08/08/2019  
 Delivery Date 08/08/2019

Bond Component	Date	Principal	Coupon	Price	Issue Price	Redemption at Maturity
Tax-Exempt A-1:						
	06/01/2023	145,000.00	6.150%	100.000	145,000.00	145,000.00
	12/01/2023	150,000.00	6.150%	100.000	150,000.00	150,000.00
	06/01/2024	155,000.00	6.150%	100.000	155,000.00	155,000.00
	12/01/2024	155,000.00	6.150%	100.000	155,000.00	155,000.00
	06/01/2025	160,000.00	6.150%	100.000	160,000.00	160,000.00
	12/01/2025	170,000.00	6.150%	100.000	170,000.00	170,000.00
	06/01/2026	170,000.00	6.150%	100.000	170,000.00	170,000.00
	12/01/2026	180,000.00	6.150%	100.000	180,000.00	180,000.00
	06/01/2027	185,000.00	6.150%	100.000	185,000.00	185,000.00
	12/01/2027	185,000.00	6.150%	100.000	185,000.00	185,000.00
	06/01/2028	195,000.00	6.150%	100.000	195,000.00	195,000.00
	12/01/2028	200,000.00	6.150%	100.000	200,000.00	200,000.00
	06/01/2029	210,000.00	6.150%	100.000	210,000.00	210,000.00
	12/01/2029	210,000.00	6.150%	100.000	210,000.00	210,000.00
Tax-Exempt A-2:						
	06/01/2030	220,000.00	6.800%	100.000	220,000.00	220,000.00
	12/01/2030	225,000.00	6.800%	100.000	225,000.00	225,000.00
	06/01/2031	240,000.00	6.800%	100.000	240,000.00	240,000.00
	12/01/2031	240,000.00	6.800%	100.000	240,000.00	240,000.00
	06/01/2032	255,000.00	6.800%	100.000	255,000.00	255,000.00
	12/01/2032	255,000.00	6.800%	100.000	255,000.00	255,000.00
	06/01/2033	270,000.00	6.800%	100.000	270,000.00	270,000.00
	12/01/2033	275,000.00	6.800%	100.000	275,000.00	275,000.00
	06/01/2034	290,000.00	6.800%	100.000	290,000.00	290,000.00
	12/01/2034	295,000.00	6.800%	100.000	295,000.00	295,000.00
	06/01/2035	310,000.00	6.800%	100.000	310,000.00	310,000.00
	12/01/2035	315,000.00	6.800%	100.000	315,000.00	315,000.00
	06/01/2036	335,000.00	6.800%	100.000	335,000.00	335,000.00
	12/01/2036	335,000.00	6.800%	100.000	335,000.00	335,000.00
	06/01/2037	360,000.00	6.800%	100.000	360,000.00	360,000.00
	12/01/2037	355,000.00	6.800%	100.000	355,000.00	355,000.00
	06/01/2038	385,000.00	6.800%	100.000	385,000.00	385,000.00
	12/01/2038	380,000.00	6.800%	100.000	380,000.00	380,000.00
	06/01/2039	405,000.00	6.800%	100.000	405,000.00	405,000.00
	12/01/2039	410,000.00	6.800%	100.000	410,000.00	410,000.00
	06/01/2040	440,000.00	6.800%	100.000	440,000.00	440,000.00
	12/01/2040	435,000.00	6.800%	100.000	435,000.00	435,000.00
	06/01/2041	470,000.00	6.800%	100.000	470,000.00	470,000.00
	12/01/2041	465,000.00	6.800%	100.000	465,000.00	465,000.00
	06/01/2042	500,000.00	6.800%	100.000	500,000.00	500,000.00
	12/01/2042	500,000.00	6.800%	100.000	500,000.00	500,000.00
	06/01/2043	530,000.00	6.800%	100.000	530,000.00	530,000.00
	12/01/2043	535,000.00	6.800%	100.000	535,000.00	535,000.00
	06/01/2044	570,000.00	6.800%	100.000	570,000.00	570,000.00
	12/01/2044	570,000.00	6.800%	100.000	570,000.00	570,000.00
		13,640,000.00			13,640,000.00	13,640,000.00

FORM 8038 STATISTICS

Town of Hempstead Local Development Corporation  
 Series 2019 Tax-Exempt and Taxable Revenue Bonds  
 (Circulo Real Property Holding Corporation)

Final Numbers - 8/5/2019

	Maturity Date	Interest Rate	Issue Price	Stated Redemption at Maturity	Weighted Average Maturity	Yield
Final Maturity	12/01/2044	6.800%	570,000.00	570,000.00		
Entire Issue			13,640,000.00	13,640,000.00	17.1222	6.7883%

Proceeds used for accrued interest	0.00
Proceeds used for bond issuance costs (including underwriters' discount)	270,752.76
Proceeds used for credit enhancement	0.00
Proceeds allocated to reasonably required reserve or replacement fund	1,136,771.26
Proceeds used to refund prior tax-exempt bonds	13,427,501.94
Proceeds used to refund prior taxable bonds	0.00
Remaining WAM of prior tax-exempt bonds (years)	9.2613
Remaining WAM of prior taxable bonds (years)	0.0000
Last call date of refunded tax-exempt bonds	08/08/2019

2011 Form 8038 Statistics

Proceeds used to currently refund prior issues	13,427,501.94
Proceeds used to advance refund prior issues	0.00
Remaining weighted average maturity of the bonds to be currently refunded	9.2613
Remaining weighted average maturity of the bonds to be advance refunded	0.0000

FORM 8038 STATISTICS

Town of Hempstead Local Development Corporation  
 Series 2019 Tax-Exempt and Taxable Revenue Bonds  
 (Circulo Real Property Holding Corporation)

Final Numbers - 8/5/2019

Refunded Bonds

Bond Component	Date	Principal	Coupon	Price	Issue Price
2007:					
TERM	02/15/2020	2,520,000.00	7.000%	94.724	2,387,044.80
TERM	02/15/2021	385,000.00	7.000%	94.724	364,687.40
TERM	02/15/2022	415,000.00	7.000%	94.724	393,104.60
TERM	02/15/2023	445,000.00	7.000%	94.724	421,521.80
TERM	02/15/2024	475,000.00	7.000%	94.724	449,939.00
TERM	02/15/2025	505,000.00	7.000%	94.724	478,356.20
TERM	02/15/2026	545,000.00	7.000%	94.724	516,245.80
TERM	02/15/2027	580,000.00	7.000%	94.724	549,399.20
TERM	02/15/2028	620,000.00	7.000%	94.724	587,288.80
TERM	02/15/2029	665,000.00	7.000%	94.724	629,914.60
TERM	02/15/2030	710,000.00	7.000%	94.724	672,540.40
TERM	02/15/2031	760,000.00	7.000%	94.724	719,902.40
TERM	02/15/2032	815,000.00	7.000%	94.724	772,000.60
TERM	02/15/2033	870,000.00	7.000%	94.724	824,098.80
TERM	02/15/2034	930,000.00	7.000%	94.724	880,933.20
TERM	02/15/2035	1,000,000.00	7.000%	94.724	947,240.00
TERM	02/15/2036	1,070,000.00	7.000%	94.724	1,013,546.80
TERM	02/15/2037	1,140,000.00	7.000%	94.724	1,079,853.60
		14,450,000.00			13,687,618.00

	Last Call Date	Issue Date	Remaining Weighted Average Maturity
2007	08/08/2019	03/07/2007	9.2613
All Refunded Issues	08/08/2019		9.2613

PROOF OF ARBITRAGE YIELD

Town of Hempstead Local Development Corporation  
 Series 2019 Tax-Exempt and Taxable Revenue Bonds  
 (Circulo Real Property Holding Corporation)

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Final Numbers - 8/5/2019

Date	Debt Service	Total	Present Value to 08/08/2019 @ 6.7883133182%
09/01/2019	58,232.49	58,232.49	57,984.66
12/01/2019	227,866.25	227,866.25	223,141.19
03/01/2020	227,866.25	227,866.25	219,448.06
06/01/2020	227,866.25	227,866.25	215,816.05
09/01/2020	227,866.25	227,866.25	212,244.16
12/01/2020	227,866.25	227,866.25	208,731.38
03/01/2021	227,866.25	227,866.25	205,276.75
06/01/2021	227,866.25	227,866.25	201,879.28
09/01/2021	227,866.25	227,866.25	198,538.05
12/01/2021	227,866.25	227,866.25	195,252.12
03/01/2022	227,866.25	227,866.25	192,020.57
06/01/2022	227,866.25	227,866.25	188,842.51
09/01/2022	227,866.25	227,866.25	185,717.05
12/01/2022	227,866.25	227,866.25	182,643.31
03/01/2023	227,866.25	227,866.25	179,620.45
06/01/2023	372,866.25	372,866.25	289,055.24
09/01/2023	225,636.88	225,636.88	172,024.32
12/01/2023	375,636.88	375,636.88	281,643.67
03/01/2024	223,330.63	223,330.63	164,676.67
06/01/2024	378,330.63	378,330.63	274,351.46
09/01/2024	220,947.50	220,947.50	157,571.21
12/01/2024	375,947.50	375,947.50	263,673.80
03/01/2025	218,564.38	218,564.38	150,754.81
06/01/2025	378,564.38	378,564.38	256,793.21
09/01/2025	216,104.38	216,104.38	144,164.84
12/01/2025	386,104.38	386,104.38	253,310.11
03/01/2026	213,490.63	213,490.63	137,745.88
06/01/2026	383,490.63	383,490.63	243,336.11
09/01/2026	210,876.88	210,876.88	131,592.99
12/01/2026	390,876.88	390,876.88	239,880.96
03/01/2027	208,109.38	208,109.38	125,602.84
06/01/2027	393,109.38	393,109.38	233,331.42
09/01/2027	205,265.00	205,265.00	119,819.28
12/01/2027	390,265.00	390,265.00	224,038.89
03/01/2028	202,420.63	202,420.63	114,280.09
06/01/2028	397,420.63	397,420.63	220,657.26
09/01/2028	199,422.50	199,422.50	108,891.50
12/01/2028	399,422.50	399,422.50	214,488.67
03/01/2029	196,347.50	196,347.50	103,692.94
06/01/2029	406,347.50	406,347.50	211,044.20
09/01/2029	193,118.75	193,118.75	98,639.82
12/01/2029	403,118.75	403,118.75	202,494.31
03/01/2030	189,890.00	189,890.00	93,806.72
06/01/2030	409,890.00	409,890.00	199,136.63
09/01/2030	186,150.00	186,150.00	88,940.36
12/01/2030	411,150.00	411,150.00	193,191.55
03/01/2031	182,325.00	182,325.00	84,253.13
06/01/2031	422,325.00	422,325.00	191,928.13
09/01/2031	178,245.00	178,245.00	79,663.83
12/01/2031	418,245.00	418,245.00	183,834.33
03/01/2032	174,165.00	174,165.00	75,285.05
06/01/2032	429,165.00	429,165.00	182,441.72
09/01/2032	169,830.00	169,830.00	71,001.29
12/01/2032	424,830.00	424,830.00	174,670.29
03/01/2033	165,495.00	165,495.00	66,917.66
06/01/2033	435,495.00	435,495.00	173,177.33
09/01/2033	160,905.00	160,905.00	62,925.90
12/01/2033	435,905.00	435,905.00	167,650.06
03/01/2034	156,230.00	156,230.00	59,091.95
06/01/2034	446,230.00	446,230.00	165,987.22

PROOF OF ARBITRAGE YIELD

Town of Hempstead Local Development Corporation  
 Series 2019 Tax-Exempt and Taxable Revenue Bonds  
 (Circulo Real Property Holding Corporation)

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 Final Numbers - 8/5/2019

Date	Debt Service	Total	Present Value to 08/08/2019 @ 6.7883133182%
09/01/2034	151,300.00	151,300.00	55,348.62
12/01/2034	446,300.00	446,300.00	160,563.48
03/01/2035	146,285.00	146,285.00	51,757.31
06/01/2035	456,285.00	456,285.00	158,766.94
09/01/2035	141,015.00	141,015.00	48,254.88
12/01/2035	456,015.00	456,015.00	153,464.18
03/01/2036	135,660.00	135,660.00	44,898.49
06/01/2036	470,660.00	470,660.00	153,193.09
09/01/2036	129,965.00	129,965.00	41,601.63
12/01/2036	464,965.00	464,965.00	146,371.38
03/01/2037	124,270.00	124,270.00	38,472.84
06/01/2037	484,270.00	484,270.00	147,444.12
09/01/2037	118,150.00	118,150.00	35,377.38
12/01/2037	473,150.00	473,150.00	139,329.40
03/01/2038	112,115.00	112,115.00	32,468.31
06/01/2038	497,115.00	497,115.00	141,580.94
09/01/2038	105,570.00	105,570.00	29,569.26
12/01/2038	485,570.00	485,570.00	133,753.07
03/01/2039	99,110.00	99,110.00	26,848.58
06/01/2039	504,110.00	504,110.00	134,301.62
09/01/2039	92,225.00	92,225.00	24,163.32
12/01/2039	502,225.00	502,225.00	129,407.14
03/01/2040	85,255.00	85,255.00	21,603.88
06/01/2040	525,255.00	525,255.00	130,898.34
09/01/2040	77,775.00	77,775.00	19,061.45
12/01/2040	512,775.00	512,775.00	123,593.26
03/01/2041	70,380.00	70,380.00	16,682.81
06/01/2041	540,380.00	540,380.00	125,971.18
09/01/2041	62,390.00	62,390.00	14,303.39
12/01/2041	527,390.00	527,390.00	118,907.11
03/01/2042	54,485.00	54,485.00	12,081.06
06/01/2042	554,485.00	554,485.00	120,912.10
09/01/2042	45,985.00	45,985.00	9,861.62
12/01/2042	545,985.00	545,985.00	115,150.19
03/01/2043	37,485.00	37,485.00	7,774.88
06/01/2043	567,485.00	567,485.00	115,755.69
09/01/2043	28,475.00	28,475.00	5,712.20
12/01/2043	563,475.00	563,475.00	111,164.63
03/01/2044	19,380.00	19,380.00	3,760.09
06/01/2044	589,380.00	589,380.00	112,458.26
09/01/2044	9,690.00	9,690.00	1,818.33
12/01/2044	579,690.00	579,690.00	106,978.32
	29,403,896.32	29,403,896.32	13,640,000.00

Proceeds Summary

Delivery date	08/08/2019
Par Value	13,640,000.00
Target for yield calculation	13,640,000.00

BOND SUMMARY STATISTICS

Town of Hempstead Local Development Corporation  
 Series 2019 Tax-Exempt and Taxable Revenue Bonds  
 (Circulo Real Property Holding Corporation)

Final Numbers - 8/5/2019

Dated Date	08/08/2019
Delivery Date	08/08/2019
Last Maturity	12/01/2044
Arbitrage Yield	6.788313%
True Interest Cost (TIC)	7.029276%
Net Interest Cost (NIC)	6.882124%
All-in TIC	7.653660%
Average Coupon	6.746269%
Average Life (years)	16.176
Duration of Issue (years)	9.271
Par Amount	14,540,000.00
Bond Proceeds	14,540,000.00
Total Interest	15,867,490.09
Net Interest	16,187,027.59
Total Debt Service	30,407,490.09
Maximum Annual Debt Service	1,202,006.26
Average Annual Debt Service	1,201,217.65
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	21.976444
Total Underwriter's Discount	21.976444
Bid Price	97.802356

Bond Component	Par Value	Price	Average Coupon	Average Life
Taxable B	900,000.00	100.000	6.250%	1.842
Tax-Exempt A-1	2,470,000.00	100.000	6.150%	7.304
Tax-Exempt A-2	11,170,000.00	100.000	6.800%	19.293
	14,540,000.00			16.176

	TIC	All-In TIC	Arbitrage Yield
Par Value	14,540,000.00	14,540,000.00	13,640,000.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount	-319,537.50	-319,537.50	
- Cost of Issuance Expense		-760,980.26	
- Other Amounts			
Target Value	14,220,462.50	13,459,482.24	13,640,000.00
Target Date	08/08/2019	08/08/2019	08/08/2019
Yield	7.029276%	7.653660%	6.788313%

## COST OF ISSUANCE

Town of Hempstead Local Development Corporation  
 Series 2019 Tax-Exempt and Taxable Revenue Bonds  
 (Circulo Real Property Holding Corporation)

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Final Numbers - 8/5/2019

	Tax-Exempt	Taxable	Total
Issuer Fee (TOH LDC)	19,983.44	58,053.81	78,037.25
Bond Counsel (Nixon Peabody)	64,711.15	180,288.85	245,000.00
Borrower Counsel (Morrit Hock)	34,559.15	100,440.85	135,000.00
Placement Agent Counsel (Farrell Fritz)	12,159.70	35,340.30	47,500.00
Issuer Counsel (Ryan, Brennan)	3,723.43	10,776.57	14,500.00
Purchaser Counsel (Mintz)	26,111.36	76,688.64	102,800.00
Trustee Fee (UMB)	1,279.97	3,720.03	5,000.00
2019 Trustee Counsel (Thompson Hine)	1,535.96	4,464.04	6,000.00
Title (Fidelity)	12,799.69	58,462.31	71,262.00
IDA Termination Fee (TOH IDA)	511.99	1,488.01	2,000.00
Borrower Consultant (Eileen Mullin)	1,279.97	3,720.03	5,000.00
Evergreen Counsel (Harris Beach)	10,239.75	23,760.25	34,000.00
Environmental, PCA, Appraisal (Circulo)		14,800.00	14,800.00
MISC		81.01	81.01
	188,895.56	572,084.70	760,980.26

SOURCES AND USES OF FUNDS

Town of Hempstead Local Development Corporation  
 Series 2019 Tax-Exempt and Taxable Revenue Bonds  
 (Circulo Real Property Holding Corporation)

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Final Numbers - 8/5/2019

Sources:	Tax-Exempt	Taxable	Total
Bond Proceeds:			
Par Amount	13,640,000.00	900,000.00	14,540,000.00
Other Sources of Funds:			
Release of Bond Fund	1,195,025.96		1,195,025.96
	14,835,025.96	900,000.00	15,735,025.96
Uses:			
Project Fund Deposits:			
R&R Fund		25,000.00	25,000.00
Refunding Escrow Deposits:			
PV cost of cashflows	13,427,501.94		13,427,501.94
Other Fund Deposits:			
Debt Service Reserve Fund	1,136,771.26	65,235.00	1,202,006.26
Delivery Date Expenses:			
Cost of Issuance	188,895.56	572,084.70	760,980.26
Underwriter's Discount	81,857.20	237,680.30	319,537.50
	270,752.76	809,765.00	1,080,517.76
	14,835,025.96	900,000.00	15,735,025.96

BOND DEBT SERVICE

Town of Hempstead Local Development Corporation  
 Series 2019 Tax-Exempt and Taxable Revenue Bonds  
 (Circulo Real Property Holding Corporation)

Final Numbers - 8/5/2019

Period Ending	Principal	Coupon	Interest	Debt Service
12/01/2019	130,000	6.250%	303,754.99	433,754.99
12/01/2020	245,000	6.250%	955,840.00	1,200,840.00
12/01/2021	255,000	6.250%	940,371.26	1,195,371.26
12/01/2022	270,000	6.250%	924,121.26	1,194,121.26
12/01/2023	295,000	6.150%	907,006.26	1,202,006.26
12/01/2024	310,000	6.150%	888,556.26	1,198,556.26
12/01/2025	330,000	6.150%	869,337.52	1,199,337.52
12/01/2026	350,000	6.150%	848,735.02	1,198,735.02
12/01/2027	370,000	6.150%	826,748.76	1,196,748.76
12/01/2028	395,000	6.150%	803,686.26	1,198,686.26
12/01/2029	420,000	6.150%	778,932.50	1,198,932.50
12/01/2030	445,000	6.800%	752,080.00	1,197,080.00
12/01/2031	480,000	6.800%	721,140.00	1,201,140.00
12/01/2032	510,000	6.800%	687,990.00	1,197,990.00
12/01/2033	545,000	6.800%	652,800.00	1,197,800.00
12/01/2034	585,000	6.800%	615,060.00	1,200,060.00
12/01/2035	625,000	6.800%	574,600.00	1,199,600.00
12/01/2036	670,000	6.800%	531,250.00	1,201,250.00
12/01/2037	715,000	6.800%	484,840.00	1,199,840.00
12/01/2038	765,000	6.800%	435,370.00	1,200,370.00
12/01/2039	815,000	6.800%	382,670.00	1,197,670.00
12/01/2040	875,000	6.800%	326,060.00	1,201,060.00
12/01/2041	935,000	6.800%	265,540.00	1,200,540.00
12/01/2042	1,000,000	6.800%	200,940.00	1,200,940.00
12/01/2043	1,065,000	6.800%	131,920.00	1,196,920.00
12/01/2044	1,140,000	6.800%	58,140.00	1,198,140.00
	14,540,000		15,867,490.09	30,407,490.09

BOND DEBT SERVICE

Town of Hempstead LDC  
Tax-Exempt

Period Ending	Principal	Coupon	Interest	Debt Service
12/01/2019			286,098.74	286,098.74
12/01/2020			911,465.00	911,465.00
12/01/2021			911,465.00	911,465.00
12/01/2022			911,465.00	911,465.00
12/01/2023	295,000	6.150%	907,006.26	1,202,006.26
12/01/2024	310,000	6.150%	888,556.26	1,198,556.26
12/01/2025	330,000	6.150%	869,337.52	1,199,337.52
12/01/2026	350,000	6.150%	848,735.02	1,198,735.02
12/01/2027	370,000	6.150%	826,748.76	1,196,748.76
12/01/2028	395,000	6.150%	803,686.26	1,198,686.26
12/01/2029	420,000	6.150%	778,932.50	1,198,932.50
12/01/2030	445,000	6.800%	752,080.00	1,197,080.00
12/01/2031	480,000	6.800%	721,140.00	1,201,140.00
12/01/2032	510,000	6.800%	687,990.00	1,197,990.00
12/01/2033	545,000	6.800%	652,800.00	1,197,800.00
12/01/2034	585,000	6.800%	615,060.00	1,200,060.00
12/01/2035	625,000	6.800%	574,600.00	1,199,600.00
12/01/2036	670,000	6.800%	531,250.00	1,201,250.00
12/01/2037	715,000	6.800%	484,840.00	1,199,840.00
12/01/2038	765,000	6.800%	435,370.00	1,200,370.00
12/01/2039	815,000	6.800%	382,670.00	1,197,670.00
12/01/2040	875,000	6.800%	326,060.00	1,201,060.00
12/01/2041	935,000	6.800%	265,540.00	1,200,540.00
12/01/2042	1,000,000	6.800%	200,940.00	1,200,940.00
12/01/2043	1,065,000	6.800%	131,920.00	1,196,920.00
12/01/2044	1,140,000	6.800%	58,140.00	1,198,140.00
	13,640,000		15,763,896.32	29,403,896.32

BOND DEBT SERVICE

Town of Hempstead LDC  
Taxable

Period Ending	Principal	Coupon	Interest	Debt Service
12/01/2019	130,000	6.250%	17,656.25	147,656.25
12/01/2020	245,000	6.250%	44,375.00	289,375.00
12/01/2021	255,000	6.250%	28,906.26	283,906.26
12/01/2022	270,000	6.250%	12,656.26	282,656.26
	900,000		103,593.77	1,003,593.77

**Exhibit E**

**Average Reasonably Expected Economic Life of the Project**

Town of Hempstead Local Development Corporation						
Tax-Exempt Revenue Refunding Bonds, Series 2019A						
(Circulo Real Property Holding Corporation/Evergreen Charter School Project)						
120% Test Computation						
Issue Date:	8/8/2019					
Asset	Placed in Service Date	Cost	Useful Life	Weighted Cost	Placed in Service Adjustment	Time Weighted Cost
Building Construction	3/7/2007	\$11,154,128.00	40.0000	446,165,120.00	(12,4194)	(138,528,073.02)
Equipment	3/7/2007	\$315,000.00	10.0000	3,150,000.00	(10.0000)	(3,150,000.00)
Total		\$11,469,128.00		449,315,120.00		(141,678,073.02)
Average Economic Life	39.1760					
Multiply by 120%	47.0113					
Placed in Service Adjustment	(12.3530)					
Maximum WAM	34.6583					

## Exhibit F

### Non-Qualified Use

1. **Non-Qualified Use and other uses of the Project.** The uses of the Project that constitute Non-Qualified Use are as follows:

Except as described in this Exhibit, there is no Private Use or Unrelated Use expected with respect to the Project. The Borrower and Evergreen covenant to monitor the total Private Use or Unrelated Use with respect to the Project to ensure that the use of the Project does not jeopardize the tax-exempt status of the Bonds by exceeding the limitations described in Section VII of the Tax Regulatory Agreement. The Borrower is also advised that it is required to report Private Use or Unrelated Use on the Schedule K filed as part of its IRS Form 990.

The Borrower and Evergreen intend for the Project to be a Eligible Mixed-use Project, as defined in Appendix IX. As more fully described in Appendix IX, the Borrower intends to allocate any Private Use or Unrelated Use to the Qualified Equity before allocating such Private Use or Unrelated Use to Proceeds of the Bonds.

2. **Management and Other Service Contracts.** The management and other service contracts that are not described in Section VII.D. of the Tax Regulatory Agreement are:

None.

3. **Research Arrangements.** The arrangements that are not described in Section VII.E. of the Tax Regulatory Agreement are:

None.

4. **Transactions with Directors, Staff, Employees or Board.** The transactions that are not described in Section IX.B. of the Tax Regulatory Agreement are:

None.

5. **Purchase and Sale of Assets.** The purchases and sales of assets that are not described in Section IX.C. of the Tax Regulatory Agreement are:

None.

6. **Affiliation Agreements.**

None.

7. **Operation of the Project.** The expected uses of the Project that are not described in Section IX.F. of the Tax Regulatory Agreement are:

None.

8. **\$150 Million Limitation.** The total amount of bonds subject to the \$150 million limitation is:

None.

9. **Solicitation of Funds.** The solicitations that are not described in Section III.E.3. of the Tax Regulatory Agreement are:

The Borrower and Evergreen may engage in capital fundraising campaigns for various purposes including capital improvements such as the Project. The sum of any Restricted Amounts and the Proceeds of the Bonds are not expected to exceed the costs of the Project. With respect to any contributions that are Restricted Amounts, the Borrower will ensure that such funds are spent consistent with the restrictions on the contributions and in a manner that complies with the restrictions set forth in Section III.E.3 of the Tax Regulatory Agreement.

**Exhibit G**

**Costs of Issuance**

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

Costs of issuance subject to 2% limit	Total	2019A Bonds	2019B Bonds
Issue Price	\$14,540,000.00	\$13,640,000.00	\$900,000.00
Issuer Counsel	\$14,500.00	\$3,723.43	\$10,776.57
TEFRA	\$2,337.25	\$0.00	\$2,337.25
Trustee	\$5,000.00	\$1,279.97	\$3,720.03
Trustee Counsel	\$6,000.00	\$1,535.96	\$4,464.04
Bond Counsel	\$245,000.00	\$64,711.15	\$180,288.85
Borrower Counsel	\$135,000.00	\$34,559.15	\$100,440.85
Borrower's Consultant	\$5,000.00	\$1,279.97	\$3,720.03
Underwriter's Discount	\$319,537.50	\$81,857.20	\$237,680.30
Underwriter's Counsel	\$47,500.00	\$12,159.70	\$35,340.30
Evergreen Counsel	\$34,000.00	\$10,239.75	\$23,760.25
Purchaser Counsel	\$102,800.00	\$26,111.36	\$76,688.64
IDA Termination Fee	\$2,000.00	\$511.99	\$1,488.01
Environmental, PCA, Appraisal (Borrower reimbursement)	\$14,800.00	\$0.00	\$14,800.00
Contingency	\$81.01	\$0.00	\$81.01
<b>Total</b>	<b>\$933,555.76</b>	<b>\$237,969.63</b>	<b>\$695,586.13</b>
<b>2% limit</b>		<b>\$272,800.00</b>	
<b>Other expenses not subject to 2% limit</b>			
Issuer Fee	\$72,700.00	\$19,983.44	\$52,716.56
Issuer Initial Compliance Fee	\$3,000.00	\$0.00	\$3,000.00
Title Insurance	\$71,262.00	\$12,799.69	\$58,462.31
<b>Total</b>	<b>\$146,962.00</b>	<b>\$32,783.13</b>	<b>\$114,178.87</b>
<b>Grand Total</b>	<b>\$1,080,517.76</b>	<b>\$270,752.76</b>	<b>\$809,765.00</b>

**Exhibit H**

**TEFRA Hearing Notice/Affidavit of Publication and Supervisor's Approval**

APPROVAL OF HON. LAURA A. GILLEN, SUPERVISOR, TOWN OF  
HEMPSTEAD, NASSAU COUNTY, WITH RESPECT TO THE ISSUANCE  
OF CERTAIN REVENUE REFUNDING BONDS BY THE TOWN OF  
HEMPSTEAD LOCAL DEVELOPMENT CORPORATION

CERTIFICATE OF APPROVAL

WHEREAS, Hon. Laura A. Gillen, Supervisor, Town of Hempstead, Nassau County (the "**Supervisor**") has been advised by the Town of Hempstead Local Development Corporation (the "**Issuer**") that the Issuer proposes to issue, contingent upon the execution of this Certificate of Approval, its approximately \$2,710,000 Tax-Exempt Revenue Refunding Bonds, Series 2019A-1 (Circulo Real Property Holding Corporation/Evergreen Charter School Project) (the "**Series 2019A-1 Bonds**"), and its approximately \$11,050,000 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**") in an aggregate principal amount sufficient to pay the costs of the Project described below; and

WHEREAS, the Issuer proposes to issue the Series 2019A Bonds under Section 145 of the Internal Revenue Code of 1986, as amended (the "**Code**"), in an aggregate principal amount presently estimated to be approximately \$13,760,000 but not to exceed \$15,500,000, for the benefit of Circulo Real Property Holding Corporation, 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 Code, which is exempt from federal income taxation pursuant to Section 501(a) of the Code (the "**Institution**"), in order to, along with other available moneys of the Institution: (A) 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 organization described in Section 501(c)(3) of the Code, which is exempt from federal income taxation pursuant to Section 501(a) of the Code (the "**Organization**"), the proceeds of which Series 2007 Bonds were used to finance the costs of (i) the issuance of the Series 2007 Bonds, (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 (iii) the acquisition of 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), (ii) and (iii) 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 organization described in Section 501(c)(3) of the Code, which is exempt from federal income taxation pursuant to Section 501(a) of the Code (the "**School**"), to be used as a charter school serving students in kindergarten through grade 8; (B) fund a debt service reserve fund, and (C) pay certain costs of issuance of the Series 2019 Bonds (paragraphs (A), (B), and (C) are collectively,

the "Project"). The Facility will be owned by the Institution, and will initially be operated and/or managed by the School. The Organization is the sole member of the Institution; and

WHEREAS, the Issuer proposes to loan the proceeds of the Series 2019A Bonds to the Institution pursuant to a certain Loan Agreement, July 1, 2019, or such other date as the Chairman, the Executive Director and Chief Executive Officer, the Deputy Executive Director, the Chief Financial Officer or Bond Counsel agree (the "Loan Agreement") to pay the costs of the Project; and

WHEREAS, pursuant to Section 147(f) of the Code, interest on the Series 2019A Bonds will not qualify for exclusion from gross income for Federal income purposes unless the issuance of the Series 2019A Bonds is approved by the Supervisor after a public hearing to consider both the issuance of the Series 2019A Bonds and the nature and location of the Project has been conducted following reasonable public notice; and

WHEREAS, on February 11, 2019, the Issuer held such a public hearing upon proper notice, in compliance with the Code; and

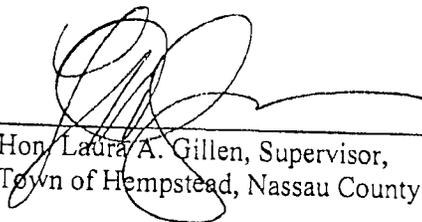
WHEREAS, to aid the Supervisor in her deliberations, the Issuer has made available to the Supervisor (a) the Institution's application to the Issuer; (b) the Inducement Resolution adopted by the Issuer on January 24, 2019; (c) the Bond Resolution adopted by the Issuer on July 25, 2019, authorizing the issuance and sale of the Issuer's Series 2019A Bonds; (d) the notice of public hearing; and (e) the report of the public hearing with respect to the proposed issuance of the Series 2019A Bonds.

NOW, THEREFORE, PURSUANT TO THE POWER VESTED IN HON. LAURA A. GILLEN, SUPERVISOR, TOWN OF HEMPSTEAD, NASSAU COUNTY, UNDER NEW YORK LAW, BE IT DETERMINED, APPROVED AND RESOLVED BY THE SUPERVISOR AS FOLLOWS:

Section 1. For the sole purpose of qualifying the interest payable on the Series 2019 Bonds for exclusion from gross income for federal income tax purposes pursuant to the provisions of Sections 103 and 141 through 150 of the Code, the Supervisor, as the "applicable elected representative" (as such term is construed under Section 147(f)(2)(E) of the Code), hereby approves the issuance by the Issuer of the Series 2019A Bonds, provided that the Series 2019A Bonds, and the premium (if any) and interest thereon, shall be special obligations of the Issuer and shall never be a debt of the State or any political subdivision thereof, including without limitation the Town of Hempstead (the "Town"), Nassau County, and neither the State of New York nor any political subdivision thereof, including without limitation the Town, shall be liable thereon.

Section 2. This Certificate of Approval shall take effect immediately.

Dated: August 1, 2019

  
\_\_\_\_\_  
Hon. Laura A. Gillen, Supervisor,  
Town of Hempstead, Nassau County

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NOTICE OF PUBLIC HEARING

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**NOTICE IS HEREBY GIVEN** that a public hearing pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the "**Code**") and Article 18-A of the New York State General Municipal Law, will be held by the Town of Hempstead Local Development Corporation (the "**Issuer**") on the 11th day of February, 2019, at 9:30 a.m., local time, at 350 Front Street, 2nd Floor Courtroom, Hempstead, New York in connection with the following matters:

Circulo Real Property Holding Corporation, 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**"), which is exempt from federal income taxation pursuant to Section 501(a) of the Code (the "**Institution**"), has requested that the Town of Hempstead Local Development Corporation (the "**Issuer**") issue, in one or more series, its Revenue Refunding Bonds, Series 2019 (Circulo de la Hispanidad, Inc. Project) (the "**Series 2019 Bonds**"), under Section 145 of the Code, in an aggregate principal amount presently estimated to be approximately \$14,250,000 but not to exceed \$16,000,000, in order to, along with other available monies of the Institution: (A) refund 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 organization described in Section 501(c)(3) of the Code (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 organization described in Section 501(c)(3) of the Code, which is exempt from federal income taxation pursuant to Section 501(a) of the Code (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 "**Project**"). The Facility will be owned by the Institution, and will initially be operated and/or managed by the School. The Organization is the sole member of the Institution.

The proceeds of the Series 2019 Bonds will be loaned by the Issuer to the Institution pursuant to the terms of a Loan Agreement between the Issuer and the Institution to pay the costs of the Project. The Series 2019 Bonds will be a special obligation of the Issuer payable solely

from loan payments made by the Institution to the Issuer pursuant to the Loan Agreement, a pledge of lease payments from the School to the Institution and certain other assets of the Institution pledged to the repayment of the Series 2019 Bonds. The Series 2019 Bonds shall not be a debt of the State of New York or any political subdivision thereof, including the Town of Hempstead, New York, and neither the State of New York nor any political subdivision thereof, including the Town of Hempstead, New York, shall be liable thereon.

A representative of the Issuer will, at the above-stated time and place, hear and accept written comments from all persons with views in favor of or opposed to either the issuance of the Series 2019 Bonds, the granting of other financial assistance contemplated by the Issuer or the location or nature of the Facility. At the hearing, all persons will have the opportunity to review the application for financial assistance filed by the Institution with the Issuer, and an analysis of the costs and benefits of the proposed Project.

Minutes of the hearing will be made available to Hon. Laura A. Gillen, Supervisor, Town of Hempstead, Nassau County. Approval of the issuance of the Series 2019 Bonds by Town of Hempstead, Nassau County, through Hon. Laura A. Gillen, Supervisor, Town of Hempstead, Nassau County, is necessary in order for the interest on the Series 2019 Bonds to be excluded from gross income for federal income tax purposes.

Dated: January 27, 2019

TOWN OF HEMPSTEAD LOCAL  
DEVELOPMENT CORPORATION

By: Frederick E. Parola  
Title: Chief Executive Officer

**NEWSDAY  
AFFIDAVIT OF PUBLICATION**

TOWN OF HEMPSTEAD / LDC  
350 FRONT STREET ROOM 234A  
HEMPSTEAD, NY 11550-4040

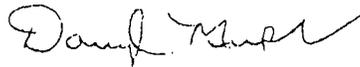
STATE OF NEW YORK)  
:SS.:  
COUNTY OF SUFFOLK)

Legal Notice No. 0021462000

Darryl Murphy of Newsday Media Group., Suffolk County, N.Y., being duly sworn, says that such person is, and at the time of publication of the annexed Notice was a duly authorized custodian of records of Newsday Media Group, the publisher of NEWSDAY, a newspaper published in the County of Suffolk, County of Nassau, County of Queens, and elsewhere in the State of New York and other places, and that the Notice of which the annexed is a true copy, was published in the following editions/counties of said newspaper on the following dates:

Sunday      January 27, 2019      Nassau

**SWORN** to before me this  
28 Day of January, 2019.



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CHRISTOPHER LAWSON  
Notary Public - State of New York  
No. 01LA6348406  
Qualified in Suffolk County  
My Commission Expires September 26, 2020



**Ad Content**

Legal Notice # 21462000  
 NOTICE OF PUBLIC HEARING  
 NOTICE IS HEREBY GIVEN that a public hearing pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") and Article 18-A of the New York State General Municipal Law, will be held by the Town of Hempstead Local Development Corporation (the "Issuer") on the 11th day of February, 2019, at 9:30 a.m., local time, at 350 Front Street, 2nd Floor Courtroom, Hempstead, New York in connection with the following matters:

Circulo Real Property Holding Corporation, 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"), which is exempt from federal income taxation pursuant to Section 501(a) of the Code (the "Institution"), has requested that the Town of Hempstead Local Development Corporation (the "Issuer") issue, in one or more series, its Revenue Refunding Bonds, Series 2019 (Circulo de la Hispanidad, Inc. Project) (the "Series 2019 Bonds"), under Section 145 of the Code, in an aggregate principal amount presently estimated to be approximately \$14,250,000 but not to exceed \$16,000,000, in order to, along with other available monies of the Institution: (A) refund 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 organization described in Section 501(c)(3) of the Code, which is exempt from federal income taxation pursuant to Section 501(a) of the Code (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 organization described in Section 501(c)(3) of the Code, which is exempt from federal income taxation pursuant to Section 501(a) of the Code (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 "Project"). The Facility will be owned by the Institution, and will initially be operated and/or managed by the School. The Organization is the sole member of the Institution.

The proceeds of the Series 2019 Bonds will be loaned by the Issuer to the Institution pursuant to the terms of a Loan Agreement between the Issuer and the Institution to pay the costs of the Project. The Series 2019 Bonds will be a special obligation of the Issuer payable solely from loan payments made by the Institution to the Issuer pursuant to the Loan Agreement, a pledge of lease payments from the School to the Institution and certain other assets of the Institution pledged to the repayment of the Series 2019 Bonds. The Series 2019 Bonds shall not be a debt of the State of New York or any political subdivision thereof, including the Town of Hempstead, New York, and neither the State of New York nor any political subdivision thereof, including the Town of Hempstead, New York, shall be liable thereon.

A representative of the Issuer will, at the above-stated time and place, hear and accept written comments from all persons with views in favor of or opposed to either the issuance of the Series 2019 Bonds, the granting of other financial assistance contemplated by the Issuer or the location or nature of the Facility. At the hearing, all persons will have the opportunity to review the application for financial assistance filed by the Institution with the Issuer, and an analysis of the costs and benefits of the proposed Project.

Minutes of the hearing will be made available to Hon. Laura A. Gillen, Supervisor, Town of Hempstead, Nassau County. Approval of the issuance of the Series 2019 Bonds by Town of Hempstead, Nassau County, through Hon. Laura A. Gillen, Supervisor, Town of Hempstead, Nassau County, is necessary in order for the interest on the Series 2019 Bonds to be excluded from gross income for federal income tax purposes.

Dated: January 27, 2019  
 TOWN OF HEMPSTEAD LOCAL DEVELOPMENT CORPORATION

By: Frederick E. Parola  
 Title: Chief Executive Officer

**NEWSDAY PROOF**

Advertiser: TOWN OF HEMPSTEAD / LDC  
 Agency: TOWN OF HEMPSTEAD / LDC  
 Ad Number: 0021462000  
 Start Date: 01/27/2019  
 End Date: 01/27/2019  
 Price: \$804.00  
 Ordered By: Legaladv@newsday.com

Phone: 5168123706  
 Contact: M LODATO  
 Section: Legals  
 Class: 11100  
 Size: 2 x 101 Times: 1  
 Date: 1/25/2019  
 Zone(s): C-Nassau

Signature of Approval: \_\_\_\_\_ Date: \_\_\_\_\_

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NOTICE OF PUBLIC HEARING  
IN THE MATTER OF CIRCULO REAL  
PROPERTY CORPORATION

-----x

350 Front Street  
Hempstead, New York

February 11, 2019  
9:30 a.m.

B E F O R E:  
FREDERICK PAROLA, Executive Director and  
Chief Executive Officer

Denise Mantekas,  
Court Reporter

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A P P E A R A N C E S :

TOWN OF HEMPSTEAD INDUSTRIAL  
DEVELOPMENT AGENCY  
Representing the  
TOWN OF HEMPSTEAD LOCAL DEVELOPMENT  
CORPORATION  
350 Front Street  
Hempstead, New York 11530  
BY: FREDERICK E. PAROLA, CEO

ALSO PRESENT:

Michael Lodato, Corporate Administrator  
Laura Tomeo, Deputy Agency Administrator

1  
2 MR. LODATO: Good morning. My  
3 name is Michael Lodato. I'm the  
4 Corporate Administrator for the Town  
5 of Hempstead Local Development  
6 Corporation. I am accompanied by  
7 Frederick E. Parola who is the CEO  
8 of the Local Development  
9 Corporation. I will now read the  
10 Public Hearing Notice into the  
11 record:

12 "Notice is Hereby Given that a  
13 public hearing pursuant to Section  
14 147(f) of the Internal Revenue Code  
15 of 1986, as amended (the "Code") and  
16 Article 18-A of the New York State  
17 General Municipal Law, will be held  
18 by the Town of Hempstead Local  
19 Development Corporation (the  
20 "Issuer") on the 11th day of  
21 February, 2019, at 9:30 a.m., local  
22 time, at 350 Front Street, 2nd Floor  
23 Courtroom, Hempstead, New York in  
24 connection with the following  
25 matters:



1  
2 refund the outstanding Civic  
3 Facility Revenue Bonds, Series 2007  
4 (Circulo de la Hispanidad, Inc.  
5 Civic Facility) issued by the Town  
6 of Hempstead Industrial Development  
7 Agency (the "IDA"), in the amount of  
8 \$15,000,000 (the "Series 2007  
9 Bonds"), for the benefit of Circulo  
10 de la Hispanidad, Inc., a  
11 not-for-profit corporation,  
12 organized and existing under the  
13 laws of the State of New York, and  
14 an organization described in Section  
15 501(c)(3) of the Code, which is  
16 exempt from federal income taxation  
17 pursuant to Section 501(a) of the  
18 Code (the "Organization"), the  
19 proceeds of which Series 2007 Bonds  
20 were used to finance the costs of  
21 (i) the issuance of the Series 2007  
22 Bonds, and (ii) the acquisition of  
23 an approximately 0.895 acre parcel  
24 of land located at 605 Peninsula  
25 Boulevard and the construction and

1  
2 equipping of an approximately 0.1147  
3 acre parcel of land located at 134  
4 Linden Avenue, consisting of parking  
5 facilities, all located in the  
6 Village of Hempstead, Town of  
7 Hempstead, Nassau County, New York  
8 (collectively, the "Facility")  
9 (clauses (i) and (ii) are  
10 collectively, the "Series 2007  
11 Project"), which Facility will be  
12 conveyed by the Organization to the  
13 Institution and leased by the  
14 Institution to Evergreen Charter  
15 School, not-for-profit education  
16 corporation, organized and existing  
17 under the laws of the State of New  
18 York and an organization described  
19 in Section 501(c)(3) of the Code,  
20 which is exempt from federal income  
21 taxation pursuant to Section 501(a)  
22 of the Code (the "School"), to be  
23 used as a charter school serving  
24 students in kindergarten through  
25 grade 8; (B) fund a debt service

1  
2 reserve fund and a repair and  
3 replacement fund, and (C) pay  
4 certain costs of issuance of the  
5 Series 2019 Bonds (subsections  
6 (A), (B), and (C) are collectively,  
7 the "Project"). The Facility will  
8 be owned by the Institution, and  
9 will initially be operated and/or  
10 managed by the School. The  
11 Organization is the sole member of  
12 the Institution.

13 The proceeds of the Series 2019  
14 Bonds will be loaned by the Issuer  
15 to the Institution pursuant to the  
16 terms of a Loan Agreement between  
17 the Issuer and the Institution to  
18 pay the costs of the Project. The  
19 Series 2019 Bonds will be a special  
20 obligation of the Issuer payable  
21 solely from loan payments made by  
22 the Institution to the Issuer  
23 pursuant to the Loan Agreement, a  
24 pledge of lease payments from the  
25 School to the Institution and

1  
2 certain other assets of the  
3 Institution pledged to the repayment  
4 of the Series 2019 Bonds. The  
5 Series 2019 Bonds shall not be a  
6 debt of the State of New York or any  
7 political subdivision thereof,  
8 including the Town of Hempstead, New  
9 York, and neither the State of New  
10 York nor any political subdivision  
11 thereof, including the Town of  
12 Hempstead, New York, shall be liable  
13 thereon.

14 A representative of the Issuer  
15 will, at the above-stated time and  
16 place, hear and accept written  
17 comments from all persons with views  
18 in favor of or opposed to either the  
19 issuance of the Series 2019 Bonds,  
20 the granting of other financial  
21 assistance contemplated by the  
22 Issuer or the location or nature of  
23 the Facility. At the hearing, all  
24 persons will have the opportunity to  
25 review the application for financial

1  
2 assistance filed by the Institution  
3 with the Issuer, and an analysis of  
4 the costs and benefits of the  
5 proposed Project.

6 Minutes of the hearing will be  
7 made available to Hon. Laura A.  
8 Gillen, Supervisor, Town of  
9 Hempstead, Nassau County. Approval  
10 of the issuance of the Series 2019  
11 Bonds by Town of Hempstead, Nassau  
12 County, through Hon. Laura A.  
13 Gillen, Supervisor, Town of  
14 Hempstead, Nassau County, is  
15 necessary in order for the interest  
16 on the Series 2019 Bonds to be  
17 excluded from gross income for  
18 federal income tax purposes."

19 MR. PAROLA: First witness.

20 MR. BERNARDINO: Good morning,  
21 everybody.

22 MR. PAROLA: Just identify  
23 yourself for the stenographer,  
24 please.

25 MR. BERNARDINO: My name is Gil

1  
2 Bernardino. I am the executive  
3 director of the organization Circulo  
4 de la Hispanidad.

5 I'm over here to support the  
6 application because I think it's  
7 good for the organization. It's  
8 good for the bond, the owners of the  
9 bond, and it's good for the future  
10 of the institution.

11 We face with something that was  
12 not to us known. We had to deal  
13 with condemnation of the property;  
14 and therefore, it was a long delay  
15 to resolve that problem. And as a  
16 result of that, we had delay in  
17 payments. Now we are paying  
18 practically 100 percent. That kind  
19 of delay resulted in about -- I  
20 don't remember exactly -- but about  
21 2 million dollars that we couldn't  
22 pay because we couldn't open the  
23 building on time. And the purpose  
24 of that is just to clear that kind  
25 of situation and the structure of

1  
2 the bond so everybody will be  
3 happier. That's really what it is  
4 basically.

5 MR. PAROLA: How many children  
6 do you anticipate when the work is  
7 done will you be serving?

8 MR. BERNARDINO: Now we are  
9 serving about 400. But because of  
10 that, now the building cannot hold,  
11 you know, everybody. We have a  
12 waiting list of 500 children, over  
13 500 children.

14 MR. PAROLA: Wow.

15 MR. BERNARDINO: As a matter of  
16 fact, we are renting the building  
17 over here in Greenwich. It used to  
18 be a Catholic school that was closed  
19 about 25 years ago, more or less.  
20 And we renting that space because  
21 the school, they want us to expand,  
22 because the school is doing very  
23 well in state test, in New York  
24 State test. We sometimes, in  
25 English and Math, double and triple

1  
2 some years than the Hempstead School  
3 District. And every year, we had  
4 over 20, 30 points above the  
5 Hempstead School District in English  
6 and Math. But everything is time,  
7 you know.

8 The community want us to do a  
9 high school too. But now we are  
10 thinking of building a middle  
11 school, because the renting of the  
12 space, you know, it's okay for now,  
13 but really, the school needs its own  
14 building.

15 MR. PAROLA: Of course.

16 MR. BERNARDINO: So we are  
17 working in buying property now. And  
18 there are different institutions in  
19 the United States that they do  
20 provide bonds for charter schools.  
21 So in the near future, I hope we  
22 will be able to have that kind of  
23 building for the children in this  
24 community that are really in need.

25 I don't know if you read in

1  
2 Newsday last week, but they publish  
3 only 40 percent of the school  
4 children in Hempstead graduate.

5 MR. PAROLA: It's very sad.

6 MR. BERNARDINO: And this has  
7 been happening for -- I been in  
8 Hempstead, my organization, for  
9 35 years, and this is the same with  
10 different faces, different players.  
11 But it's very tragic that the  
12 children in this community, they  
13 just, you know, 60 percent do not  
14 graduate. It's a human tragedy.  
15 And the children not at fault. It's  
16 us adults that allow this to happen.

17 Our school really, we cannot,  
18 you know, do a school 40,000  
19 children but, you know, we help a  
20 little bit and that's the purpose.

21 MR. PAROLA: Right.

22 MR. BERNARDINO: The school now  
23 potentially will be hopefully about  
24 1,100 students at the end of the  
25 whole process. Because when you put

1  
2 an application for expansion -- we  
3 start in kindergarten -- every year  
4 takes, you know, but that's the  
5 situation now.

6 MR. PAROLA: Very exciting,  
7 commendable.

8 MR. BERNARDINO: And I'm a  
9 volunteer. I'm the founder, but I'm  
10 a volunteer. I'm working for  
11 Circulo. They pay me. But this  
12 school is a volunteer job that I'm  
13 happy to support. The children,  
14 they, you know, they happy.

15 I want for you to visit. I  
16 invite you once, but come and visit.  
17 We are over here. It's an  
18 experience.

19 MR. PAROLA: When you are done,  
20 we will come.

21 MR. GILL: It's an experience.

22 MR. PAROLA: We would like to  
23 partnership with you on this.

24 MR. BERNARDINO: She children  
25 happy, wanting to come to school

1  
2 every morning, you know. They feel  
3 save. And safety, as we parents,  
4 all of us, we are parents. The  
5 safety of our children are the most  
6 important thing. They feel safe and  
7 loved, and that's the beauty.

8 MR. PAROLA: Great. Thank you.

9 MR. LODATO: I want to point  
10 out Laura Tomeo from the Town of  
11 Hempstead IDA is also attending.  
12 She is the deputy agency  
13 administrator.

14 MR. PAROLA: Would anyone else  
15 like to be heard? You don't have  
16 to.

17 MR. NUESI: I been working with  
18 Gil for the last 20 years. I'm  
19 Cesar Nuesi. I am the HIV program  
20 director in the agency.

21 My background, I am originally  
22 from Dominican Republic. I enjoy  
23 relating to the, you know, my health  
24 background, improving the health for  
25 people infected with HIV. I also

1  
2 promoting HIV and AIDS education in  
3 those people that are still being  
4 HIV/STD negative.

5 I am glad to work with Gil and,  
6 you know, to extend this  
7 opportunity, because I know the  
8 community, especially our young  
9 generation, they deserve better  
10 opportunity, because education is  
11 the key to succeed in life. Thank  
12 you.

13 MR. PAROLA: Well said.

14 MS. GERMANY: My name is Sandra  
15 Germany. As an educator, you know,  
16 I have seen that many kids have a  
17 lot of potential. If there is a  
18 school like this one, they can only  
19 go so far and they can achieve their  
20 goals. They have been doing such a  
21 great job. And if you support them,  
22 you know, they can also grow more.

23 MR. PAROLA: Thank you.

24 MR. LODATO: I am viewing that  
25 it is 10:00, and since there is

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Circulo de la Hispanidad 17

nobody else here who is looking to  
speak, we are closing this meeting  
sine die.

(Time noted: 10:00 a.m.)

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CERTIFICATION

I, DENISE MANTEKAS, a Notary Public  
in and for the State of New York, do hereby certify:

THAT the witness whose testimony is herein  
before set forth, was duly sworn by me; and

THAT the within transcript is a true record  
of the testimony given by said witness.

I further certify that I am not related,  
either by blood or marriage, to any of the parties  
to this action; and

THAT I am in no way interested in  
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 21st day of February,  
2019.



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DENISE MANTEKAS

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Date: July 25, 2019

At a meeting of the Town of Hempstead Local Development Corporation, Town of Hempstead, Nassau County, New York (the “**Issuer**”), held at the Town Hall Pavilion, One Washington Street, Hempstead, New York, on the 25th day of July, 2019, the following members of the Issuer were:

Present: Florestano Girardi, Chairman  
James G. Marsh, Esq., Vice-Chairman  
Rev. Dr. Eric C. Mallette, Secretary  
Gerilyn Smith, Treasurer  
John A. Ardito, Esq., Member

Recused:

Absent: Jack Majkut, Member

Also Present: Frederick E. Parola, Executive Director and  
Chief Executive Officer  
Edith M. Longo, Chief Financial Officer  
Michael Lodato, Corporate Administrator  
Lorraine Rhoads  
Arlyn Eames  
Laura Tomeo  
William F. Weir, Esq., Bond Counsel  
John E. Ryan, Esq., Issuer Counsel

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to the issuance and sale of one or more series of the Issuer’s proposed Revenue Refunding Bonds, Series 2019 (Circulo Real Property Holding Corporation/Evergreen Charter School Project) presently estimated to be approximately \$14,255,000, but not to exceed \$16,000,000.

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Voting Aye  
F. Girardi  
J. Marsh  
E. Mallette  
G. Smith  
J. Ardito

Voting Nay

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF THE ISSUER'S REVENUE REFUNDING BONDS, SERIES 2019 (CIRCULO REAL PROPERTY HOLDING CORPORATION/EVERGREEN CHARTER SCHOOL PROJECT), IN THE AGGREGATE PRINCIPAL AMOUNT PRESENTLY ESTIMATED TO BE APPROXIMATELY \$14,255,000, BUT NOT TO EXCEED \$16,000,000 AND THE EXECUTION OF RELATED DOCUMENTS.

WHEREAS, pursuant to 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**"), the Town of Hempstead Local Development Corporation (the "**Issuer**"), was created with the authority and power to issue its revenue bonds for the purpose of, among other things, acquiring certain facilities as authorized by the Act; and

WHEREAS, 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**"), which is exempt from federal income taxation pursuant to Section 501(a) of the Code (the "**Institution**"), has applied to the Issuer to issue its Tax-Exempt Revenue Refunding Bonds, Series 2019A-1 (Circulo Real Property Holding Corporation/Evergreen Charter School Project) (the "**Series 2019A-1 Bonds**"), and its 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 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**", in an aggregate principal amount presently estimated to be \$14,255,000 but not to exceed \$16,000,000, to finance or refinance the costs of the Institution including: (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**"), with a balance remaining of approximately \$14,000,000 (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, and an organization described in Section 501(c)(3) of the Code, which is exempt from federal income taxation pursuant to Section 501(a) of the Code (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 has been conveyed by the Organization to the Institution and leased by the Institution to Evergreen Charter School, a not-for-profit education corporation, organized and existing under the laws of the State and an organization described in Section 501(c)(3) of the Code, which is exempt from federal income taxation pursuant to Section

501(a) of the Code (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; (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, by resolution duly adopted on January 24, 2019, took official action under the provisions of the Act to issue the Series 2019 Bonds for the purpose of financing the costs of the Series 2019 Project; and

WHEREAS, the Issuer has proposed to loan the proceeds of the Series 2019 Bonds to the Institution pursuant to the terms of a Loan Agreement (as hereinafter defined), whereby the Institution will be obligated, among other things, to make loan payments to or for the account of the Issuer in amounts and at times so that such loan payments will be adequate to pay the principal of, premium, if any, and interest on the Series 2019 Bonds; and

WHEREAS, the Institution has agreed to indemnify the Issuer against certain losses, claims, expenses, damages and liabilities which may arise in connection with the transactions contemplated by the issuance of the Series 2019 Bonds and the financing of the Series 2019 Project; and

WHEREAS, in compliance with Section 147(f) of the Code, the Issuer, on February 11, 2019, held a public hearing on the issuance of the Series 2019 Bonds following public notice on January 27, 2019; and

WHEREAS, by Certificate of Approval to be executed prior to the issuance of the Series 2019A Bonds, an "applicable elected representative", being either the Town Supervisor or the Town Board of the Town of Hempstead, Nassau County, New York, as required under Section 147(f) of the Code will have approved the issuance of the Series 2019A Bonds; and

WHEREAS, the Institution has received a commitment from Roosevelt & Cross, Inc., as underwriter (the "**Underwriter**"), to sell the Series 2019 Bonds with one or more purchasers in the total aggregate principal amount presently estimated to be approximately \$14,255,000, but not to exceed \$16,000,000, pursuant to a certain Bond Purchase Agreement, dated a date to be determined (the "**Bond Purchase Agreement**"), by the Underwriter and accepted and agreed to by the Institution and the Issuer, together with a Letter of Representation, dated a date to be determined (the "**Letter of Representation**"), from the Institution, accepted and confirmed by the Issuer and the Underwriter; and

NOW, THEREFORE, BE IT RESOLVED by the Town of Hempstead Local Development Corporation (a majority of the members thereof affirmatively concurring) as follows:

Section 1. The Issuer hereby finds and determines:

(a) By virtue of the Act, the Issuer has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(b) The (i) refinancing of the Series 2007 Bonds, and (ii) lending of the proceeds of the Series 2019 Bonds to the Institution pursuant to the Loan Agreement will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the Town of Hempstead and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(c) It approves of the location of the site of the Facility; and

(d) Based upon representations and warranties of the Institution, the Facility conforms with the local zoning laws and planning regulations of the Village of Hempstead, Town of Hempstead and all regional and local land use plans for the area in which the Facility is located; and

(e) The financing of the Facility is reasonably necessary to induce the Institution to maintain and expand its operations within the State of New York; and

(f) The Facility and the operations conducted therein by the Institution will not cause or result in the violation of the health, labor or other laws of the United States of America, the State of New York or the Town of Hempstead; and

(g) The Facility and the operations conducted therein by the Institution will not have a significant effect on the environment, as determined in accordance with Article 8 of the Environmental Conservation Law of the State of New York and the regulations promulgated thereunder; and

(h) It is desirable and in the public interest for the Issuer to issue and sell the Series 2019 Bonds in the total aggregate principal amount presently estimated to be approximately \$14,255,000, but not to exceed \$16,000,000 upon the terms and conditions set forth in the Bond Purchase Agreement, for the purpose of financing and/or refinancing the Facility, together with necessary incidental expenses and costs of issuance in connection therewith; and

(i) The Indenture of Trust, dated as of July 1, 2019, or such other date as the Chairman, the Executive Director and Chief Executive Officer or the Chief Financial Officer and counsel to the Issuer shall agree (the "**Indenture**"), between the Issuer and UMB Bank, N.A., as trustee (the "**Trustee**"), will be an effective instrument which, among other things, secures the Series 2019 Bonds, assigns to the Trustee certain rights and remedies of the Issuer under the Loan Agreement, and authorizes the Trustee to accept and execute trusts of the character set forth in the Indenture; and

(j) The Loan Agreement, dated as of July 1, 2019, or such other date as the Chairman, the Executive Director and Chief Executive Officer, the Chief Financial Officer and counsel to the Issuer shall agree (the "**Loan Agreement**"), by and between

the Institution and the Issuer, will be an effective instrument whereby the Issuer will loan the proceeds of the Series 2019 Bonds to the Institution; and

(k) The Mortgage and Security Agreement dated as of July 1, 2019 or such other date as the Chairman, Executive Director and Chief Executive Officer, the Chief Financial Officer and counsel to the Issuer shall agree (the "**Mortgage**"), from the Institution to the Issuer shall be an effective instrument whereby the Issuer will secure the loan of the proceeds of the Series 2019 Bonds to the Institution; and

(l) The Assignment of Mortgage and Security Agreement, dated as of the Closing Date (the "**Assignment of Mortgage**"), from the Issuer to the Trustee, will be an effective instrument whereby the Issuer assigns to the Trustee certain of the Issuer's rights and remedies under the Mortgage; and

(m) The Series 2019A-1 Promissory Note, the Series 2019A-2 Promissory Note and the Series 2019B Promissory Note (collectively, the "**Notes**"), each dated the Closing Date, and each from the Institution to the Issuer and endorsed thereon by the Issuer to the Trustee, will be effective instruments evidencing the Institution's obligation to make loan payments to the Issuer; and

(n) The Guaranty from the Organization to the Trustee and the Issuer dated as of July 1, 2019, or such other date as the Chairman, Executive Director and Chief Executive Officer, Chief Financial Officer and counsel to the Issuer shall agree (the "**Guaranty**"), will be an effective instrument whereby the Organization will guarantee the Issuer and the Trustee the full and prompt payment when due of the principal of and premium, if any, and interest on the Series 2019 Bonds and the payment and performance of the Institution's obligations under the Loan Agreement; and

(o) The Tax Regulatory Agreement, dated the Closing Date, by and among the Institution, the School and the Issuer and acknowledged by the Trustee (the "**Tax Regulatory Agreement**"), will be an effective instrument whereby the Institution and the Issuer set forth certain representations, expectations, conditions and covenants establishing compliance with the restrictions imposed by the Code relating to hearings and approval by the Issuer, activities of the Institution and the School, the Series 2019A Bonds, the Series 2019 Project and the application of Bond Proceeds; and

(p) The proposed form of the Limited Offering Memorandum, dated a date to be determined (the "**Limited Offering Memorandum**"), to be distributed by the Underwriter, the Issuer and the Institution in connection with the issuance of the Series 2019 Bonds, contains true and accurate information regarding the ability of the Issuer to issue the Series 2019 Bonds, and the information contained therein regarding the Issuer, the Series 2019 Bonds, the Bond Purchase Agreement, the Indenture, and the Loan Agreement, and such other documents as deemed necessary by the Underwriter is hereby approved; and

(q) Under Section 103(a) and Section 145(a) of the Code and the applicable regulations of the Department of Treasury promulgated thereunder, the interest on an

issue of revenue bonds issued by a local development corporation of a state for certain facilities for use by an institution described in Section 501(c)(3) of the Code is excludable from gross income for federal income tax purposes, subject to the limitations and requirements of the Code.

Section 2. In consequence of the foregoing, the Issuer hereby determines to: (i) issue and sell the Series 2019 Bonds to one or more purchasers, pursuant to and in accordance with the Bond Purchase Agreement, (ii) pay a portion of the costs of issuance for the Series 2019 Bonds to the extent allowable under the Code, (iii) loan the proceeds of the Series 2019 Bonds to the Institution pursuant to the Loan Agreement, which proceeds of the Series 2019 Bonds will be used to refinance the Series 2007 Bonds, (iv) secure the Series 2019 Bonds by vesting certain powers and duties in the Trustee pursuant to the Indenture, and by assigning to the Trustee certain of the Issuer's rights and remedies under the Loan Agreement and the Notes, and (v) file the Information Return for Private Activity Bond Issues, Form 8038 (the "**Information Return**") for the Series 2019A Bonds in the manner and at the places provided in the Code.

Section 3. The Issuer is hereby authorized to loan the proceeds of the Series 2019 Bonds to the Institution pursuant to the terms of the Loan Agreement and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Issuer with respect to such loan are hereby approved, ratified and confirmed.

Section 4. The form and substance of the Series 2019 Bonds, the Bond Purchase Agreement, the Indenture, the Loan Agreement, the Limited Offering Memorandum the Tax Regulatory Agreement and the Information Return (each in substantially the form presented to the Issuer and which, prior to the execution and delivery thereof, may be redated) are hereby approved.

Section 5. The Issuer is hereby authorized to issue and execute, sell and deliver the Series 2019 Bonds to the Underwriter in the aggregate principal amount presently estimated to be \$14,255,000, but not to exceed \$16,000,000, pursuant to the Act and in accordance with the Bond Purchase Agreement and the Indenture; provided that:

(a) The Series 2019 Bonds shall (i) be issued, executed and delivered at such time as the Chairman, the Vice Chairman, the Executive Director and Chief Executive Officer or the Chief Financial Officer of the Issuer shall determine, and (ii) bear interest at the rates, be subject to redemption prior to maturity, and have such other provisions and be issued in such manner and on such conditions as set forth in the Series 2019 Bonds, the Bond Purchase Agreement and the Indenture, which terms are specifically incorporated herein with the same force and effect as if fully set forth herein.

(b) The Series 2019 Bonds shall be issued solely for the purpose of providing funds to finance and/or refinance, as the case may be, the Costs of the Series 2019 Project and to pay certain costs of issuance, including without limitation the administrative, legal, financial and other expenses of the Issuer incurred in connection with the Series 2019 Project and which are incidental to the issuance of the Series 2019 Bonds.

(c) The Series 2019 Bonds and the interest thereon are not and shall never be a debt of the State of New York or the Town of Hempstead, New York, and neither the State of New York nor Town of Hempstead, New York, shall be liable thereon.

(d) The Series 2019 Bonds, together with interest payable thereon, shall be special obligations of the Issuer payable solely from the revenues and receipts derived from the Institution or from the enforcement of the security provided by the Loan Agreement.

(e) Notwithstanding any other provision of this resolution, the Issuer covenants that it will make no use of the proceeds of the Series 2019A Bonds or of any other funds which, if such use were reasonably expected on the date of issue of the Series 2019A Bonds, would cause the Series 2019A Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code or would otherwise cause the interest on the Series 2019A Bonds to be includable in gross income for federal tax purposes.

#### Section 6.

(a) The Chairman, the Vice Chairman, the Executive Director and Chief Executive Officer, the Chief Financial Officer and all members of the Issuer are hereby authorized, on behalf of the Issuer, to execute and deliver the Bond Purchase Agreement, the Indenture, the Loan Agreement, the Assignment of Mortgage, the Limited Offering Memorandum, the Tax Regulatory Agreement, the Series 2019 Bonds and the Information Return (hereinafter collectively called the "**Financing Documents**"), and, where appropriate, the Secretary or any assistant secretary of the Issuer is hereby authorized to affix the seal of the Issuer to the Series 2019 Bonds, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, the Vice Chairman, the Executive Director and Chief Executive Officer, the Chief Financial Officer or any member of the Issuer shall approve. The execution thereof by the Chairman, the Vice Chairman, the Executive Director and Chief Executive Officer, the Chief Financial Officer or any member of the Issuer shall constitute conclusive evidence of such approval.

(b) The Chairman, the Vice Chairman, the Executive Director and Chief Executive Officer, the Chief Financial Officer and all members of the Issuer are further hereby authorized, on behalf of the Issuer, to designate any additional Authorized Representatives of the Issuer (as defined in Schedule A to the Indenture).

(c) The Chairman, the Vice Chairman, the Executive Director and Chief Executive Officer, the Chief Financial Officer are each hereby authorized on behalf of the Issuer to deem the Limited Offering Memorandum final for purposes of Rule 15c-2-12 under the Securities Exchange Act of 1934, as amended, with such changes therein as shall be approved by such officers upon the advice of counsel to the Issuer and Bond Counsel, and such officers shall on behalf of the Issuer authorize and approve the execution, delivery and distribution of the Limited Offering Memorandum in connection with the offer and sale of the Series 2019 Bonds.

Section 7. The officers, employees and agents of the Issuer are hereby authorized and directed for and in the name and on behalf of the Issuer to do all acts and things required or provided for by the provisions of the Financing Documents, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Issuer with all of the terms, covenants and provisions of the Financing Documents binding upon the Issuer.

Section 8.

(a) It is desirable and in the best interest of the Issuer that, in connection with the issuance of the Series 2019 Bonds, the Series 2019 Bonds be qualified or registered for offer in various states authorized by the Issuer and that each of the members, officers, employees and agents of the Issuer be, and they hereby are each, authorized to determine the states in which appropriate action shall be taken to qualify or register for offer all or such part of the Series 2019 Bonds as said members, officers, employees and agents may deem advisable (and any such action taken to date is hereby approved, ratified and confirmed); that each of said members, officers, employees and agents be, and they hereby are each, authorized and directed to take any and all action for and on behalf of the Issuer, in connection with the proposed sale of the Series 2019 Bonds, which they may deem necessary or appropriate to obtain licenses or permits, or register, qualify or notice the Series 2019 Bonds for reoffering and issuance under the securities or Blue Sky laws of such of the various states as each of said members, officers, employees and agents may deem advisable (and any such action taken to date is hereby approved, ratified and confirmed), and in connection with such registrations, licenses, permits, qualifications or notices, to execute and file for and on behalf of the Issuer all such applications, notices, reports, issuer's covenants, resolutions, irrevocable consents to service of process (including appointment of a designated state official to act as agent to receive process), powers of attorney and information, and to take all such further action as any of them may deem necessary or desirable to keep in effect such registrations, licenses, permits, qualifications or notices or to comply with the requirements of any regulatory commission whose approval or notification with respect to the Series 2019 Bonds may be required (and any such action taken to date is hereby approved, ratified and confirmed); and that the execution by such members, officers, employees and agents of the Issuer of any such paper or document or the doing by them of any act in connection with the foregoing matters shall conclusively establish their authority therefor and the approval by the Issuer of the papers and documents so executed and the action so taken (and any such action taken to date is hereby approved, ratified and confirmed).

(b) The Issuer hereby adopts the form of any resolution required by any state authority to be filed in connection with any application, consent to service of process or other document mentioned in the foregoing resolution if (i) in the opinion of a member, officer, employee or agent of the Issuer the adoption of such a resolution is necessary or advisable, and (ii) the Secretary or Assistant Secretary of the Issuer evidences such adoption by attaching to the minutes of this meeting copies of such resolutions, which will thereupon be deemed to have been adopted by the Issuer with the same force and

effect as if originally attached to the minutes of this meeting (and any such action taken to date is hereby approved, confirmed and ratified).

(c) The Issuer hereby resolves that each of such members, officers, employees and agents be, and they hereby are each, authorized and directed to take any and all action for and on behalf of the Issuer in connection with the proposed issuance and offering of the Series 2019 Bonds which they may deem necessary or appropriate to render the Series 2019 Bonds legal for investment by savings banks, insurance companies, trust funds and any other institutions in such other of the various states as such members, officers, employees or agents may deem advisable (and any such action taken to date is hereby approved, confirmed and ratified).

Section 9. This resolution shall take effect immediately and the Series 2019 Bonds are hereby ordered to be issued in accordance with this resolution.



## Exhibit I

### Certificate of Circulo de la Hispanidad, Inc.

On the date hereof, the Town of Hempstead Local Development Corporation (the “**Issuer**”) issued its Tax-Exempt Revenue Refunding Bonds, Series 2019A (Circulo Real Property Holding Corporation/Evergreen Charter School Project) (the “**Bonds**”) and loaned the proceeds to Circulo Real Property Holding Corporation (the “**Borrower**”) for the purpose of current refunding the outstanding Civic Facility Revenue Bonds, Series 2007 (Circulo de la Hispanidad, Inc. Civic Facility) (the “**2007 Bonds**”) issued by the Town of Hempstead Industrial Development Agency (the “**IDA**”), for the benefit of Circulo de la Hispanidad, Inc. (“**CDLHI**”), 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 (the “**Code**”), the proceeds of which Series 2007 Bonds were used to finance the costs of (a) the issuance of the 2007 Bonds, (b) 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 (c) the acquisition of 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**”), which Facility will be conveyed by CDLHI to the Borrower and leased by the Borrower to Evergreen Charter School (“**Evergreen**”), a not-for-profit education corporation, organized and existing under the laws of the State of New York and an organization described in Section 501(c)(3) of the Code, to be used as a charter school serving students in kindergarten through grade 8 (together, the “**Project**”). CDLHI is the sole member of the Borrower, and the Borrower is a supporting organization of CDLHI.

The interest on the Bonds is intended to be excluded from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986 (the “**Code**”). In order to maintain that exclusion, the Borrower is making certain covenants, representations and certifications regarding the 2007 Bonds and use of the Project in a Tax Regulatory Agreement dated the date hereof (the “**TRA**”) among the Issuer, the Borrower and Evergreen.

The Bonds are guaranteed by CDLHI and CDLHI expects collaborate with Evergreen regarding certain programs that occur at the Facility in furtherance of its charitable purposes, particularly a summer camp program and an after-school program.

CDLHI has caused this certificate (the “**Certificate**”) to be executed in recognition of the fact that the information contained herein will be relied upon by the Borrower and Evergreen, in furtherance of their obligations under the TRA, and by Nixon Peabody LLP, Bond Counsel, in rendering its opinion that the interest on the Bonds is excludable from gross income for federal tax purposes under Section 103 of the Code. In executing this certificate, CDLHI has reviewed its Certificate of Incorporation, charter documents, bylaws, contracts, and other relevant information. Accordingly, CDLHI represents and certifies as follows:

1. CDLHI is an organization described in Section 501(c)(3) of the Code, or corresponding provisions of prior law, and is not a “private foundation”, as such term is defined under Section 509(a) of the Code, and (a) CDLHI has received a letter or other notification from the Internal Revenue Service that it is an organization described in Section 501(c)(3) of the Code, a copy of which is attached hereto as Attachment 1, and such letter or other notification has not been modified, limited or revoked; (b) CDLHI is in compliance with all terms, conditions and limitations, if any, contained in such letter or other notification and is in compliance with the requirements for exemption under Section 501(a) of the Code relating to political lobbying imposed by Section 501(h) of the Code; (c) the facts and circumstances

which form the basis of such letter or other notification as represented to the Internal Revenue Service continue to exist and no other material facts or circumstances have arisen which could affect the validity of such letter or other notification; (d) CDLHI is not currently under audit and knows of no facts which could lead to the loss of its Exempt Status (as defined below); and (e) CDLHI has filed all necessary federal tax and information returns, reports and declarations.

2. CDLHI agrees herein not to perform any act or enter into any agreement which shall adversely affect the federal income tax status of CDLHI as an organization described in Section 501(c)(3) of the Code (“**Exempt Status**”) and will conduct its operations in a manner that will conform to the standards necessary to qualify CDLHI as an organization described in Section 501(c)(3) of the Code or any successor provision of federal income tax law.

3. Any of the activities that CDLHI conducts or coordinates within the Facility will be in furtherance of CDLHI’s exempt purposes, will be substantially related (aside from the need for income or funds) to the exercise or performance of CDLHI of its exempt purposes and will not be an “unrelated trade or business” within the meaning of Section 513 of the Code. To the extent it is within its control, CDLHI agrees that it will not use the Facility or allow any subcontractor or service provider to use the Facility for any activities that constitute a “private business use” within the meaning of Section 141 of the Code.

4. In connection with the issuance of the 2007 Bonds, CDLHI entered into a Tax Compliance Agreement dated March 7, 2007 with the IDA. CDLHI is and at all times has been in compliance with the requirements of the Tax Compliance Agreement. In addition, CDLHI makes the following particular representations with respect to the 2007 Bonds:

a. There are currently no unspent Proceeds of the 2007 Bonds. Other than the amounts described in Section III.B. of the TRA, there are no other funds or accounts which were expected to be used to pay debt service on the 2007 Bonds (pursuant to any instrument that secures or otherwise relates to the 2007 Bonds) or with respect to which there was an assurance that such funds or accounts would be available to pay debt service on the 2007 Bonds if CDLHI encountered financial difficulties.

b. For any Proceeds from the 2007 Bonds were used to reimburse CDLHI for any expenditures paid prior to the issue date of the 2007 Bonds, the requirements of Section 1.150-2 of the Treasury Regulations were complied with.

c. CDLHI did not enter into any hedges with respect to the 2007 Bonds.

d. Any rebate amount due with respect to the 2007 Bonds shall be paid by CDLHI within 60 days of the final redemption of such bonds.

e. As of the issue date of the 2007 Bonds, CDLHI reasonably expected that at least 85 percent of the Net Sale Proceeds of the 2007 Bonds would be used to carry out the governmental purpose of the 2007 Bonds within three years of the issue date thereof. In determining such expectations, CDLHI did not take into account any expectations as to changes in interest rates or in provisions of the Code (or in the regulations and rulings thereunder). No more than 50 percent of the Proceeds of the 2007 Bonds was invested in Nonpurpose Investments having a substantially guaranteed yield for four years or more.

f. Attached as Attachment 2 is a summary of the use of Proceeds of the 2007 Bonds.

g. Following the issuance of the 2007 Bonds, the Facility was not generating sufficient revenues, which resulted in a payment default on the 2007 Bonds. In particular, all scheduled principal and interest payments were not made on the 2007 Bonds, and all amounts on deposit in the debt service reserve fund for the 2007 Bonds were drawn. As part of the repayment of the 2007 Bonds, the current holders have agreed to waive certain accrued and unpaid interest, as well as a portion of the outstanding principal on the 2007 Bonds. The amount being paid to the holders of the 2007 Bonds was determined on an arms' length basis.

5. I am an officer of CDLHI who has the authority to make the representations and certifications set forth herein. CDLHI has discussed, with such professionals as we have deemed necessary, the provisions of this certificate, the Code and the applicable Treasury Regulations. Based on these discussions, we are satisfied that (a) we understand the certifications and representations which we have made in this Certificate; and (b) we understand the basis for continuing compliance with the representations made in this certificate (including the appendices attached hereto). The statements contained herein (including the appendices attached hereto) fully and accurately represent the facts as known to CDLHI, and are, in its opinion, true and correct, and no information available to CDLHI has been omitted herefrom, the omission of which would tend to render misleading any of the statements therein contained in the circumstances in which they are made.

Dated: August 8, 2019

**CIRCULO DE LA HISPANIDAD, INC.**



By: \_\_\_\_\_

Name: Sarah E. R. Brewster

Title: Chief Director of Services and Operations

*[Signature Page to the Certificate – Circulo 2019]*

**Attachment 1**  
**IRS Determination Letter**

**Internal Revenue Service**

**Date:** September 13, 2004

Circulo de la Hispanidad  
62 West Park Avenue  
Long Beach, NY 11561-2018

**Department of the Treasury**  
**P. O. Box 2508**  
**Cincinnati, OH 45201**

**Person to Contact:**  
Jeremy Vogelpohl 31-03888  
Customer Service Representative  
**Toll Free Telephone Number:**  
8:00 a.m. to 6:30 p.m. EST  
877-829-5500  
**Fax Number:**  
513-263-3756  
**Federal Identification Number:**  
11-2525327

Dear Sir or Madam:

This is in response to your request of September 13, 2004, regarding your organization's tax-exempt status.

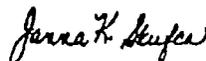
In November 1980 we issued a determination letter that recognized your organization as exempt from federal income tax. Our records indicate that your organization is currently exempt under section 501(c)(3) of the Internal Revenue Code.

Our records indicate that your organization is also classified as a public charity under sections 509(a)(1) and 170(b)(1)(A)(vi) of the Internal Revenue Code.

Our records indicate that contributions to your organization are deductible under section 170 of the Code, and that you are qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Internal Revenue Code.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

Sincerely,



Janna K. Skufca, Director, TE/GE  
Customer Account Services

SEP 14 2004

**Attachment 2**

**Use of Proceeds of 2007 Bonds**

TOWN OF HEMPSTEAD IDA  
 CIVIC FACILITY REVENUE BONDS, SERIES 2007  
 CIRCULO DE LA HISPANIDAD - CLOSING 3/7/2007

Date	Req #	Payee/Location	Withdrawal/ (Deposit)/Transfer	Cumulative Draws
3/7/2007				
3/7/2007		Capitalized Interest	1,845,482.85	1,845,482.85
3/7/2007		Debt Service Reserve Fund	1,224,700.00	3,070,182.85
3/7/2007	1	Nixon Peabody	53,500.00	3,123,682.85
3/7/2007	1	NYS/IDA Fees	160,032.22	3,283,715.07
3/7/2007	1	Broadlands	20,000.00	3,303,715.07
3/7/2007	1	Trustee Counsel	5,000.00	3,308,715.07
3/7/2007	1	Authority Counsel	15,000.00	3,323,715.07
3/7/2007	1	Purchaser's Counsel	30,000.00	3,353,715.07
3/7/2007	1	Purchaser's origination + Cusip	75,185.00	3,428,900.07
3/7/2007	1	Borrower's Counsel	25,989.15	3,454,889.22
3/8/2007	1	RAS Associates	8,475.00	3,463,364.22
3/8/2007	1	Triton	45,000.00	3,508,364.22
3/8/2007	1	David Boone	21,250.00	3,529,614.22
3/8/2007	1	Center for Ess Mgmt (David Boone)	22,250.00	3,551,864.22
3/8/2007	1	H2M	58,077.44	3,609,941.66
3/8/2007	1	Preferred Abstracts - Title	43,068.00	3,653,009.66
3/8/2007	1	Circulo - Reimburse	74,550.00	3,727,559.66
3/16/2007	1	Trustee	6,500.00	3,734,059.66
3/21/2007	2	Preferred Abstracts - Title	350.00	3,734,409.66
3/22/2007	1	RLG Design	22,500.00	3,756,909.66
4/20/2007	3	H2M	5,600.00	3,762,509.66
4/20/2007	3	RAS Associates	700.00	3,763,209.66
4/20/2007	3	Triton	7,500.00	3,770,709.66
5/15/2007		H2M	73,922.56	3,844,632.22
5/15/2007		Beth Donner Inc.	20,000.00	3,864,632.22
5/15/2007		Triton	1,150.00	3,865,782.22
5/15/2007		Triton	7,500.00	3,873,282.22
5/15/2007		Triton	13,747.00	3,887,029.22
5/15/2007		Triton	4,211.00	3,891,240.22
6/28/2007	5	H2M	132,000.00	4,023,240.22
6/28/2007		Triton	7,500.00	4,030,740.22
6/28/2007		Triton	5,342.00	4,036,082.22
6/28/2007		H2M	5,500.00	4,041,582.22
8/15/2007	6	Transfer to Debt Service Fund	460,833.34	4,502,415.56
8/15/2007	6	H2M	52,800.00	4,555,215.56
8/15/2007	6	Triton	7,500.00	4,562,715.56
8/15/2007	6	Triton	2,097.00	4,564,812.56
8/15/2007	6	Ponder Mgmt Fee	1,122.23	4,565,934.79
8/15/2007	6	Ponder Mgmt Fee	5,689.08	4,571,623.87
8/15/2007	6	Ponder Mgmt Fee	5,661.18	4,577,285.05
8/15/2007		Transfer from Debt Serv. Fund	(460,833.34)	4,116,451.71
8/16/2007	7	Beth Donner Inc.	20,000.00	4,136,451.71
8/16/2007	7	Peter Caradonna	3,450.00	4,139,901.71
8/27/2007	7	L Squared Design	20,000.00	4,159,901.71
8/27/2007		Stop Payment	(20,000.00)	4,139,901.71

10/26/2007	8	Triton	5,637.27	4,145,538.98
10/26/2007	8	Triton	1,135.88	4,146,674.86
10/26/2007	8	Triton	24,465.00	4,171,139.86
10/26/2007	8	Triton	4,253.42	4,175,393.28
10/26/2007	8	Horizon Engineerin	3,105.00	4,178,498.28
10/26/2007	8	Horizon Engineerin	3,283.44	4,181,781.72
10/26/2007	8	Peter Caradonna	3,450.00	4,185,231.72
10/26/2007	8	Peter Caradonna	1,095.00	4,186,326.72
10/26/2007	8	Peter Caradonna	2,275.00	4,188,601.72
10/26/2007	8	Peter Caradonna	1,095.00	4,189,696.72
12/5/2007	10	Triton	7,500.00	4,197,196.72
12/6/2007	10	NYS Envir. Conservation	220.00	4,197,416.72
12/6/2007	10	H2M	85,880.06	4,283,296.78
12/6/2007	10	Horizon Engineerin	1,841.64	4,285,138.42
12/12/2007	9	Triton	360.00	4,285,498.42
12/12/2007	9	Triton	625.00	4,286,123.42
12/12/2007	9	Triton	1,314.88	4,287,438.30
12/12/2007	9	Triton	112,236.86	4,399,675.16
12/13/2007		Holzmacher, McClendon & Murrel	79,200.00	4,478,875.16
12/13/2007		Ponder Mgmt Fee	5,529.56	4,484,404.72
12/13/2007		Peter Caradonna	2,115.00	4,486,519.72
12/13/2007		US Labs	2,275.00	4,488,794.72
12/13/2007		US Labs	1,095.00	4,489,889.72
12/13/2007		Horizon Engineerin	1,707.00	4,491,596.72
1/10/2008	11	Triton	7,500.00	4,499,096.72
1/10/2008	11	Triton	7,500.00	4,506,596.72
1/10/2008	11	Triton	3,341.91	4,509,938.63
1/10/2008	11	Triton	2,394.32	4,512,332.95
1/11/2008	11	H2M	165,080.06	4,677,413.01
1/11/2008	11	H2M	19,719.94	4,697,132.95
1/11/2008	11	Peter Caradonna	1,000.00	4,698,132.95
1/11/2008	11	Peter Caradonna	2,530.00	4,700,662.95
1/11/2008	11	Langan	7,428.04	4,708,090.99
1/11/2008	11	Ponder Mgmt Fee	5,529.56	4,713,620.55
1/11/2008	11	Horizon Engineerin	2,530.00	4,716,150.55
1/25/2009		Overpayment	(360.00)	4,715,790.55
1/25/2009		Overpayment	(625.00)	4,715,165.55
3/13/2008	13	Triton	101,376.72	4,816,542.27
3/13/2008	13	Triton	225,688.00	5,042,230.27
3/13/2008	13	Triton	7,500.00	5,049,730.27
3/14/2008	13	RMB Development	3,000.00	5,052,730.27
4/1/2008	12	Triton	7,500.00	5,060,230.27
4/2/2008		IDA Annual	1,000.00	5,061,230.27
4/2/2008		Peter Caradonna	2,340.98	5,063,571.25
4/2/2008		Ponder Mgmt Fee	5,467.77	5,069,039.02
4/2/2008		Langan Services	1,731.60	5,070,770.62
4/14/2008		David Schwartz	(14,166.66)	5,056,603.96
4/14/2008		David Schwartz	(14,166.66)	5,042,437.30
4/21/2008		Deposit	(1,082.00)	5,041,355.30
4/21/2008		Deposit	(1,000.00)	5,040,355.30
7/7/2008	15	Triton	234.20	5,040,589.50
7/7/2008	15	Triton	9,401.94	5,049,991.44

7/7/2008	15	Triton	31,729.35	5,081,720.79
7/7/2008	15	Triton	7,500.00	5,089,220.79
7/7/2008	15	Triton	7,284.68	5,096,505.47
7/7/2008	14	Triton	7,500.00	5,104,005.47
7/7/2008	12	Triton	7,500.00	5,111,505.47
7/7/2008	15	Triton	25,208.40	5,136,713.87
7/7/2008	14	Triton	7,500.00	5,144,213.87
7/7/2008	15	Triton	34,927.58	5,179,141.45
7/7/2008	14	Triton	7,500.00	5,186,641.45
7/8/2008	15	Peter Caradonna	680.00	5,187,321.45
7/8/2008	14	BONY	3,500.00	5,190,821.45
7/8/2008	14	Bureau Veritas	1,995.00	5,192,816.45
7/8/2008	14	Bureau Veritas	4,195.31	5,197,011.76
7/8/2008	14	Bureau Veritas	7,027.50	5,204,039.26
7/8/2008	14	RMN Development	3,000.00	5,207,039.26
7/8/2008	14	Peter Caradonna	2,754.25	5,209,793.51
7/8/2008	14	H2M	11,517.24	5,221,310.75
7/8/2008	14	H2M	114,000.00	5,335,310.75
7/8/2008	14	Horizon Engineerin	840.00	5,336,150.75
7/8/2008	14	Beth Donner Inc.	5,000.00	5,341,150.75
7/22/2008		David Schwartz	(3,000.00)	5,338,150.75
7/23/2008		David Schwartz	(14,166.66)	5,323,984.09
8/18/2008		Ponder Mgmt Fee	5,105.14	5,329,089.23
8/18/2008		Ponder Mgmt Fee	5,038.88	5,334,128.11
8/18/2008		Horizon Engineering	830.00	5,334,958.11
8/18/2008		Horizon Engineering	32.01	5,334,990.12
8/18/2008		Horizon Engineering	682.50	5,335,672.62
8/18/2008		Peter Caradonna	1,350.00	5,337,022.62
8/18/2008		Peter Caradonna	1,020.00	5,338,042.62
8/18/2008		Peter Caradonna	2,360.00	5,340,402.62
8/20/2008	17	Triton	7,500.00	5,347,902.62
8/20/2008	17	Triton	470,403.74	5,818,306.36
8/21/2008	17	Horizon Engineering	2,859.82	5,821,166.18
8/28/2008		David Schwartz	(14,166.66)	5,806,999.52
8/28/2008		David Schwartz	(14,166.66)	5,792,832.86
9/17/2008	18	LIPA	19,275.44	5,812,108.30
9/17/2008	18	Bureau Veritas	4,572.50	5,816,680.80
10/9/2008	20	RAL Services/Bulding Risk Ins	20,967.00	5,837,647.80
10/14/2008		David Schwartz	(14,166.66)	5,823,481.14
10/15/2008	19	Triton	7,500.00	5,830,981.14
10/15/2008	19	Triton	337,217.78	6,168,198.92
10/15/2008	19	Peter Caradonna	2,860.00	6,171,058.92
10/15/2008	19	H2M	19,600.00	6,190,658.92
10/15/2008	19	H2M	9,500.00	6,200,158.92
10/15/2008	19	H2M	291.29	6,200,450.21
10/15/2008	19	H2M	3,605.69	6,204,055.90
11/4/2008	21	Broadlands Fin. Grp.	6,750.00	6,210,805.90
11/4/2008	19	Triton	554,316.93	6,765,122.83
11/5/2008	21	Peter Caradonna	1,520.00	6,766,642.83
11/5/2008	21	Beth Donner Inc.	5,000.00	6,771,642.83
11/5/2008	21	NYS Envir. Conservation	50.00	6,771,692.83
11/13/2008		ECMS	10,740.00	6,782,432.83

11/13/2008		David Schwartz	(14,166.66)	6,768,266.17
12/2/2008		Misdirected Checks	(70,833.30)	6,697,432.87
12/3/2008	22	Triton	3,565.44	6,700,998.31
12/3/2008	22	Triton	292,214.54	6,993,212.85
12/4/2008	22	H2M	9,500.00	7,002,712.85
12/4/2008	22	Bureau Veritas	4,185.50	7,006,898.35
1/20/2009	23	Triton	248,314.74	7,255,213.09
1/21/2009	23	H2M	1,992.50	7,257,205.59
1/21/2009	23	H2M	33,600.00	7,290,805.59
1/21/2009	23	H2M	5,767.11	7,296,572.70
1/21/2009	23	H2M	828.38	7,297,401.08
1/21/2009	23	Peter Caradonna	2,445.00	7,299,846.08
1/21/2009	23	Peter Caradonna	765.00	7,300,611.08
1/21/2009	23	Horizon Engineering	1,227.50	7,301,838.58
1/21/2009	23	Horizon Engineering	1,732.50	7,303,571.08
1/21/2009	23	Ponder	3,373.34	7,306,944.42
1/21/2009	23	Bureau Veritas	1,379.00	7,308,323.42
1/21/2009	23	Bureau Veritas	1,942.00	7,310,265.42
1/21/2009	23	Twin Forks (Copier)	10.34	7,310,275.76
1/21/2009	23	Broadlands Fin. Grp.	11,520.00	7,321,795.76
1/21/2009	23	Hempstead IDA	1,000.00	7,322,795.76
1/26/2009		Reimb. From Triton	(49.98)	7,322,745.78
1/27/2009	24	Triton	354,504.00	7,677,249.78
1/28/2009	24	RMB Development	600.00	7,677,849.78
1/28/2009	24	Brown Builders Supply	154.89	7,678,004.67
3/5/2009	26	Triton	414,669.22	8,092,673.89
3/6/2009	25	Cap Interest Reimb.	97,000.00	8,189,673.89
3/6/2009	26	H2M	2,990.00	8,192,663.89
3/6/2009	26	H2M	17,024.29	8,209,688.18
3/6/2009	26	Peter Caradonna	4,900.00	8,214,588.18
3/6/2009	26	Bureau Veritas	5,027.50	8,219,615.68
3/6/2009	26	Bureau Veritas	540.00	8,220,155.68
3/6/2009	26	Bureau Veritas	1,617.00	8,221,772.68
3/6/2009	26	Twin Forks (Copier)	35.82	8,221,808.50
3/6/2009	26	Versa-Tel Telecommunications	11,250.00	8,233,058.50
3/24/2009	27	Triton	416,018.26	8,649,076.76
3/25/2009	27	Moser Inc	1,500.00	8,650,576.76
3/25/2009	27	Twin Forks (Copier)	26.32	8,650,603.08
3/25/2009	27	RMB Development	12.96	8,650,616.04
3/25/2009	27	Bureau Veritas	2,864.50	8,653,480.54
3/25/2009	27	Peter Caradonna	1,350.00	8,654,830.54
3/25/2009	27	H2M	11,489.84	8,666,320.38
3/25/2009	27	Versa-Tel Telecommunications	11,250.00	8,677,570.38
3/25/2009	27	Hooks & Lattice	2,440.00	8,680,010.38
3/25/2009	27	Circulo Reimb.	298.39	8,680,308.77
3/25/2009	27	Circulo Reimb.	71.50	8,680,380.27
3/25/2009	27	Circulo Reimb.	115.13	8,680,495.40
3/25/2009	27	Circulo Reimb.	54.99	8,680,550.39
3/25/2009	27	Circulo Reimb.	87.60	8,680,637.99
3/25/2009	27	Circulo Reimb.	32.89	8,680,670.88
3/25/2009	27	Circulo Reimb.	59.38	8,680,730.26
4/28/2009	28	Bureau Veritas	2,552.50	8,683,282.76

4/28/2009	28	Triton	747,764.09	9,431,046.85
4/28/2009	28	BONY	3,500.00	9,434,546.85
4/28/2009		Credit - Returned wire	(2,552.50)	9,431,994.35
4/29/2009	28	Bureau Veritas	2,552.50	9,434,546.85
4/29/2009	28	Horizon Engineering	827.50	9,435,374.35
4/29/2009	28	Horizon Engineering	425.00	9,435,799.35
4/29/2009	28	Circulo Reimb.	32.95	9,435,832.30
4/29/2009	28	Circulo Reimb.	86.00	9,435,918.30
4/29/2009	28	Circulo Reimb.	1,256.80	9,437,175.10
4/29/2009	28	Peter Caradonna	1,350.00	9,438,525.10
4/29/2009	28	Twin Forks (Copier)	12.81	9,438,537.91
4/29/2009	28	Moster, Inc.	1,050.00	9,439,587.91
4/29/2009	28	H2M	11,814.89	9,451,402.80
4/29/2009	28	Ponder Inv. Co.	3,399.80	9,454,802.60
6/9/2009		Credit- Stopped Check	(540.00)	9,454,262.60
6/9/2009		Credit- Stopped Check	(1,319.00)	9,452,943.60
6/9/2009		Credit- Stopped Check	(1,617.00)	9,451,326.60
6/9/2009		Credit- Stopped Check	(1,942.00)	9,449,384.60
6/9/2009	29	Bureau Veritas	1,127.00	9,450,511.60
6/9/2009	29	Bureau Veritas	1,025,156.85	10,475,668.45
6/10/2009		Incorrect Amount Credited	60.00	10,475,728.45
6/10/2009		Incorrect Amount Credited	1,319.00	10,477,047.45
6/10/2009		Credit- Stopped Check	(60.00)	10,476,987.45
6/10/2009		Credit- Stopped Check	(1,379.00)	10,475,608.45
6/10/2009	23	Bureau Veritas	1,379.00	10,476,987.45
6/10/2009	23	Bureau Veritas	1,942.00	10,478,929.45
6/10/2009	26	Bureau Veritas	540.00	10,479,469.45
6/10/2009	26	Bureau Veritas	1,617.00	10,481,086.45
6/10/2009	29	Twin Forks (Copier)	17.01	10,481,103.46
6/10/2009	29	Moster, Inc.	525.00	10,481,628.46
6/10/2009	29	Peter Caradonna	1,860.00	10,483,488.46
6/10/2009	29	Horizon Engineering	1,802.35	10,485,290.81
6/10/2009	29	Circulo Reimb.	301.17	10,485,591.98
6/10/2009	29	Broadlands Fin. Grp.	600.00	10,486,191.98
6/11/2009	29	Triton	1,025,156.85	11,511,348.83
6/11/2009		Error to Bureau Veritas	(1,025,156.85)	10,486,191.98
6/25/2009	30	Bureau Veritas	614.00	10,486,805.98
6/25/2009	30	Triton	886,635.97	11,373,441.95
6/26/2009	30	Twin Forks (Copier)	13.90	11,373,455.85
6/26/2009	30	Moster, Inc.	660.00	11,374,115.85
6/26/2009	30	H2M	26,169.11	11,400,284.96
6/26/2009	30	H2M	4,619.50	11,404,904.46
6/26/2009	30	H2M	928.85	11,405,833.31
7/22/2009	31	Triton	421,581.31	11,827,414.62
7/22/2009	31	Bureau Veritas	5,431.00	11,832,845.62
7/23/2009	31	Moster, Inc.	275.00	11,833,120.62
7/23/2009	31	Moster, Inc.	475.00	11,833,595.62
7/23/2009	31	Horizon Engineering	3,255.00	11,836,850.62
7/23/2009	31	H2M	4,619.50	11,841,470.12
7/23/2009	31	H2M	17,323.00	11,858,793.12
7/23/2009	31	H2M	80.48	11,858,873.60
7/23/2009	31	H2M	2,390.50	11,861,264.10

7/23/2009	31	H2M	9,500.00	11,870,764.10
7/23/2009	31	Twin Forks (Copier)	18.00	11,870,782.10
7/23/2009	31	Peter Caradonna	2,700.00	11,873,482.10
7/23/2009	31	Ponder Inv. Co.	2,392.77	11,875,874.87
9/1/2009	32	Omnicap Group	2,000.00	11,877,874.87
9/1/2009	32	Bureau Veritas	5,539.00	11,883,413.87
9/1/2009	32	Triton	934,710.59	12,818,124.46
9/2/2009	32	Moster, Inc.	200.00	12,818,324.46
9/2/2009	32	Versa-Tel Telecommunications	2,800.00	12,821,124.46
9/2/2009	32	H2M	4,400.00	12,825,524.46
9/2/2009	32	H2M	676.77	12,826,201.23
9/2/2009	32	H2M	8,661.50	12,834,862.73
9/2/2009	32	H2M	39,425.00	12,874,287.73
9/2/2009	32	Twin Forks (Copier)	14.76	12,874,302.49
9/2/2009	32	Circulo Reimb.	76.80	12,874,379.29
9/2/2009	32	Beth Donner	10,000.00	12,884,379.29
9/3/2009		Check in Wrong Account	2,190.00	12,886,569.29
10/13/2009	33	Bureau Veritas	2,822.50	12,889,391.79
10/13/2009	33	Triton	676,926.77	13,566,318.56
10/13/2009	33	Triton	162.13	13,566,480.69
10/14/2009	33	Twin Forks (Copier)	11.71	13,566,492.40
10/14/2009	33	H2M	348.60	13,566,841.00
10/14/2009	33	H2M	7,316.00	13,574,157.00
10/14/2009	33	H2M	2,075.00	13,576,232.00
10/14/2009	33	H2M	472.50	13,576,704.50
10/14/2009	33	H2M	168.87	13,576,873.37
10/14/2009	33	Peter Caradonna	1,520.00	13,578,393.37
10/14/2009	33	Peter Caradonna	1,617.00	13,580,010.37
10/14/2009	33	Horizon Engineering	2,029.70	13,582,040.07
10/14/2009	33	Horizon Engineering	3,615.00	13,585,655.07
11/2/2009	34	Triton	315,219.43	13,900,874.50
11/3/2009	34	Peter Caradonna	500.00	13,901,374.50
11/3/2009	34	Circulo Reimb.	1,389.79	13,902,764.29
11/3/2009	34	Horizon Engineering	2,962.50	13,905,726.79
11/3/2009	34	H2M	2,136.00	13,907,862.79
11/3/2009	34	H2M	915.11	13,908,777.90
11/3/2009	34	Ponder Inv. Co.	1,840.30	13,910,618.20
11/19/2009		Cash Credit-Circulo	(97,000.00)	13,813,618.20
12/22/2009	35	Triton	695,579.07	14,509,197.27
1/11/2010	36	Triton	422,847.67	14,932,044.94
3/16/2010		Cash Credit-Circulo	(164,105.00)	14,767,939.94
3/22/2010	37	Triton	378,313.63	15,146,253.57
3/22/2010	38	Triton	352,366.46	15,498,620.03
5/3/2010	39	Triton	34,116.57	15,532,736.60
1/19/2011		Cash Credit-Circulo	(854.27)	15,531,882.33
1/20/2011	41	Triton	17,271.59	15,549,153.92

## Appendix I

### Definitions

**Bond Counsel** shall mean Nixon Peabody LLP or any other law firm appointed by the Issuer, having a national reputation in the field of municipal finance whose opinions are generally accepted by purchasers of municipal bonds.

**Bond Year** shall mean each one year period that ends on the day selected by the Issuer. If no day is selected by the Issuer before the date that is five years from the Issue Date, each Bond Year ends on the anniversary of the Issue Date and on the final maturity date. For the Bonds, the Issuer selects a Bond Year that ends on December 1 of each year.

**Bond Yield** shall have the meaning set forth in the Tax Regulatory Agreement.

**Code** shall mean the Internal Revenue Code of 1986, as amended.

**Commingled Fund** shall mean any fund or account containing both Gross Proceeds of an issue and amounts in excess of \$25,000 that are not Gross Proceeds of that issue if the amounts in the fund or account are invested and accounted for collectively, without regard to the source of funds deposited in the fund or account.

**Computation Date** shall mean each date on which the rebate for an issue is computed.

**Computation Date Credit** shall mean with respect to an issue a credit of \$1,000 against the rebatable arbitrage on (i) the last day of each Bond Year during which there are amounts allocated to Gross Proceeds of an issue subject to the Rebate Requirement; and (ii) the final maturity date for an issue.

**Computation Period** shall mean the period between Computation Dates. The first Computation Period begins on the Issue Date and ends on the first Computation Date. Each succeeding Computation Period begins on the date immediately following the Computation Date and ends on the next Computation Date.

**Gross Proceeds** shall mean any Proceeds or Replacement Proceeds of an issue.

**Investment Proceeds** shall mean any amounts actually or constructively received from investing Proceeds of an issue.

**Investment Property** shall mean any security or obligation within the meaning of Section 148(b)(2) of the Code, any annuity contract, any interest in any residential rental property for family units which is not located within the jurisdiction of the issuer, any "specified private activity bond" within the meaning of Section 57(a)(5)(C) of the Code, and any other Investment-Type Property.

**Investment-Type Property** includes any property that is held principally as a passive vehicle for the production of income. A prepayment for property or services is Investment-Type Property if a principal purpose for prepaying is to receive an investment return from the time the prepayment is made until the time payment otherwise would be made. A prepayment is not Investment-Type Property if:

- (1) Prepayments on substantially the same terms are made by a substantial percentage of persons who are similarly situated to the issuer or the conduit borrower but who are not beneficiaries of tax-exempt financing, or

- (2) The prepayment is made within 90 days of the reasonably expected date of delivery to the issuer or the conduit borrower of all of the property or services for which the prepayment is made.

**IRS** means the Internal Revenue Service.

**Multipurpose Issue** shall mean an issue that is used for two or more separate governmental purposes.

**Net Proceeds** shall mean Proceeds, less the portion of those Proceeds invested in a reasonably required reserve or replacement fund.

**Net Sale Proceeds** shall mean Sale Proceeds, less the portion of those Sale Proceeds invested in a reasonably required reserve or replacement fund.

**Nonprofit User** means any organization described in Section 501(c)(3) of the Code and exempt from taxation under Section 501(a) of the Code which uses the Project as (i) an owner, (ii) a lessee or sub-lessee of more than 5 percent of the Project (measured in both square feet and by fair market rental value), (iii) an operator, manager, or user pursuant to a contract to otherwise manage, use or service the Project, or (iv) an organization that is a Related Person (as defined in Exhibit C) with respect to any Nonprofit User.

**Nonpurpose Investment** shall mean any Investment Property that is not a Purpose Investment.

**Nonpurpose Payment** shall mean:

- i. amounts actually or constructively paid to acquire a Nonpurpose Investment (or treated as paid to a Commingled Fund);
- ii. in the case of a Nonpurpose Investment that is first allocated to an issue on a date after it is actually acquired (e.g., an investment that becomes allocable to Transferred Proceeds or to Replacement Proceeds) or that becomes subject to the Rebate Requirement on a date after it is actually acquired (e.g., an investment allocated to a reasonably required reserve or replacement fund for a construction issue at the end of the two year spending period), the Value of that investment on that date;
- iii. in the case of a Nonpurpose Investment that was allocated to an issue at the end of the preceding Computation Period, the Value of that Nonpurpose Investment at the beginning of the Computation Period; and
- iv. the Computation Date Credit.

**Nonpurpose Receipt** shall mean:

- i. amounts actually or constructively received from a nonpurpose Investment (including amounts treated as received from a Commingled Fund);
- ii. in the case of a Nonpurpose Investment that ceases to be allocated to an issue before its disposition or redemption date (e.g., an investment that becomes allocable to Transferred Proceeds of another issue or that ceases to be allocable

to the issue pursuant to the Universal Cap) or that ceases to be subject to the Rebate Requirement on a date earlier than its disposition or redemption date (e.g., an investment allocated to a fund initially subject to the Rebate Requirement but that subsequently qualifies as a bona fide debt service fund), the Value of that Nonpurpose Investment on that date; and

- iii. in the case of a Nonpurpose Investment that is held at the end of a Computation Period, the Value of that Nonpurpose Investment at the end of that Computation Period.

**Plain Par Bond (or Plain Par Investment)** shall mean a bond (or an investment) (i) issued (or in the case of an investment acquired on a date other than the issue date, acquired) with not more than a de minimis amount (i.e., two percent of stated principal amount) of original issue discount or original issue premium; (ii) issued for a price that does not include accrued interest, other than Pre-Issuance Accrued Interest; (iii) that bears interest from the issue date at a single, stated, fixed rate or that is a variable rate debt instrument under Section 1275 of the Code, in each case with interest payable at least annually; and (iv) that has a lowest stated redemption price that is not less than its outstanding principal amount.

**Pre-Issuance Accrued Interest** shall mean amounts representing interest that has accrued on an obligation for a period of not greater than one year before its issue date but only if those amounts are paid within one year after the Issue Date.

**Proceeds** shall mean any Sale Proceeds, Investment Proceeds and Transferred Proceeds of an issue. For purposes of Section 141 of the Code, as defined in Section 1.141-1(b) of the Treasury Regulations, Proceeds means the sale proceeds of an issue (other than those sale proceeds used to retire bonds of the issue that are not deposited in a reasonably required reserve or replacement fund); Proceeds also include any investment proceeds from investments that accrue during the project period (net of rebate amounts attributable to the project period). Disposition proceeds of an issue are treated as proceeds to the extent provided in Section 1.141-12 of the Treasury Regulations. The Commissioner may treat any replaced amounts as Proceeds for purposes of Section 141 of the Code.

**Purpose Investment** shall mean an investment that is acquired to carry out the governmental purpose of an issue.

**Qualified Administrative Costs** shall mean reasonable, direct administrative costs, other than carrying costs, such as separately stated brokerage and selling commissions that are comparable to those charged nongovernmental entities in transactions not involving tax-exempt bond proceeds, but not legal and accounting fees, recordkeeping, custody or similar costs. For a guaranteed investment contract or a yield-restricted defeasance escrow, a broker's commission or similar fee paid on behalf of either an issuer or the provider is treated as a Qualified Administrative Cost if (i) the fee does not exceed the lesser of \$30,000 or 0.2 percent of the "computational base" (but not less than \$3,000), where "computational base" means (A) for a guaranteed investment contract, the gross proceeds reasonably expected, as of the date the contract is acquired, to be deposited in the guaranteed investment contract over the term of the contract and (B) for yield restricted defeasance escrows, the gross proceeds initially invested in those investments; and (ii) for any issue, the fees paid in connection with the investment of proceeds of the Bonds with respect to brokers' commissions or similar fees, do not exceed \$85,000 in the aggregate. In the case of a calendar year after 2004, each of the dollar amounts set forth above shall be increased by an amount equal to such dollar amount multiplied by the cost of living adjustment for such calendar year as set forth in Treasury Regulation Section 1.148-5(e)(2)(iii)(B)(3)-(6).

**Qualified Guarantee Fee** shall mean fees which satisfy the requirements of Section 1.148-4(f) of the Treasury Regulations.

**Rebate Amount** shall have the meaning given such term in Appendix II.

**Rebate Bond Yield** shall mean the Bond Yield unless:

- i. the issuer enters into a hedge transaction (e.g., interest rate swap, interest rate cap or collar) which has not been taken into account in computing the Bond Yield, in which case the issuer shall consult with Bond Counsel for guidance in determining the Rebate Bond Yield; or
- ii. the issuer, in a transaction that is separate and apart from the original sale of an issue, transfers, waives or modifies any right that is part of the terms of an issue (e.g., a sale of the call rights on an issue). The issuer shall consult with Bond Counsel prior to entering into any such transaction and for guidance in determining the Rebate Bond Yield.

**Rebate Requirement** shall have the meaning ascribed thereto in the Tax Regulatory Agreement.

**Related Person** includes the following entities:

(A) In the case of a corporation, (i) an individual who owns directly or indirectly more than 50 percent in value of the outstanding stock of the corporation; (ii) a partnership, if any partner owns more than 50 percent in value of the outstanding stock of the corporation; (iii) another corporation, if that corporation owns more than 50 percent of the voting power or value of the corporation; (iv) another corporation, if more than 50 percent of the voting power or value of its stock is owned by the corporation; (v) another corporation, if five or fewer individuals own stock possessing more than 50 percent of the voting power or value of both that corporation and the corporation; (vi) an S corporation, if the same individual owns more 50 percent in value of both the S corporation and the corporation; or (vii) a trust or its grantor, either of which owns more than 50 percent in value of the outstanding stock of the corporation.

(B) In the case of a partnership, (i) a partner that owns directly or indirectly more than 50 percent of the capital interest or the profits interest in such partnership; (ii) another partnership, if the same person or persons own directly or indirectly more than 50 percent of the capital interest or the profits interest in both that partnership and the partnership; or (iii) an S corporation, if the same person or persons that own more than 50 percent in value of the outstanding stock of such S corporation own more than 50 percent of the capital interest or the profits interest in the partnership.

(C) In the case of an individual, (i) members of the individual's family (including the individual's spouse, brothers, sisters, ancestors and lineal descendants); (ii) a corporation more than 50 percent in value of the outstanding stock of which is owned directly or indirectly by or for such individual; (iii) a partnership, if the individual owns directly or indirectly more than 50 percent of the capital interest or the profits interest in such partnership; or (iv) a trust as to which the individual is either grantor or beneficiary, or which has the same grantor as a trust to which the individual is beneficiary.

(D) In the case of a Section 501(c)(3) organization, any member of the same controlled group. Controlled group means a group of entities controlled directly or indirectly by the same entity or group of entities. The determination of direct control is made on the basis of all relevant facts and circumstances. One entity or group of entities (the "Controlling Entity") generally controls another entity

or group of entities (the "Controlled Entity") if the Controlling Entity possesses either of the following rights or powers and the rights or powers are discretionary and non-ministerial: (1) the right or power both to approve and to remove without cause a controlling portion of the governing body of the Controlled Entity; or (2) the right or power to require the use of funds or assets of the Controlled Entity for any purpose of the Controlling Entity. If a Controlling Entity controls a Controlled Entity, then the Controlling Entity indirectly controls all entities controlled, directly or indirectly, by the Controlled Entity or Entities.

(E) For purposes of Section 145(b) of the Code, any organization having common management and control with an organization described in Section 501 (c) (3) of the Code. This would include any other 501 (c) (3) organization if both organizations have (a) significant common purposes and substantial common membership, or (b) directly or indirectly, substantial common direction. For example, a local chapter of a national organization may be related to its national organization.

Similar rules should be applied in the case of S corporations and trusts.

**Replacement Proceeds** shall mean amounts that have a sufficiently direct nexus to an issue to conclude that the amounts would have been used for that governmental purpose if the Proceeds of the issue were not used or to be used for that governmental purpose. For this purpose, governmental purposes include the expected use of amounts for the payment of debt service on a particular date. The mere availability or preliminary earmarking of amounts for a governmental purpose, however, does not in itself establish a sufficient nexus to cause those amounts to be Replacement Proceeds. Replacement Proceeds include, but are not limited to, amounts held in a sinking fund or a pledged fund. For these purposes, an amount is pledged to pay principal of or interest on an issue if there is reasonable assurance that the amount will be available for such purposes in the event that the issuer encounters financial difficulties.

**Sale Proceeds** shall mean any amounts actually or constructively received by the issuer from the sale of an issue, including amounts used to pay underwriters' discount or compensation and interest other than Pre-Issuance Accrued Interest.

**Tax-Exempt Organization** shall mean an organization described in Section 501(c)(3) of the Code and exempt from tax under Section 501(a) of the Code.

**Test-Period Beneficiary** shall mean any person who is an owner or a principal user of facilities being financed by the issue at any time during the 3-year period beginning on the later of (a) the date such facilities were placed in service, or (b) the date of issue.

**Treasury Regulations** means the Income Tax Regulations issued under the Code and applicable to the Bonds and to the extent applicable, any subsequent amendments to such regulations or any successor regulations.

**Universal Cap** shall mean the value of all then outstanding bonds of the issue.

**Value (of a Bond)** shall mean with respect to a bond issued with not more than two percent original issue discount or original issue premium, the outstanding principal amount, plus accrued unpaid interest; for any other bond, its present value.

**Value (of an Investment)** shall have the following meaning in the following circumstances:

- i. **General Rules.** Subject to the special rules in the following paragraph, an issuer may determine the value of an investment on a date using one of the following valuation methods consistently applied for all purposes relating to arbitrage and rebate with respect to that investment on that date:
  - (I) an investment with not more than two percent original issue discount or original issue premium may be valued at its outstanding stated principal amount, plus accrued unpaid interest;
  - (II) a fixed rate investment may be valued at its present value;
  - (III) an investment may be valued at its fair market value on a date.
  
- ii. **Special Rules.** Yield restricted investments are to be valued at present value provided that (except for purposes of allocating transferred proceeds to an issue, for purposes of the universal cap and for investments in a commingled fund other than a bona fide debt service fund unless it is a certain commingled fund):
  - (I) an investment must be valued at its fair market value when it is first allocated to an issue, when it is disposed of and when it is deemed acquired or deemed disposed of, and provided further that;
  - (II) in the case of transferred proceeds, the value of a nonpurpose investment that is allocated to transferred proceeds of a refunding issue on a transfer date may not exceed the value of that investment on the transfer date used for purposes of applying the arbitrage restrictions to the refunded issue.

## Appendix II

### Rebate Requirement

**(a) Generally.** Section 148(f) of the Code requires that certain earnings on Nonpurpose Investments allocable to the Gross Proceeds of an issue be paid to the United States to prevent the bonds of the issue from being arbitrage bonds. The arbitrage that must be rebated is based on the difference between the amount actually earned on Nonpurpose Investments and the amount that would have been earned if those investments had a yield equal to the yield on the issue. As of any date, the rebate amount for an issue is the excess of the future value, as of that date, of all receipts on Nonpurpose Investments over the future value, as of that date, of all payments on Nonpurpose Investments (the “**Rebate Amount**”). The future value of a payment or receipt at the end of any period is determined using the economic accrual method and equals the value of that payment or receipt when it is paid or received (or treated as paid or received), plus interest assumed to be earned and compounded over the period at a rate equal to the yield on the issue, using the same compounding interval and financial conventions used to compute that yield.

Any amount earned on a “bona fide debt service fund” is not subject to the rebate requirement if the gross earnings on such fund for the bond year is less than \$100,000. An issue with an average annual debt service that is not in excess of \$2,500,000 is treated as satisfying the \$100,000 limitation. In the case of an issue no bond of which is a private activity bond, there is no \$100,000 limitation if the average maturity of the issue (determined in accordance with Code Section 147(b)(2)(A)) is at least 5 years and the bonds are fixed rate bonds.

#### **(b) Computation Dates (Other than the Final Computation Date).**

**(1) Fixed Yield Issues.** For a fixed yield issue, an issuer may treat any date as a Computation Date.

**(2) Variable Yield Issues.** For a variable yield issue, an issuer may treat the last day of any Bond Year that is not later than five years from the Issue Date as a Computation Date and may not change that treatment after the first rebate payment, if any, is due. After the first rebate payment, if any, is due, an issuer must consistently treat either the end of each Bond Year or the end of each fifth Bond Year as Computation Dates and may not change these Computation Dates after the first rebate payment, if any, is due.

**(c) Final Computation Date.** The date that an issue is discharged is the Final Computation Date. For an issue retired within three years of its Issue Date, however, the Final Computation Date need not occur before the end of 8 months after the Issue Date or during the period in which the issuer reasonably expects that any of the spending exceptions to the rebate requirement will apply to the issue.

#### **(d) Amount of Required Rebate.**

**(1) Interim Rebate Payments.** The first rebate installment payment must be made for a Computation Date that is not later than 5 years after the Issue Date. Subsequent rebate installment payments must be made for a Computation Date that is not later than 5 years after the previous Computation Date for which a payment was made. An issuer must rebate an amount that when added to the future value, as of that Computation Date, of previous rebate payments made for the issue, equals at least 90 percent of the Rebate Amount as of that date.

**(2) Final Computation Date.** For the Final Computation Date, a final rebate payment must be paid in an amount that, when added to the future value of previous rebate payments made for the issue, equals 100 percent of the Rebate Amount as of that date.

**(e) Time and Manner of Payment.** Each rebate payment must be paid no later than 60 days after the Computation Date to which the payment relates. Any rebate payment paid within this 60-day period may be treated as paid on the Computation Date to which it relates. Each payment made pursuant to this Appendix II shall be filed with the Internal Revenue Service Center, Ogden, Utah 84201, and shall be accompanied by Form 8038-T.

**(f) Penalty in Lieu of Loss of Tax Exemption.** The failure to pay the correct Rebate Amount when required will cause the bonds of the issue to be arbitrage bonds, unless the Commissioner determines that the failure was not caused by willful neglect and the issuer promptly pays a penalty to the United States. If no bond of the issue is a private activity bond (other than a qualified 501(c)(3) bond), the penalty equals 50 percent of the Rebate Amount not paid when required to be paid, plus interest on that amount. Otherwise, the penalty equals 100 percent of the Rebate Amount not paid when required to be paid, plus interest on that amount. Interest accrues at the underpayment rate under Section 6621 of the Code, beginning on the date the correct Rebate Amount is due and ending on the date 10 days before it is paid. The penalty is automatically waived if the Rebate Amount that the issuer failed to pay plus interest is paid within 180 days after discovery of the failure, unless the Commissioner determines that the failure was due to willful neglect, or the issue is under examination by the Commissioner at any time during the period beginning on the date the failure first occurred and ending on the date 90 days after the receipt of the Rebate Amount. Generally, extensions of this 180-day period and waivers of the penalty in other cases will be granted by the Commissioner only in unusual circumstances.

**(g) Recovery of Overpayment of Rebate.** An issuer may recover an overpayment of a Rebate Amount for an issue of bonds by establishing to the satisfaction of the Commissioner that the overpayment occurred. An overpayment is the excess of the amount paid to the United States for an issue under Section 148 of the Code over the sum of the Rebate Amount for the issue as of the most recent Computation Date and all amounts that are otherwise required to be paid under Section 148 of the Code as of the date the recovery is requested. Notwithstanding the preceding sentence, an overpayment may be recovered only to the extent that a recovery on the date that it is first requested would not result in an additional Rebate Amount if that date were treated as a Computation Date. Furthermore, except for overpayments in certain limited circumstance, an overpayment of less than \$5,000 may not be recovered before the Final Computation Date.

**(h) Recordkeeping Requirement.** An issuer must retain records of the determination of its Rebate Requirement until six years after the retirement of the last obligation of the issue.

## Appendix III

### Allocation and Accounting Rules

(a) **General Rule.** An issuer may use any reasonable, consistently applied accounting method to account for Gross Proceeds, investments and expenditures of an issue. An accounting method is “consistently applied” if it is applied uniformly within a Fiscal Period and between Fiscal Periods to account for Gross Proceeds of an issue and any amounts that are in a commingled fund.

(b) **Allocation of Gross Proceeds to an Issue.** Amounts are allocable to only one issue at a time as Gross Proceeds. Amounts cease to be allocated to an issue as Proceeds only when those amounts (i) are allocated to an expenditure for a governmental purpose; (ii) are allocated to transferred proceeds of another issue of obligations; or (iii) cease to be allocated to that issue at retirement of the issue or under the Universal Cap.

(c) **Allocation of Gross Proceeds to Investments.** Upon the purchase or sale of a Nonpurpose Investment, Gross Proceeds of an issue are not allocated to a payment for that Nonpurpose Investment in an amount greater than, or to a receipt from that Nonpurpose Investment in an amount less than, the fair market value of the Nonpurpose Investment as of the purchase or sale date. The fair market value of a Nonpurpose Investment is adjusted to take into account Qualified Administrative Costs allocable to the investment. Thus, Qualified Administrative Costs increase the payments for, or decrease the receipts from, a Nonpurpose Investment.

(d) **Allocation of Gross Proceeds to Expenditures.** Reasonable accounting methods for allocating funds from different sources to expenditures for the same governmental purpose include a “specific tracing” method, a “gross-proceeds-spent-first” method, a “first-in-first-out” method or a ratable allocation method, so long as the method used is consistently applied. An allocation of Gross Proceeds of an issue to an expenditure must involve a current outlay of cash for a governmental purpose of the issue. A current outlay of cash means an outlay reasonably expected to occur not later than five banking days after the date as of which the allocation of Gross Proceeds to the expenditure is made. The allocation of Gross Proceeds to expenditures must be accounted for not later than 18 months after the later of the date the expenditure is paid or the date the project, if any, that is financed by the issue is placed in service. This allocation must be made, in any event, by the date 60 days after the fifth anniversary of the issue date or the date 60 days after the retirement of the issue, if earlier.

(e) **Commingled Funds.** Any fund or account that contains both Gross Proceeds of an issue and amounts in excess of \$25,000 that are not Gross Proceeds of that issue if the amounts in the fund or account are invested and accounted for collectively, without regard to the source of the funds deposited therein, constitutes a “**commingled fund.**” All payments and receipts (including deemed payments and receipts) on investments held by a commingled fund must be allocated (but not necessarily distributed) among each different source of funds invested in the commingled fund in accordance with a consistently applied, reasonable ratable allocation method. Reasonable ratable allocation methods include, without limitation, methods that allocate payments and receipts in proportion to either (i) the average daily balances of the amounts in the commingled fund from each different source of funds during any consistent time period within its fiscal year, but at least quarterly (the “**Fiscal Period**”); or (ii) the average of the beginning and ending balances of the amounts in the commingled fund from each different source of funds for a Fiscal Period that does not exceed one month.

Funds invested in the commingled fund may be allocated directly to expenditures for governmental purposes pursuant to a reasonable consistently applied accounting method. If a ratable

allocation method is used to allocate expenditures from the commingled fund, the same ratable allocation method must be used to allocate payments and receipts on investments in the commingled fund.

Generally a commingled fund must treat all its investments as if sold at fair market value either on the last day of the fiscal year or on the last day of each Fiscal Period. The net gains or losses from these deemed sales of investments must be allocated to each different source of funds invested in the commingled fund during the period since the last allocation. This mark-to-market requirement does not apply if (i) the remaining weighted average maturity of all investments held by a commingled fund during a particular fiscal year does not exceed 18 months, and the investments held by the commingled fund during that fiscal year consist exclusively of obligations; or (ii) the commingled fund operated exclusively as a reserve fund, sinking fund or replacement fund for two or more issues of the same issuer. Subject to the Universal Cap limitation, and the principle that amounts are allocable to only one issue at a time as Gross Proceeds, investments held by a commingled fund that serves as a common reserve fund, replacement fund or sinking fund must be allocated ratably among the issues served by the commingled fund in proportion to either (i) the relative values of the bonds of those issues; (ii) the relative amounts of the remaining maximum annual debt service requirements on the outstanding principal amounts of those issues; or (iii) the relative original stated principal amounts of the outstanding issues.

**(f) Universal Cap.** Amounts that would otherwise be Gross Proceeds allocable to an issue are allocated (and remain allocated) to the issue only to the extent that the Value of the Nonpurpose Investments allocable to those Gross Proceeds does not exceed the Value of all outstanding bonds of the issue. Nonpurpose Investments allocated to Gross Proceeds in a bona fide debt service fund for an issue are not taken into account in determining the Value of the Nonpurpose Investments, and those Nonpurpose Investments remain allocated to the issue. To the extent that the Value of the Nonpurpose Investments allocable to the Gross Proceeds of an issue exceed the Value of all outstanding bonds of that issue, an issuer should seek the advice of Bond Counsel for the procedures necessary to comply with the Universal Cap.

**(g) Expenditure for Working Capital Purposes.**

**(1)** Subject to certain exceptions, the Proceeds of an issue may only be allocated to “working capital expenditures” as of any date to the extent that those expenditures exceed “available amounts” as of that date (i.e., “proceeds-spent-last”).

**(2)** For purposes of this section, “working capital expenditures” include all expenditures other than “capital expenditures.” “Capital expenditures” are costs of a type properly chargeable (or chargeable upon proper election) to a capital account under general Federal income tax principles. Such costs include, for example, costs incurred to acquire, construct, or improve land, buildings and equipment having a reasonably expected useful life in excess of one year. Thus, working capital expenditures include, among other things, expenditures for current operating expenses and debt service.

**(3)** For purposes of this section, “available amount” means any amount that is available to an issuer for working capital expenditure purposes of the type financed by the issue. Available amount excludes Proceeds of the issue but includes cash, investments and other amounts held in accounts or otherwise by an issuer for working capital expenditures of the type being financed by the issue without legislative or judicial action and without a legislative, judicial, or contractual requirement that those amounts be reimbursed. Notwithstanding the preceding sentence, a “reasonable working capital reserve” is treated as unavailable. A working capital reserve is reasonable if it does not exceed five percent of the actual working capital expenditures of an issuer in the fiscal year before the year in which the determination of available amounts is made. For purpose of the preceding sentence only, in

determining the working capital expenditures of an issuer for a prior fiscal year, any expenditures (whether capital or working capital expenditures) that are paid out of current revenues may be treated as working capital expenditures.

(4) The proceeds-spent-last requirement does not apply to expenditures to pay (i) any qualified administrative costs; (ii) fees for qualified guarantees of the issue or payments for a qualified hedge for the issue; (iii) interest on the issue for a period commencing on the Issue Date and ending on the date that is the later of three years from the Issue Date or one year after the date on which the financed project is placed in service; (iv) the United States for yield reduction payments (including rebate payments) or penalties for the failure to meet the spend down requirements associated with certain spending exceptions to the rebate requirement; (v) costs, other than those described in (i) through (iv) above, that do not exceed five percent of the Sale Proceeds of an issue and that are directly related to capital expenditures financed by the issue (*e.g.*, initial operating expenses for a new capital project); (vi) principal or interest on an issue paid from unexpected excess sale or investment proceeds; (vii) principal or interest on an issue paid from investment earnings on a reserve or replacement fund that are deposited in a bona fide debt service fund; and (viii) principal, interest, or redemption premium on a prior issue and, for a crossover refunding issue, interest on that issue. Notwithstanding the preceding paragraph, the exceptions described above do not apply if the allocation merely substitutes Gross Proceeds for other amounts that would have been used to make those expenditures in a manner that gives rise to Replacement Proceeds.

(h) **Private Use/Unrelated Use.** The allocations of Proceeds and other sources of funds to expenditures under Section 1.148-6(d) of the Treasury Regulations, as described in Section V of the Tax Regulatory Agreement and paragraphs (d) and (g) of this Appendix III, apply for purposes of Sections 1.141-1 through 1.141-15 of the Treasury Regulations. Sections 1.141-1 through 1.141-15 of the Treasury Regulations apply to qualified 501(c)(3) bonds under Section 145(a) of the Code as provided in Section 1.145-2 of the Treasury Regulations. Except to the extent the Project is an Eligible Mixed-use Project (as defined in Appendix IX), if two or more sources of funding (including two or more tax-exempt issues) are allocated to capital expenditures for a project, those sources are allocated throughout that project to the Governmental Use (as defined in Appendix IX) and Private Use/Unrelated Use of the project in proportion to the relative amounts of those sources of funding spent on the project.

## Appendix IV

### Value of Investments

**(a) Fair Market Value.** The fair market value of an investment is the price at which a willing buyer would purchase the investment from a willing seller in a bona fide arm's-length transaction. Fair market value generally is determined on the date on which a contract to purchase or sell the Nonpurpose Investment becomes binding (i.e., the trade date rather than the settlement date). An investment that is not of a type traded on an established securities market, within the meaning of Section 1273 of the Code, is rebuttably presumed to be acquired or disposed of for a price that is not equal to its fair market value. On the purchase date, the fair market value of a United States Treasury obligation that is purchased directly from the United States Treasury, including a State and Local Government Series Security, is its purchase price. The fair market value of State and Local Government Series Security on any other date other than the purchase date is the redemption price for redemption on that date.

**(b) Certificates of Deposit.** A certificate of deposit that has a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal shall be treated as purchased at its fair market value if the yield on the certificate of deposit is not less than (i) the yield on reasonably comparable direct obligations of the United States; and (ii) the highest yield that is published or posted by the provider to be currently available from the provider on reasonably comparable certificates of deposit offered to the public.

**(c) Guaranteed Investment Contracts and Defeasance Escrows.** The purchase price of a guaranteed investment contract and a yield restricted defeasance escrow will be treated as its fair market value if:

- (1) the purchaser makes a bona fide solicitation for the purchase of the investment;
- (2) the purchaser receives at least three bids from providers that the purchaser solicited under the bona fide solicitation for the investment and that have no material financial interest in the Bonds (e.g., a lead underwriter during the period ending 15 days after the issuance of the Bonds, a financial advisor with respect to the investment, or a related person) and at least one of such bids is from a reasonably competitive provider (as defined below);
- (3) if the purchaser uses an agent to conduct the bidding process, the agent did not bid on the investment;
- (4) the winning bid—
  - (i) in the case of a guaranteed investment contract, is the highest yielding bona fide bid (net of broker's fees); and
  - (ii) in the case of a yield restricted defeasance escrow, (A) is the lowest cost bona fide bid (including broker's fees), determined either for the entire portfolio or on an investment-by-investment basis and determined taking into account any payments received by the purchaser from a provider for a guaranteed investment contract for a yield restricted defeasance escrow acquired under these bidding procedures; and (B) has a cost (including any broker's fees) that is not greater than the cost of the most efficient portfolio of State and Local Government Series Securities ("SLGS"), determined at the time that the bids for the investment are required to be

submitted (unless the sale of SLGS has been suspended as of such time, in which case this requirement shall not apply); and

(5) the provider of the guaranteed investment contract certifies the administrative costs that it is paying (or expects to pay) to third parties in connection with the guaranteed investment contract;

**(d) Bona Fide Solicitation.** For purposes of paragraph (c) above, a bona fide solicitation is a solicitation that satisfies each of the following requirements:

(1) the bid specifications are provided, in writing and setting forth all of the material terms of the bid, to potential providers in a timely manner;

(2) the terms of the bid specifications must be commercially reasonable (that is, there must be a legitimate governmental purpose for each of the terms other than to increase the purchase price or reduce the yield) and, for a guaranteed investment contract, must include the purchaser's reasonably expected deposit and drawdown schedule;

(3) all potential providers have an equal opportunity to bid (e.g., no "last looks");

(4) solicitations are made of at least three reasonably competitive providers (defined as providers having an established industry reputation as a competitive provider of the type of investment being purchased); and

(5) the specifications include a statement notifying potential providers that the submission of a bid is a representation that the provider did not consult with any other provider about its bid, that the bid was determined without regard to any other agreement that the provider has with the purchaser or any other person, and that the bid is not being submitted solely as a courtesy to the purchaser or any other person for purposes of satisfying the requirements of paragraph (c) or (d) of this section 3.

The issuer shall maintain records adequate to determine the fair market value of the investments described above. With respect to a guaranteed investment contract or a yield restricted defeasance escrow the issuer shall maintain:

- (i) a copy of the investment contract, purchase agreement, or confirmation,
- (ii) the receipt or other record of the amount actually paid for the investments, including records of any administrative costs paid by the purchaser and the certification of the investment provider of the administrative costs paid to third parties in connection with the investment,
- (iii) for each bid submitted, the name of the person and entity bidding, the term and date of the bid, and the bid results,
- (iv) the bid solicitation form and an explanation of any deviations in the terms of the investment from the solicitation form, and
- (v) for a yield restricted defeasance escrow, the cost of the most efficient portfolio of SLGS (as defined below), determined at the time that the

bids were required to be submitted under the terms of the bid specifications.

The issuer shall retain records of the determinations required until six years after the Final Computation Date or for such other period as the U.S. Treasury may, by Treasury Regulations or rulings, provide.

## Appendix V

### Spending Exceptions to Rebate

(a) **Generally.** All, or certain discrete portions, of an issue are treated as meeting the Rebate Requirement if one or more of the spending exceptions set forth in this Appendix are satisfied. Use of the spending exceptions is not mandatory, except that where an issuer elects to apply the 1-1/2 percent penalty (as described below) the issuer must apply that penalty to the Construction Issue. An issuer may apply the Rebate Requirement to an issue that otherwise satisfies a spending exception. Special definitions relating to the spending exceptions are contained in section (h) of this Appendix.

Where several obligations that otherwise constitute a single issue are used to finance two or more separate governmental purposes, the issue constitutes a “multipurpose issue” and the bonds, as well as their respective proceeds, allocated to each separate purpose may be treated as separate issues for purposes of the spending exceptions. In allocating an issue among its several separate governmental purposes, “common costs” are generally not treated as separate governmental purposes and must be allocated ratably among the discrete separate purposes unless some other allocation method more accurately reflects the extent to which any particular separate discrete purpose enjoys the economic benefit (or bears the economic burden) of the certain common costs (e.g., a newly funded reserve for a parity issue that is partially new money and partially a refunding for savings on prior bonds).

Separate purposes include refunding a separate prior issue, financing a separate Purpose Investment (e.g., a separate loan), financing a Construction Issue, and any clearly discrete governmental purpose reasonably expected to be financed by the issue. In addition, as a general rule, all integrated or functionally related capital projects qualifying for the same initial temporary period (e.g., three years) are treated as having a single governmental purpose. Finally, separate purposes may be combined and treated as a single purpose if the proceeds are eligible for the same initial temporary period (e.g., advance refundings of several separate prior issues could be combined, or several non-integrated and functionally unrelated capital projects such as airport runway improvements and a water distribution system).

The spending exceptions described in this Appendix are applied separately to each separate issue component of a multipurpose issue unless otherwise specifically provided.

(b) **Six-Month Exception.** An issue is treated as meeting the Rebate Requirement under this exception if (i) the gross proceeds of the issue are allocated to expenditures for the governmental purposes of the issue within the six-month period beginning on the issue date (the “**six-month spending period**”) and (ii) the Rebate Requirement is met for amounts not required to be spent within the six-month spending period (excluding earnings on a bona fide debt service fund). For purposes of the six-month exception, “gross proceeds” means Gross Proceeds other than amounts (i) in a bona fide debt service fund, (ii) in a reasonably required reserve or replacement fund, (iii) that, as of the issue date, are not reasonably expected to be Gross Proceeds but that become Gross Proceeds after the end of the six-month spending period, (iv) that represent Sale Proceeds or Investment Proceeds derived from payments under any Purpose Investment of the issue and (v) that represent repayments of grants (as defined in Treasury Regulation Section 1.148-6(d)(4)) financed by the issue. In the case of an issue no bond of which is a private activity bond (other than a qualified 501(c)(3) bond) or a tax or revenue anticipation bond, the six-month spending period is extended for an additional six months for the portion of the proceeds of the issue which are not expended within the six-month spending period if such portion does not exceed the lesser of five percent of the Proceeds of the issue or \$100,000.

(c) **18-Month Exception.** An issue is treated as meeting the Rebate Requirement under this exception if all of the following requirements are satisfied:

- (i) the gross proceeds are allocated to expenditures for a governmental purpose of the issue in accordance with the following schedule (the “**18-month expenditure schedule**”) measured from the issue date: (A) at least 15 percent within six months, (B) at least 60 percent within 12 months and (C) 100 percent within 18 months;
- (ii) the Rebate Requirement is met for all amounts not required to be spent in accordance with the 18-month expenditure schedule (other than earnings on a bona fide debt service fund); and
- (iii) all of the gross proceeds of the issue qualify for the initial temporary period under Treasury Regulation Section 1.148-2(e)(2).

For purposes of the 18-month exception, “gross proceeds” means Gross Proceeds other than amounts (i) in a bona fide debt service fund, (ii) in a reasonably required reserve or replacement fund, (iii) that, as of the issue date, are not reasonably expected to be Gross Proceeds but that become Gross Proceeds after the end of the 18-month expenditure schedule, (iv) that represent Sale Proceeds or Investment Proceeds derived from payments under any Purpose Investment of the issue and (v) that represent repayments of grants (as defined in Treasury Regulation Section 1.148-6(d)(4)) financed by the issue. In addition, for purposes of determining compliance with the first two spending periods, the investment proceeds included in gross proceeds are based on the issuer’s reasonable expectations as of the issue date rather than the actual Investment Proceeds; for the third, final period, actual Investment Proceeds earned to date are used in place of the reasonably expected earnings. An issue does not fail to satisfy the spending requirement for the third spending period above as a result of a Reasonable Retainage if the Reasonable Retainage is allocated to expenditures within 30 months of the issue date. The 18-month exception does not apply to an issue any portion of which is treated as meeting the Rebate Requirement as a result of satisfying the two-year exception.

**(d) Two-Year Exception.** A Construction Issue is treated as meeting the Rebate Requirement for Available Construction Proceeds under this exception if those proceeds are allocated to expenditures for governmental purposes of the issue in accordance with the following schedule (the “**two-year expenditure schedule**”), measured from the issue date:

- (i) at least 10 percent within six months;
- (ii) at least 45 percent within one year;
- (iii) at least 75 percent within 18 months; and
- (iv) 100 percent within two years.

An issue does not fail to satisfy the spending requirement for the fourth spending period above as a result of unspent amounts for Reasonable Retainage if those amounts are allocated to expenditures within three years of the issue date.

**(e) Expenditures for Governmental Purposes of the Issue.** For purposes of the spending exceptions, expenditures for the governmental purposes of an issue include payments for interest, but not principal, on the issue, and for principal or interest on another issue of obligations. The preceding sentence does not apply for purposes of the 18-month and two-year exceptions if those payments cause the issue to be a refunding issue.

(f) **De Minimis Rule.** Any failure to satisfy the final spending requirement of the 18-month exception or the two-year exception is disregarded if the issuer exercises due diligence to complete the project financed and the amount of the failure does not exceed the lesser of three percent of the issue price of the issue or \$250,000.

(g) **Elections Applicable to the Two-Year Exception.** An issuer may make one or more of the following elections with respect to the two-year spending exception:

- (1) **Earnings on Reasonably Required Reserve or Replacement Fund.** An issuer may elect on or before the issue date to exclude from Available Construction Proceeds the earnings on any reasonably required reserve or replacement fund. If the election is made, the Rebate Requirement applies to the excluded amounts from the issue date.
- (2) **Actual Facts.** For the provisions relating to the two-year exception that apply based on the issuer's reasonable expectations, an issuer may elect on or before the issue date to apply all of those provisions based on actual facts. This election does not apply for purposes of determining whether an issue is a Construction Issue if the 1-1/2 percent penalty in lieu of rebate election described in subsection (g)(4) of this Appendix is made.
- (3) **Separate Issue.** For purposes of the two-year exception, if any proceeds of an issue are to be used for Construction Expenditures, the issuer may elect on or before the issue date to treat the portion of the issue that is not a refunding issue as two, and only two, separate issues, if (i) one of the separate issues is a Construction Issue, (ii) the issuer reasonably expects, as of the issue date, that such Construction Issue will finance all of the Construction Expenditures to be financed by the issue and (iii) the issuer makes an election to apportion the issue in which it identifies the amount of the issue price of the issue allocable to the Construction Issue.
- (4) **Penalty in Lieu of Rebate.** An issuer of a Construction Issue may irrevocably elect on or before the issue date to pay a penalty (the "**1-1/2 percent penalty**") to the United States in lieu of the obligation to pay the Rebate Amount on Available Construction Proceeds upon failure to satisfy the spending requirements of the two-year expenditure schedule. The 1-1/2 percent penalty is calculated separately for each spending period, including each semiannual period after the end of the fourth spending period, and is equal to 1.5 percent times the underexpended proceeds as of the end of the spending period. For each spending period, underexpended proceeds equal the amount of Available Construction Proceeds required to be spent by the end of the spending period, less the amount actually allocated to expenditures for the governmental purposes of the issue by that date. The 1-1/2 percent penalty must be paid to the United States no later than 90 days after the end of the spending period to which it relates. The 1-1/2 percent penalty continues to apply at the end of each spending period and each semiannual period thereafter until the earliest of the following: (i) the termination of the penalty under Treasury Regulation Section 1.148-7(l), (ii) the expenditure of all of the Available Construction Proceeds or (iii) the last stated final maturity date of bonds that are part of the issue and any bonds that refund those bonds. If an issue meets the exception for Reasonable Retainage except

that all retainage is not spent within three years of the issue date, the issuer must pay the 1-1/2 percent penalty to the United States for any Reasonable Retainage that was not so spent as of the close of the three-year period and each later spending period.

**(h) Special Definitions Relating to Spending Exceptions.**

- (1) Available Construction Proceeds** shall mean, with respect to an issue, the amount equal to the sum of the issue price of the issue, earnings on such issue price, earnings on amounts in any reasonably required reserve or replacement fund not funded from the issue (subject to the election referred to in section (g)(1) of this Appendix) and earnings on all of the foregoing earnings, less the amount of such issue price in any reasonably required reserve or replacement fund and less the issuance costs financed by the issue. For purposes of this definition, earnings include earnings on any tax-exempt bond. Unless the issuer otherwise elects as described in Section (g)(2) of this Appendix, for the first three spending periods of the two-year expenditure schedule described in Treasury Regulation Section 1.148-7(e), Available Construction Proceeds include the amount of future earnings that the issuer reasonably expected as of the issue date. For the fourth spending period described in Treasury Regulation Section 1.148-7(e) and any subsequent date, as of which computations are made, Available Construction Proceeds include the actual earnings received to that date and earnings expected as of that date to be earned in the future. Earnings on any reasonably required reserve or replacement fund are Available Construction Proceeds only if the issuer did not elect to exclude such earnings pursuant to the election described in paragraph (g)(1) of this Appendix and only to the extent that those earnings accrue before the earlier of (i) the date construction is substantially completed or (ii) the date that is two years after the issue date. For this purpose, construction may be treated as substantially completed when the issuer abandons construction or when at least 90 percent of the total costs of the construction that the issuer reasonably expects as of such date will be financed with proceeds of the issue have been allocated to expenditures. If only a portion of the construction is abandoned, the date of substantial completion is the date that the non-abandoned portion of the construction is substantially completed.
- (2) Construction Expenditures** shall mean capital expenditures (as defined in Treasury Regulation Section 1.150-1) that are allocable to the cost of Real Property or Constructed Personal Property. Construction Expenditures do not include expenditures for acquisitions of interests in land or other existing Real Property.
- (3) Construction Issue** shall mean any issue that is not a refunding issue if (i) the issuer reasonably expects, as of the issue date, that at least 75 percent of the Available Construction Proceeds of the issue will be allocated to Construction Expenditures for property owned by a governmental unit or a 501(c)(3) organization and (ii) any private activity bonds that are part of the issue are qualified 501(c)(3) bonds or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization.

- (4) **Constructed Personal Property** shall mean Tangible Personal Property or Specially Developed Computer Software if (i) a substantial portion of the property is completed more than six months after the earlier of the date construction or rehabilitation commenced and the date the issuer entered into an acquisition contract; (ii) based on the reasonable expectations of the issuer, if any, or representations of the person constructing the property, with the exercise of due diligence, completion of construction or rehabilitation (and delivery to the issuer) could not have occurred within that six-month period; and (iii) if the issuer itself builds or rehabilitates the property, not more than 75 percent of the capitalizable cost is attributable to property acquired by the issuer.
- (5) **Real Property** shall mean land and improvements to land, such as buildings or other inherently permanent structures, including interests in real property. For example, Real Property includes wiring in a building, plumbing systems, central heating or air-conditioning systems, pipes or ducts, elevators, escalators installed in a building, paved parking areas, roads, wharves and docks, bridges, and sewage lines.
- (6) **Reasonable Retainage** shall mean an amount, not to exceed five percent of (i) Available Construction Proceeds as of the end of the two-year expenditure schedule (in the case of the two-year exception to the Rebate Requirement) or (ii) Net Sale Proceeds as of the end of the 18-month expenditure schedule (in the case of the 18-month exception to the Rebate Requirement), that is retained for reasonable business purposes relating to the property financed with the issue. For example, a Reasonable Retainage may include a retention to ensure or promote compliance with a construction contract in circumstances in which the retained amount is not yet payable, or in which the issuer reasonably determines that a dispute exists regarding completion or payment.
- (7) **Specially Developed Computer Software** shall mean any programs or routines used to cause a computer to perform a desired task or set of tasks, and the documentation required to describe and maintain those programs, provided that the software is specially developed and is functionally related and subordinate to Real Property or other Constructed Personal Property.
- (8) **Tangible Personal Property** shall mean any tangible property other than Real Property, including interests in tangible personal property. For example, Tangible Personal Property includes machinery that is not a structural component of a building, subway cars, fire trucks, automobiles, office equipment, testing equipment, and furnishings.
- (i) **Special Rules Relating to Refundings.**
- (1) **Transferred Proceeds.** In the event that a prior issue that might otherwise qualify for one of the spending exceptions is refunded, then for purposes of applying the spending exceptions to the prior issue, proceeds of the prior issue that become transferred proceeds of the refunding issue continue to be treated as unspent proceeds of the prior issue; if such unspent proceeds satisfy the requirements of one of the spending exceptions then they are not subject to rebate either as proceeds of the prior issue or of the refunding issue. Generally, the only

spending exception applicable to refunding issues is the six-month exception. In applying the six-month exception to a refunding of a prior issue, only transferred proceeds of the refunding issue from a taxable prior issue and other amounts excluded from the definition of gross proceeds of the prior issue under the special definition of gross proceeds contained in section (b) above are treated as gross proceeds of the refunding issue and so are subject to the six-month exception applicable to the refunding issue.

- (2) **Series of Refundings.** In the event that an issuer undertakes a series of refundings for a principal purpose of exploiting the difference between taxable and tax-exempt interest rates, the six-month spending exception is measured for all issues in the series commencing on the date the first bond of the series is issued.

(j) **Elections Applicable to Pool Bonds.** An issuer of a pooled financing issue can elect to apply the spending exceptions separately to each loan from the date such loan is made or, if earlier, on the date one year after the date the pool bonds are issued. In the event this election is made, no spending exceptions are available and the normal Rebate Requirement applies to Gross Proceeds prior to the date on which the applicable spending periods begin. In the event this election is made, the issuer may also elect to make all elections applicable to the two-year spending exception, described in section (g) above, separately for each loan; any such elections that must ordinarily be made prior to the issue date must then be made by the issuer before the earlier of the date the loan is made or one year after the issue date.

(k) **Exclusion for Bona Fide Debt Service Fund Earnings.** If the two-year construction issue exception is met, the rebate requirement does not apply to earnings on a bona fide debt service fund.

## Appendix VI

### Transferred Proceeds

(a) **Operating Rule for Separating a Prior Issue into its Refunded and Unrefunded Portions.** An issue of obligations, any portion of which is to be refunded (the “**Prior Issue**”) by another issue (a “**Refunding Issue**”), may be separated into two pieces - the refunded piece of the Prior Issue (the “**Refunded Issue**”) and the unrefunded piece of the Prior Issue (the “**Unrefunded Issue**”). To the extent that the Prior Issue is so separated, the Refunded Issue and Unrefunded Issue are treated as separate issues. The Refunded Issue is based on a fraction (i) the numerator of which is the principal amount of the Prior Issue to be paid with proceeds of the Refunding Issue and (ii) the denominator of which is the outstanding principal amount of the Prior Issue, each determined as of the issue date of the Refunding Issue. To the extent that a Prior Issue is partially refunded, the unspent proceeds of that Prior Issue are allocated ratably, as of the issue date of the Refunding Issue, between the Refunded Issue and the Unrefunded Issue and the investments allocable to those unspent proceeds are allocated in the manner required for the allocation of investments to Transferred Proceeds discussed in paragraph (c) below.

(b) **In General.** On each date that Proceeds of a Refunding Issue discharge any of the outstanding principal amount of a Prior Issue (a “**Transfer Date**”), proceeds of the Prior Issue which are unexpended on such date may become transferred proceeds of the Refunding Issue (“**Transferred Proceeds**”) and cease to be proceeds of the Prior Issue. On a Transfer Date, subject to paragraph (c) below, the amount of unspent proceeds of the Prior Issue that become Transferred Proceeds of the Refunding Issue is an amount equal to the total unspent proceeds of the Prior Issue on the Transfer Date multiplied by a fraction - (i) the numerator of which is the principal amount of the Prior Issue being discharged with proceeds of the Refunding Issue on the Transfer Date; and (ii) the denominator of which is the total outstanding principal amount of the Prior Issue on the date immediately before the Transfer Date. For purpose of this section, “**principal amount**” means, in reference to a Plain Par Bond, its stated principal amount, and in reference to any other bond, its present value.

(c) **Allocation.** Investments of proceeds of the Prior Issue are allocated to the Transferred Proceeds by consistent application of either the ratable allocation method or the representative allocation method (except that proceeds of a Prior Issue that are held in a refunding escrow for another issue are allocated to Transferred Proceeds under the ratable allocation method). Under the ratable allocation method, a ratable portion of each investment of proceeds of the Prior Issue is allocated to Transferred Proceeds. Under the representative allocation method, representative portions of the portfolio of investments of proceeds of the Prior Issue are allocated to the Transferred Proceeds. Whether a portion is representative is based on all the facts and circumstances, including, without limitation, whether the current yields, maturities and current unrealized gains and losses on the particular allocated investments are reasonably comparable to those of the unallocated investments in the aggregate. In addition, if a portion of Nonpurpose Investments is otherwise representative, it is within the issuer’s discretion to allocate the portion from whichever source of funds it deems appropriate.

(d) **Reallocation.** To the extent that the Value of the Nonpurpose Investments of the Proceeds of the Refunding Issue exceeds the Value of all outstanding bonds that are a part of the Refunding Issue on a Transfer Date, such excess is reallocated back to the issue from which it transferred on that same date to the extent of the unused Universal Cap on that Prior Issue. If the value of all Nonpurpose Investments allocated to the Gross proceeds of an issue exceeds the Universal Cap on any Universal Cap computation date, Nonpurpose Investments allocable to Gross Proceeds necessary to eliminate that excess cease to be allocated to the issue in the following order of priority: (A) Nonpurpose Investments allocable to Replacement Proceeds; (B) Nonpurpose Investments allocable to Transferred Proceeds; and (C) Nonpurpose Investments

allocable to Sale Proceeds and Investment Proceeds. The Value of Nonpurpose Investments and the Value of outstanding bonds shall be determined as provided in the Appendix entitled "General Definitions".

(e) **Application.** On the Transfer Date, the issuer shall value all Investment Property in which unspent proceeds of the Prior Issue are then invested, shall compute the amounts and sources of Transferred Proceeds, and shall comply with all applicable arbitrage yield restrictions and rebate requirements thereafter applicable to such amounts. To the extent that Nonpurpose Investments cease to be allocated to the Refunding Issue, other Nonpurpose Investments are so allocated, to the extent of the unused Universal Cap.

The issuer shall maintain records adequate to determine the fair market value of the investments described above.

## Appendix VII

### De Minimis Private Use Exceptions

(1) **Long-term arrangements not treated as general public use.** An arrangement is not treated as general public use if the term of the use under the arrangement, including all renewal options, is greater than 200 days. For this purpose, a right of first refusal to renew use under the arrangement is not treated as a renewal option if-

(a) the compensation for the use under the arrangement is redetermined at generally applicable, fair market value rates that are in effect at the time of renewal; and

(b) the use of the financed property under the same or similar arrangements is predominantly by natural persons who are not engaged in a trade or business.

(2) **Arrangements not available for use on the same basis by natural persons not engaged in a trade or business.** Use by a nongovernmental person pursuant to an arrangement, other than an arrangement resulting in ownership of financed property by a nongovernmental person, is not private business use if-

(a) the term of the use under the arrangement, including all renewal options, is not longer than 100 days;

(b) the arrangement would be treated as general public use, except that it is not available for use on the same basis by natural persons not engaged in a trade or business because generally applicable and uniformly applied rates are not reasonably available to natural persons not engaged in a trade or business; and

(c) the property is not financed for a principal purpose of providing that property for use by that nongovernmental person.

(3) **Negotiated arm's-length arrangements.** Use by a nongovernmental person pursuant to an arrangement, other than an arrangement resulting in ownership of financed property by a nongovernmental person, is not private business use if-

(a) the term of the use under the arrangement, including all renewal options, is not longer than 50 days;

(b) the arrangement is a negotiated arm's-length arrangement, and compensation under the arrangement is at fair market value; and

(c) the property is not financed for a principal purpose of providing that property for use by that nongovernmental person.

(4) **Incidental use.** Incidental uses of a financed facility (e.g. pay telephones, vending machines, advertising displays and use for television cameras) are disregarded, to the extent that those uses do not exceed 2.5 percent of the proceeds of the issue used to finance the facility. A use of a facility by a nongovernmental person is incidental if-

(a) except for vending machines, pay telephones, kiosks, and similar uses, the use does not involve the transfer to the nongovernmental person of possession and control of space that is separated

from other areas of the facility by walls, partitions, or other physical barriers, such as a night gate affixed to a structural component of a building (a nonpossessory use);

(b) the nonpossessory use is not functionally related to any other use of the facility by the same person (other than a different nonpossessory use); and

(c) all nonpossessory uses of the facility do not, in the aggregate, involve the use of more than 2.5 percent of the facility.

(5) **Qualified improvements.** Proceeds that provide a governmental owned improvement to a governmentally owned building (including its structural components and land functionally related and subordinate to the building) are not used for a private business use if-

(a) the building was placed in service more than 1 year before the construction or acquisition of the improvement is begun;

(b) the improvement is not an enlargement of the building or an improvement of interior space occupied exclusively for any private business use;

(c) no portion of the improved building or any payments in respect of the improved building are taken into account under section 141(b)(2)(A) (the private security test); and

(d) no more than 15 percent of the improved building is used for a private business use.

## Appendix VIII

### Contract Guidelines

**New guidelines.** Below are management contract guidelines under Revenue Procedure 2017-13, which generally modifies and supersedes previously issued guidelines under Revenue Procedure 2016-44 and Revenue Procedure 97-13 (as modified by Revenue Procedure 2001-39 and as amplified by Section 3.02 of Notice 2014-67). For purposes of this Appendix, "Governmental User" means a Governmental Unit or in the case of a qualified 501(c)(3) bond issue, a Governmental Unit or Tax-Exempt Organization.

Revenue Procedure 2017-13 states that the following contracts with non-exempt persons will not result in private business use.

**1.** Contracts for services that provide for any type of compensation if the compensation is reasonable and if the following requirements are satisfied:

**(a)** The term of the contract (including renewal options) does not exceed the lesser of 80 percent of the weighted average reasonably expected economic life of the facility and 30 years. Land is considered as having a useful life of 30 years if 25% or more of the proceeds of the issue was spent on such land.

**(b)** The compensation for the services is not based in any part on the net profits from the operation of the facility and the non-exempt person does not bear the burden of any share of net losses from the operation of the facility. Compensation can take the form of capitation fees, periodic fixed fees and per unit fees. The payment of these fees (and certain incentive fees) will not be treated as providing a share of net profits, or requiring the service provider to bear a share of net losses, without regard to whether the service provider pays expenses with respect to the operation of the managed property that are not reimbursed by the Governmental User. The payment of deferred compensation to the manager or service provider as a result of insufficient net cash flows from the operation of the managed property will not cause the compensation to be contingent upon net profits or net losses if the contract includes the following requirements: (1) the compensation is payable at least annually, (2) the Governmental User is subject to reasonable consequences for late payment (such as reasonable interest charges or late payment fees), and (3) the Governmental User will pay such deferred compensation (with interest or late fees) no later than the end of five years after the original due date of the payment.

**(c)** The Governmental User exercises a significant degree of control over the use of the facility. This requirement is satisfied if the contract requires the Governmental User to approve each of the following regarding the facility: (1) the annual budget, (2) capital expenditures, (3) each disposition of property, (4) rates charged for use of the facility, and (5) the general nature and type of use of the facility (e.g., the type of services provided). A Governmental User may satisfy the approval of rates requirement by approving a reasonable general description of the method used to set the rates (such as a method that establishes hotel room rates using specified revenue goals based on comparable properties) or by requiring that the manager or service provider charge rates that are reasonable and customary as specifically determined by, or negotiated with, an independent third party (such as a medical insurance company).

**(d)** The Governmental User bears the risk of loss from damage or destruction of the facility (e.g., force majeure). This requirement is satisfied if the Governmental User insures the facility through a third party or imposes a penalty on the non-exempt person for failing to operate the facility according to specified standards.

(e) The non-exempt person agrees that it is not entitled to and will not take any inconsistent tax position with being a service provider to the Governmental User with respect to the facility.

(f) The non-exempt person does not have any role or relationship with the Governmental User that, in effect, substantially limits the Governmental User's ability to exercise its rights under the contract, based on all the facts and circumstances. The non-exempt person will not have the relationship described above if: (1) no more than 20 percent of the voting power of the governing body of the Governmental User in the aggregate is vested in the directors, officers, shareholders, partners, members, and employees of the non-exempt person; (2) the governing body of the Governmental User does not include the chief executive officer of the non-exempt person or the chair of its governing board; and (3) the chief executive officer of the non-exempt person is not the chief executive officer of the Governmental User or any party that is related to the Governmental User.

If the above requirements are satisfied, any use functionally related and subordinate to the performance of the non-exempt person's services under the contract will not result in private business use.

2. Contracts for services that are "eligible expense reimbursement arrangements" under which the only compensation consists of the reimbursement of: (a) actual and direct expenses paid by the non-exempt person to unrelated parties, and (b) reasonable related administrative overhead expenses of the non-exempt person. A service provider's employees are treated as related parties for purposes of this rule.

**Contracts entered into before August 18, 2017.** Governmental Users may still rely on the safe harbor provisions of Revenue Procedure 97-13 (as modified by Revenue Procedure 2001-39 and as amplified by Section 3.02 of Notice 2014-67) to contracts entered into before August 18, 2017 if the contracts are not materially modified or extended on or after August 18, 2017 (other than pursuant to a renewal option). These safe harbor provisions are summarized below.

1. For contracts for services of non-exempt persons in which all compensation is based on a percentage of fees charged or a combination of a per-unit fee and a percentage of revenue or expense fee for service rendered by the non-exempt person:

(a) the term of the contract (including renewal options) may not exceed two years;

(b) the contract is cancelable by the Governmental User without cause or penalty by giving the non-exempt person reasonable (30 days) notice at the end of the first year of the contract term;

(c) the compensation, which must be reasonable, may not be based on a percentage of the net profits from the operation of the facility; during the start-up period of the facility, however, compensation may be based on a percentage of either gross revenues, adjusted gross revenues (gross revenues less allowances for bad debts and contractual and similar allowances) or expenses of the facility; and

(d) the services provided pursuant to the contract are primarily to third parties and not to the Governmental User (e.g., operation of a parking garage) or the contract term covers the initial start-up period of the facility for which there have been insufficient operations to establish a reasonable estimate of the amount of annual gross revenues and expenses (e.g., a contract for general management services for the first year of operation).

2. For contracts for services of non-exempt persons in which at least 80 percent of the compensation for services for each annual period during the term of the contract is based on a periodic fixed fee (e.g., a stated dollar amount of compensation is paid each month):

(a) the term of the contract, including all renewal options, must not exceed the lesser of 80 percent of the reasonably expected useful life of the financed property and 10 years.

(b) the compensation, which must be reasonable, may not be based on any percentage of the net profits of the facility; however, it may be increased automatically if the increase does not exceed the percentage increases determined by a specified objective, external standard for computing such increase (e.g., the Consumer Price Index or similar external indices that track prices in an area or increases in revenues or costs in an industry). A fee does not fail to qualify as a periodic fixed fee as a result of a one-time incentive award during the term of the contract under which compensation automatically increases when a gross revenue or expense target (but not both) is reached if that award is equal to a single, stated dollar amount.

3. For contracts for services of non-exempt persons in which at least 95 percent of the compensation for services for each annual period during the term of the contract is based on a periodic fixed fee:

(a) the term of the contract, including all renewal options, must not exceed the lesser of 80 percent of the reasonably expected useful life of the financed property and 15 years.

(b) the compensation, which must be reasonable, may not be based on any percentage of the net profits of the facility; however, it may be increased automatically if the increase does not exceed the percentage increases determined by a specified objective, external standard for computing such increase (e.g., the Consumer Price Index or similar external indices that track prices in an area or increases in revenues or costs in an industry). A fee does not fail to qualify as a periodic fixed fee as a result of a one-time incentive award during the term of the contract under which compensation automatically increases when a gross revenue or expense target (but not both) is reached if that award is equal to a single, stated dollar amount.

4. For contracts for services of non-exempt persons in which at least 50 percent of the compensation for services for each annual period during the term of the contract is based on a periodic fixed fee and no amount of compensation is based on a capitation fee (fixed amount paid per person served where service provided varies significantly among persons served) or a per-unit fee (stated dollar amount paid for each service provided) or any combination thereof:

(a) the term of the contract (including renewal options) may not exceed five years;

(b) the contract is cancelable by the Governmental User without cause or penalty upon reasonable notice at the end of the third year of the contract term; and

(c) the compensation, which must be reasonable, may not be based on any percentage of the net profits of the facility; however, it may be increased automatically if the increase does not exceed the percentage increases determined by a specified objective, external standard for computing such increase (e.g., the Consumer Price Index or similar external indices that track prices in an area or increases in revenues or costs in an industry).

5. For contracts for services of non-exempt persons in which all of the compensation is based on a capitation fee or a combination of capitation fee and a periodic fixed fee:

(a) Compensation for the services must be reasonable and cannot be based in any part on the net profits of the facility; and

(b) the term of the contract (including renewal options) may not exceed five years and the contract must be cancelable by the Governmental User, upon reasonable notice, without cause or penalty at the end of the third year of the contract term.

6. For contracts for services of non-exempt persons in which all of the compensation is based upon a per-unit fee or a combination of a per-unit fee and a periodic fixed fee:

(a) The term of the contract (including renewal options) may not exceed three years and the Governmental User must have the option, upon reasonable notice, to cancel the contract without cause or penalty at the end of the second year of the contract term;

(b) No amount of compensation to the non-exempt person is based on a share of net profits; and

(c) The amount of the per-unit fee must be specified in the contract or otherwise specifically limited by the Governmental User or an independent third party.

7. For contracts for services of non-exempt persons in which all of the compensation is based on a stated amount, periodic fixed fee, a capitation fee, a per-unit fee, or a combination of the preceding, or include a percentage of gross revenues, adjusted gross revenues or expenses of the facility (but not both revenues and expenses):

(a) the term of the contract (including all renewal options) may not exceed five years;

(b) the contract need not be terminable by the Governmental User prior to the end of the term;

(c) the compensation, which must be reasonable, may not be based on any percentage of the net profits of the facility; and

(d) a tiered productivity award (i.e., a tiered system of stated dollar amounts or periodic fixed fees based on the level of performance achieved with respect to an applicable measure of the quality of services provided under the contract) will be treated as a stated amount or a periodic fixed fee, as appropriate.

8. The non-exempt person must not have the ability to limit the Governmental User's exercise of its rights under the contract. In particular, not more than 20 percent of the voting power of the governing body of the Governmental User may be exercisable in the aggregate by the non-exempt person and its respective directors, officers, shareholders and employees. In addition, no member of the governing board of the Governmental User may be the chief executive officer of the non-exempt person or its governing body and vice versa. Finally, the Governmental User and the non-exempt person must not be members of the same controlled group, as defined in Section 1.150-1(f) of the Treasury Department Regulations, or related persons, as defined in Section 144(a)(3) of the Code.

## Appendix IX

### Eligible Mixed-Use Projects

**(a) Allocation Rules.** As more fully described in Section 1.141-6 of the Treasury Regulations, the sources of funding allocated to capital expenditures for an Eligible Mixed-use Project are allocated to undivided portions of the Eligible Mixed-use Project and the Governmental Use and Private Use/Unrelated Use of the Eligible Mixed-use Project in accordance with this paragraph. Qualified Equity is allocated first to the Private Use/Unrelated Use of the Eligible Mixed-use Project and then to Governmental use, and Proceeds are allocated first to the Governmental use and then to Private Use/Unrelated Use, using the percentages of the Eligible Mixed-use Project financed with the respective sources and the percentages of the respective uses. Thus, if the percentage of the Eligible Mixed-use Project financed with Qualified Equity is less than the percentage of Private Use/Unrelated Use of the Project, all of the Qualified Equity is allocated to the Private Use/Unrelated Use. Proceeds are allocated to the balance of the Private Use/Unrelated Use of the Project. Similarly, if the percentage of the Eligible Mixed-Use Project financed with Proceeds is less than the percentage of Governmental Use of the Project, all of the Proceeds are allocated to the Governmental Use, and Qualified Equity is allocated to the balance of the Governmental Use of the Project. Further, if Proceeds of more than one issue finance the Eligible Mixed-use Project, Proceeds of each issue are allocated ratably to the uses to which Proceeds are allocated in proportion to the relative amounts of the Proceeds of such issues allocated to the Eligible Mixed-use Project. For Private Use/Unrelated Use measured under Section 1.141-3(g) of the Treasury Regulations, Qualified Equity and Proceeds are allocated to the uses of the Eligible Mixed-use Project in each one-year period under Section 1.141-3(g)(4) of the Treasury Regulations.

**(b) Timing.**

**(1) General.** Except as otherwise provided in the Tax Certificate, the Issuer and the Borrower shall determine the Project, the Eligible Mixed-use Project and the Qualified Equity not later than the earliest of (i) 18 months after the later of (a) the date the expenditure is paid or (b) the date the Project, if any, that is financed by the issue is placed in service, or (ii) by the date 60 days after the fifth anniversary of the issue date or the date 60 days after the retirement of the issue, if earlier, unless the Issuer and the Borrower receive an opinion of Bond Counsel that the use of a later date will not adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes.

**(2) Qualified Equity and Same Plan of Financing.** Except as otherwise provided in the Tax Certificate, Qualified Equity finances a Project under the same plan of financing that includes the Applicable Bonds if the Qualified Equity pays for Capital Expenditures of the Project on a date that is no earlier than a date on which such expenditures would be eligible for reimbursement by Proceeds of the Applicable Bonds under Section 1.150-2(d)(2) of the Treasury Regulations (regardless of whether the Applicable Bonds are reimbursement bonds) and, except for a reasonable retainage (within the meaning of Section 1.148-7(h) of the Treasury Regulations), no later than the date on which the measurement period begins. The Issuer and the Borrower may use different beginning and ending dates for treating amounts as Qualified Equity if the Issuer and the Borrower receive an opinion of Bond Counsel that the use of such other dates will not adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes.

**(c) Allocations of Proceeds to common costs.** Proceeds used for expenditures for common costs (for example, issuance costs, qualified guarantee fees, or reasonably required reserve or replacement funds) are allocated in accordance with Section 1.141-3(g)(6) of the Treasury Regulations. Proceeds, as allocated under Section 1.141-3(g)(6) to an Eligible Mixed-use Project, are allocated to the uses of the

Project in the same proportions as the Proceeds allocated to the uses under paragraph (a) of this Appendix. For qualified 501(c)(3) bonds, Sections 1.141-3(g)(6) and 1.141-6(d), as described in this paragraph, do not apply to the extent costs of issuance are allocated among the other purposes for which the Proceeds are used or to portions of a Project.

**(d) Definitions.** For purposes of this Appendix IX, the following definitions shall apply. For purposes of qualified 501(c)(3) bonds, references in this Appendix to governmental bonds mean qualified 501(c)(3) bonds and references to ownership by governmental persons mean ownership by governmental persons or 501(c)(3) organizations.

**Capital Expenditure** shall have the meaning given such term in Appendix III.

**Eligible Mixed-use Project** means a Project that is financed with Proceeds of bonds that, when issued, purported to be governmental bonds (as defined in Section 1.150-1(b) of the Treasury Regulations) (the “**Applicable Bonds**”) and with Qualified Equity pursuant to the same plan of financing (within the meaning of Section 1.150-1(c)(1)(ii) of the Treasury Regulations). An Eligible Mixed-use Project must be wholly owned by one or more governmental persons or by a partnership in which at least one governmental person is a partner.

**Governmental Person** means a state or local governmental unit as defined in Section 1.103-1 of the Treasury Regulations or any instrumentality thereof.

**Governmental Use** shall mean any use that is not a Private Use or an Unrelated Use.

**Project** means one or more facilities or capital projects, including land, buildings, equipment, or other property, financed in whole or in part with Proceeds of the issue, and with respect to the Bonds, as defined in the Tax Certificate.

**Qualified Equity** means Proceeds of bonds that are not tax-advantaged bonds and funds that are not derived from Proceeds of a borrowing that are spent on the same Eligible Mixed-use Project as the Proceeds of the Applicable Bonds. Qualified Equity does not include equity interests in real property or tangible personal property. Qualified Equity does not include funds used to redeem or repay governmental bonds.

## Appendix X

### Post-Issuance Compliance: Remediation of Deliberate Actions Regarding Private Activity Limitations

**(a) Initial Expectations Alone Not Sufficient; Deliberate Actions Must be Remediated.**

An issue is an issue of private activity bonds if the issuer or the Borrower or Evergreen reasonably expects, as of the issue date, that the issue will meet either the private business tests or the private loan financing test. An issue is also an issue of private activity bonds if the Borrower or Evergreen takes a deliberate action (as defined below), subsequent to the issue date, that causes the conditions of either the private business tests or the private loan financing test to be met. Therefore, notwithstanding the reasonable expectations of the Borrower and Evergreen as set forth in the Tax Regulatory Agreement, the Borrower and Evergreen must take remedial actions in the event of certain deliberate actions that occur after the issue date of the issue. In general, the Borrower and Evergreen must monitor its compliance with the tax law limitations on an ongoing basis throughout the term of the issue.

**The Borrower and Evergreen understand that the rules relating to deliberate actions are complex and will seek the advice of Bond Counsel as to satisfying the requirements described in this Appendix, including measurement, reporting and any other means of remedial action not specifically described herein or in the Tax Regulatory Agreement, including, for example, the IRS Voluntary Closing Agreement Program.**

**(b) Deliberate Action.** A “deliberate action” is any action taken by the Borrower or Evergreen that is within its control. An intent to violate the requirements of Code is not necessary for an action to be considered a deliberate action. However, an action is not treated as a deliberate action if—

- (i) it would be treated as an involuntary or compulsory conversion under Code section 1033; or
- (ii) it is taken in response to a regulatory directive made by the federal government.

**(c) Permitted Remedial Actions.** If the Borrower or Evergreen takes a deliberate action that is not otherwise permitted as described above, the Borrower or Evergreen must take a permitted remedial action to prevent the deliberate action from causing that issue to meet the private business use test or the private loan financing test. A “Permitted Remedial Action” is a remedial action that satisfies the requirements of section (e) below (“Remedial Action”) and with respect to which the conditions to taking remedial action described in section (d) below are met.

**(d) Conditions to taking remedial action.** In order to qualify as a Permitted Remedial Action, each of the requirements in paragraphs (i) through (v) of this section (d) must be met.

**(i) Reasonable expectations test met.** The issuer, the Borrower and Evergreen each reasonably expected on the issue date that the issue would meet neither the private business tests nor the private loan financing test for the entire term of the bonds.

**(ii) Maturity not unreasonably long.** The term of the issue must not be longer than is reasonably necessary for the governmental purposes of the issue. This requirement is met if the weighted average maturity of the bonds of the issue is not greater than 120 percent of the average

reasonably expected economic life of the property financed with the proceeds of the issue as of the issue date.

**(iii) Fair market value consideration.** The terms of any arrangement that results in satisfaction of either the private business tests or the private loan financing test are bona fide and arm's-length, and the new user pays fair market value for the use of the financed property.

**(iv) Disposition proceeds treated as gross proceeds for arbitrage purposes.** The Borrower and Evergreen must treat any disposition proceeds as gross proceeds for purposes of Code section 148. For purposes of eligibility for temporary periods under Code section 148(c) and exemptions from the rebate requirement of Code section 148(f) the Borrower and Evergreen may treat the date of receipt of the disposition proceeds as the issue date of the bonds and disregard the receipt of disposition proceeds for exemptions based on expenditure of proceeds under § 1.148-7 that were met before the receipt of the disposition proceeds.

**(v) Proceeds expended on a governmental purpose.** Except for a remedial action under paragraphs (e)(i) or (e)(iv) below, the proceeds of the issue that are affected by the deliberate action must have been expended on a governmental purpose before the date of the deliberate action.

**(e) Remedial Actions.** For purposes of Permitted Remedial Actions, a Remedial Action must satisfy the requirements of (i), (ii), or (iii) below.

**(i) Redemption or defeasance of nonqualified bonds.** The requirements of this paragraph are met if all of the nonqualified bonds of the issue are redeemed. Proceeds of tax-exempt bonds must not be used for this purpose. Except as described in paragraph (iv) below, if the bonds are not redeemed within 90 days of the date of the deliberate action, a qualifying defeasance escrow must be established for those bonds within 90 days of the deliberate action.

If the consideration for the disposition of financed property is exclusively cash, the requirements of this paragraph are met if the disposition proceeds are used to redeem a pro rata portion of the nonqualified bonds at the earliest call date after the deliberate action. If the bonds are not redeemed within 90 days of the date of the deliberate action, the disposition proceeds must be used to establish a qualifying defeasance escrow for those bonds within 90 days of the deliberate action.

The issuer must provide written notice to the Commissioner of the establishment of the defeasance escrow within 90 days of the date the qualifying defeasance escrow is established, the form of which notice shall be provided by the Borrower and Evergreen.

The establishment of a defeasance escrow does not satisfy the requirements of this paragraph (i) if the period between the issue date and the first call date of the bonds is more than 10 1/2 years.

A "qualifying defeasance escrow" is an irrevocable escrow established to redeem bonds on their earliest call date in an amount that, together with investment earnings, is sufficient to pay all the principal of, and interest and call premium on, bonds from the date the escrow is established to the earliest call date. The escrow may not be invested in higher yielding investments or in any investment under which the obligor is a user of the proceeds of the bonds.

(ii) **Alternative use of disposition proceeds.** The requirements of this paragraph are met if—

(1) The deliberate action is a disposition for which the consideration is exclusively cash;

(2) The Borrower and Evergreen reasonably expects to expend the disposition proceeds within two years of the date of the deliberate action;

(3) The disposition proceeds are treated as proceeds for purposes of Code section 141 and are used in a manner that does not cause the issue to meet either the private business tests or the private loan financing test, and the Borrower and Evergreen does not take any action subsequent to the date of the deliberate action to cause either of these tests to be met; and

(4) If the Borrower and Evergreen do not use all of the disposition proceeds for an alternative use described in this paragraph (ii) of this section, the Borrower and Evergreen uses those remaining disposition proceeds for a Remedial Action that meets the requirements of paragraph (i) of this section.

If the disposition proceeds are to be used by a 501(c)(3) organization, the nonqualified bonds must be treated as reissued for purposes of sections 141, 145, 147, 149, and 150 and, under this treatment, satisfy all of the applicable requirements for qualified 501(c)(3) bonds.

(iii) **Alternative use of facility.** The requirements of this paragraph are met if—

(1) The facility with respect to which the deliberate action occurs is used in an alternative manner (for example, used for a qualifying purpose by a nongovernmental person or used by a 501(c)(3) organization rather than a governmental person);

(2) The nonqualified bonds are treated as reissued, as of the date of the deliberate action, for purposes of sections 55 through 59 and 141, 142, 144, 145, 146, 147, 149 and 150, and under this treatment, the nonqualified bonds satisfy all the applicable requirements for qualified bonds throughout the remaining term of the nonqualified bonds;

(3) The deliberate action does not involve a disposition to a purchaser that finances the acquisition with proceeds of another issue of tax-exempt bonds; and

(4) Any disposition proceeds other than those arising from an agreement to provide services (including disposition proceeds from an installment sale) resulting from the deliberate action are used to pay the debt service on the bonds on the next available payment date or, within 90 days of receipt, are deposited into an escrow that is restricted to the yield on the bonds to pay the debt service on the bonds on the next available payment date.

(iv) **Anticipatory remedial action.** The requirements of paragraph (i) above for redemption or defeasance of the nonqualified bonds within 90 days of the deliberate action are met if the issuer declares its official intent to redeem or defease all of the bonds that would become nonqualified bonds in the event of a subsequent deliberate action that would cause the private business tests or the private loan financing test to be met and redeems or defeases such bonds prior to that deliberate action.

The issuer must declare its official intent on or before the date on which it redeems or defeases such bonds, and the declaration of intent must identify the financed property or loan with respect to which the anticipatory remedial action is being taken and describe the deliberate action that potentially may result in the private business tests being met (for example, sale of financed property that the buyer may then lease to a nongovernmental person). Rules similar to those in Section 1.150-2(e) of the Treasury Regulations (regarding official intent for reimbursement bonds) apply to declarations of intent under this paragraph, including deviations in the descriptions of the project or loan and deliberate action and the reasonableness of the official intent.

**(f) Definitions and rules of application.** The following definitions and rules of application apply for purposes of this Appendix X.

**(i) Disposition proceeds.** Disposition proceeds are any amounts (including property, such as an agreement to provide services) derived from the sale, exchange, or other disposition (a “disposition”) of property (other than investments) financed with the proceeds of an issue.

**(ii) Allocating disposition proceeds to an issue.** In the case of a Permitted Remedial Action, after the date of the disposition, the proceeds of the issue allocable to the transferred property must be treated as financing the disposition proceeds rather than the transferred property. If a disposition is made pursuant to an installment sale, the proceeds of the issue continue to be allocated to the transferred property. If the Borrower and Evergreen fail to take a Permitted Remedial Action, the proceeds of the issue are allocable to either the transferred property or the disposition proceeds, whichever allocation produces the greater amount of private business use and private security or payments.

**(iii) Allocating disposition proceeds to different sources of funding.** If property has been financed by different sources of funding, the disposition proceeds from that property are first allocated to the outstanding bonds that financed that property in proportion to the principal amounts of those outstanding bonds. In no event may disposition proceeds be allocated to bonds that are no longer outstanding or to a source of funding not derived from a borrowing (such as revenues of the Borrower or Evergreen) if the disposition proceeds are not greater than the total principal amounts of the outstanding bonds that are allocable to that property. For purposes of this section, principal amount has the same meaning as in Treasury Regulation Section 1.148-9(b)(2) and outstanding bonds do not include advance refunded bonds.

**(iv) Deemed Reissuances.** For purposes of determining whether bonds that are treated as reissued under sections (e)(ii) and (e)(iii) above are qualified bonds—

**(1)** The provisions of the Code and regulations thereunder in effect as of the date of the deliberate action apply; and

**(2)** For purposes of section (e)(iii) above, Code section 147(d) (relating to the acquisition of existing property) does not apply.

**(v) Nonqualified bonds.**

**(1) Amount of nonqualified bonds.** The nonqualified bonds are a portion of the outstanding bonds in an amount that, if the remaining bonds were issued on the date on which the

deliberate action occurs, the remaining bonds would not meet the private business use test or private loan financing test, as applicable. For this purpose, the amount of private business use is the greatest percentage of private business use in any one-year period commencing with the one-year period in which the deliberate action occurs.

**(2) Allocation of nonqualified bonds.** Allocations of nonqualified bonds must be made on a pro rata basis, except that, for purposes of section (e)(i) and (e)(iv) of this Appendix (relating to redemption or defeasance), an issuer may treat any bonds of an issue as the nonqualified bonds so long as (a) the remaining weighted average maturity of the issue, determined as of the date on which the nonqualified bonds are redeemed or defeased (determination date), and excluding from the determination the nonqualified bonds redeemed or defeased by the issuer in accordance with this section, is not greater than (b) the remaining weighted average maturity of the issue, determined as of the determination date, but without regard to the redemption or defeasance of any bonds (including the nonqualified bonds) occurring on the determination date.

**(vi) Effect of remedial action on continuing compliance.** For purposes of determining whether deliberate actions that are taken after a Permitted Remedial Action cause an issue to meet the private business tests or the private loan financing test:

**(1)** If a Permitted Remedial Action is taken under section (e)(i) or (e)(iv) above, the amount of private business use or private loans resulting from the deliberate action that is taken into account for purposes of determining whether the bonds are private activity bonds is that portion of the remaining bonds that is used for private business use or private loans (as calculated under section (f)(v) above).

**(2)** If a Permitted Remedial Action is taken under section (e)(ii) or (e)(iii) above, the amount of private business use or private loans resulting from the deliberate action is not taken into account for purposes of determining whether the bonds are private activity bonds.

**(3)** After a Permitted Remedial Action is taken, the amount of disposition proceeds is treated as equal to the proceeds of the issue that had been allocable to the transferred property immediately prior to the disposition.