

AGREEMENT REGARDING CITY COSTS AND LIABILITIES

between

THE CITY OF SALEM, OREGON

and

CAPITAL MANOR, INC.

THIS AGREEMENT is executed by THE CITY OF SALEM, OREGON, a municipality of the State of Oregon (the “City”) and CAPITAL MANOR, INC., an Oregon nonprofit corporation (the “Borrower”).

1. Recitals.

a. At the request of the Borrower, the City will consider approval, pursuant to the public approval requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), in connection with the issuance of tax-exempt and/or federally taxable revenue obligations, in one or more series, in an aggregate principal amount not to exceed \$70,000,000 (the “Bonds”) by the Hospital Facility Authority of City of Salem, Oregon (the “Authority”) on behalf of the Borrower. The City will consider adopting a resolution authorizing the issuance of the revenue bonds for the purpose of Section 147(f) of the Code. The Bonds will be used to: (i) pay all or a portion of the costs, or reimbursing costs, of capital projects at the Borrower’s continuing care retirement community; (ii) refund the Authority’s Revenue Refunding Bonds, Series 2012 (Capital Manor, Inc.) dated June 13, 2012 and issued in the original aggregate principal amount of \$50,135,000; (iii) fund a debt service reserve account, if necessary; and (iv) pay certain costs of issuance of the Bonds.

b. The City is willing to assist the Borrower on the condition that the Borrower pay any costs of the City associated with the Bonds.

c. The parties execute this agreement to memorialize the obligation of the Borrower to pay those costs.

2. Payment of Costs.

In consideration of the City working in good faith with the Borrower to authorize the issuance of the Bonds, the Borrower agrees to pay, or cause to be paid, to the City within 30 days after the receipt of an invoice, a \$10,000 debt issuance fee plus any fees and expenses incurred by the City in connection with the preparation for the issuance and sale of the Bonds, including without limitation, the reasonable fees and expenses of the City, the City Attorney or other counsel to the City, and Hawkins Delafield & Wood LLP, the City’s bond counsel (“City’s Counsel”). The City’s Counsel’s fees and expenses shall be based on the City’s Counsel’s standard hourly rate and charges. The City’s Counsel’s fees and expenses shall be paid directly

to the City's Counsel, and such fees and expenses shall be paid by the Borrower whether or not the Bonds are issued.

3. Indemnity.

a. The Borrower hereby agrees to indemnify and save the City, its appointed or elected officials, employees and agents harmless against and from all claims by or on behalf of any person, firm, corporation or other legal entity arising from: the City's participation in the approval of the Bonds; or the construction, acquisition, operation or use of the facilities financed with the Bonds. The preceding sentence shall not, however, obligate the Borrower to indemnify any person or entity from claims arising from the gross negligence or willful misconduct of the City or any appointed or elected officials, agents, or employees thereof.

b. If a claim is made against any indemnified person or entity (an "Indemnified Person") for which indemnification may be sought from the Borrower under this agreement, the Indemnified Person against whom the claim is made, or its agents, shall promptly give written notice thereof to the Borrower. However, any failure to give or delay in giving such written notice shall not relieve the Borrower's indemnification obligations as set forth above except to the extent such failure or delay prejudices the Borrower's ability to defend or settle such a claim. Upon receipt of such notice, the Borrower shall, if indemnification is required pursuant to this agreement, assume the defense thereof in all respects and may settle such claim in such manner as it deems appropriate. The Borrower shall select legal counsel to represent each Indemnified Party and shall not be responsible for the legal fees and expenses of any legal counsel retained by the Indemnified Party without the written consent of the Borrower, unless the City shall have reasonably concluded that there may be a conflict of interest between the City and the Borrower in the conduct of the defense of such action, in which case the Borrower shall not have the right to direct the defense of such action on behalf of the City; the Borrower shall be responsible for the legal fees and expenses of the counsel retained by the Indemnified Party whether incurred at trial, on appeal, in bankruptcy proceedings or otherwise.

CITY OF SALEM, OREGON

CAPITAL MANOR, INC.

By: _____
Authorized Representative

By: 
Authorized Representative