PARKING GARAGE IMPROVEMENTS AND ACCESS AGREEMENT

THIS PARKING GARAGE IMPROVEMENTS AND ACCESS AGREEMENT (this “Agreement”) is made and entered into this _____ day of _________ 2016 (the “Effective Date”), by and between Gaston MOB, LLC, a Texas limited liability company (“MOB Owner”), and The Board of Regents of The Texas A&M University System, an agency of the State of Texas (“TAMUS”) (MOB Owner and TAMUS are collectively referred to herein as the “Parties” and individually as a “Party”).

RECITALS:

A. MOB Owner, as ground lessee, and Baylor Health Care System, a Texas non-profit corporation (“Baylor”), as ground lessor, have entered into that certain Ground Lease Agreement dated effective November 19, 2014 (the “MOB Ground Lease”), covering the tract of land identified on Exhibit A attached hereto (the “MOB Parcel”), and MOB Owner intends to develop a medical office building (the “MOB”) and an above-ground structured parking garage on the MOB Parcel with 1100 or more parking spaces (the “Parking Garage”).

B. TAMUS and MOB Owner wish to enter into certain agreements regarding TAMUS’s use of part of the Parking Garage.

NOW, THEREFORE, in consideration of the foregoing Recitals, and the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Definitions.** As used herein:

   “Commencement Date” means the later of September 1, 2016, or the date on which the last of Completion of the Parking Garage occurs.

   “Completion” means the City of Dallas has issued a certificate of occupancy allowing the use of the Parking Garage for its intended use.

   “Construction Loan Agreement” means that certain Construction Loan Agreement dated as of November 19, 2014, between PlainsCapital as lender and MOB Owner and MedBuilding, Ltd. as borrowers, as amended from time to time.

   “PlainsCapital” means PlainsCapital Bank, and its successors and assigns, which is providing financing to MOB Owner for the construction of the MOB and the Parking Garage and which has a lien on MOB Owner’s leasehold interest in the MOB Parcel and on the MOB and the Parking Garage.

   “Parking Spaces” means 80 parking spaces in the Parking Garage that shall be unreserved but that may be located in a particular location in the Parking Garage as determined by mutual agreement of TAMUS and MOB Owner.

   “TAMUS Users” means TAMUS’ employees, agents, tenants, students, guests and invitees.
2. **Commencement Date.** Immediately upon Completion of the Parking Garage, MOB Owner shall give TAMUS written notice of the date on which Completion of the Parking Garage occurred.

3. **Parking.** Effective as of the Commencement Date and for a term ending on the day prior to the third anniversary of the Commencement Date ("Term"), MOB Owner hereby grants to TAMUS for the benefit of the TAMUS Users a non-exclusive right for the parking of automobiles in the Parking Spaces in the Parking Garage, subject to the terms and conditions of this Agreement. Usage of the Parking Spaces by TAMUS Users shall be by self-park. MOB Owner reserves the right to grant other non-exclusive or exclusive easements for parking of motor vehicles within the Parking Garage; provided, however, in no event shall such easements negatively impact the rights granted herein to TAMUS for the benefit of the TAMUS Users to any material extent. Nothing contained herein is intended nor shall it be construed as creating any rights in or for the benefit of the general public.

4. **Access.** During the Term of this Agreement, MOB Owner hereby grants to TAMUS for the benefit of the TAMUS Users a non-exclusive right for vehicular and pedestrian ingress and egress to and from the Parking Spaces, over and across the driveways and walkways in the Parking Garage (as same may be relocated by MOB Owner from time to time) as reasonably necessary to permit access to and from the Parking Spaces, subject to the terms and conditions of this Agreement. MOB Owner reserves the right to grant other non-exclusive or exclusive easements for vehicular and pedestrian access within the Parking Garage; provided, however, in no event shall such easements negatively impact the easements granted herein to the TAMUS for the benefit of the TAMUS Users to any material extent. Nothing contained herein is intended nor shall it be construed as creating any rights in or for the benefit of the general public.

5. **Compensation for Parking Spaces.** Commencing on the Commencement Date, TAMUS shall pay to MOB Owner a monthly amount equal to $8,000.00 per month ($100.00 times the 80 Parking Spaces), payable monthly in advance on each monthly anniversary of the Commencement Date.

6. **Maintenance.** MOB Owner shall maintain the Parking Garage in good condition and repair, in accordance with the standards necessary to comply with all applicable laws, codes and ordinances. Such responsibilities shall include, without limitation, sweeping, cleaning, repairing and re-striping the Parking Garage. MOB Owner reserves the right to re-stripe, renovate or reconfigure the Parking Garage at such times as MOB Owner deems necessary or desirable, but MOB Owner shall perform such work so as to not unreasonably interfere with or restrict the use of the Parking Spaces by the TAMUS Users.

7. **Negligence.** Neither MOB Owner nor TAMUS is liable for the negligent acts or omissions of the other party, its officers, employees, licensees, invitees, or agents which cause the death, bodily injury, or illness of any person or damage to or destruction of any property. This Agreement does not create a joint venture, partnership, agency, or other legal relationship between MOB Owner and TAMUS other than one of lessor and lessee.
8. **Insurance.** MOB Owner will, at its sole expense, maintain insurance for protection of its interest in the Parking Garage, but MOB Owner has no obligation to provide property, liability, or any other insurance to cover the interests of TAMUS or its respective agents, employees, licensees, invites, representatives, successors, or assigns. Neither party is entitled to receive any proceeds of any insurance the other party may maintain on the Parking Garage, tenant improvements, nor other property maintained at the Parking Garage. No insurance carrier of either party has a right of subrogation against the other party to this Agreement.

9. **Compliance with Laws.** Each of MOB Owner and TAMUS agrees to comply with all laws, ordinances, rules, and regulations pertaining to the Parking Garage.

10. **Parking Operations.** In order to provide for the orderly use of the Parking Garage, MOB Owner reserves the right to implement and enforce reasonable parking rules and regulations relating thereto from time to time.

11. **Party Representatives.** For all matters pertaining to this Agreement, each Party shall be represented by one (1) individual who shall be the contact person for that Party during the entire construction and development phase. Each Party may designate a new representative by providing written notice thereof, along with such individual’s contact information. Any approval or information sought from a Party, or any notice to be given to or received by a Party, shall be deemed given or obtained if received from such designated representative. Initially, each Party’s representative shall be as follows:

   **MOB Owner:**
   
   Gary Worsham  
   Worsham Realty, LLC  
   11700 Preston Road, Suite 660-386  
   Dallas, Texas 75230  
   Telephone: 214-797-5651

   **TAMUS:**
   
   Texas A&M Health Science Center  
   Attn: Raye Milburn  
   8441 SH-47  
   Bryan, Texas 77807

12. **Subordination.** This Agreement is subject and subordinate to the MOB Ground Lease. Any mortgage, deed of trust, ground lease, or other lease hereafter granted or entered into with respect to the MOB Parcel shall be subject, subordinate, and inferior to the easements, rights, benefits, and obligations created hereby, and the foreclosure under any such mortgage or deed of trust shall not extinguish or impair the easements, rights, benefits, and obligations created by this Agreement.

13. **Timing.** The Parties acknowledge that time is of the essence with respect to this Agreement and the terms and provisions hereof.

14. **Termination.** Either party may terminate this Agreement by giving the other ninety (90) day written notification. Upon the expiration or termination of this Agreement for whatever cause, but subject to the casualty damage, TAMUS must immediately surrender the Parking Spaces in good order, condition and repair, except for ordinary wear and tear only.
15. **Attorney’s Fees.** If any action is brought by a Party against the other Party, relating to or arising out of this Agreement, the transaction described herein or the enforcement hereof, the prevailing Party, to the extent permitted by the Constitution and laws of the State of Texas, shall be entitled to recover from the other Party reasonable attorneys’ fees, costs and expenses incurred in connection with the prosecution or defense of such action. For purposes of this Agreement, the term “attorneys’ fees” or “attorneys’ fees and costs” shall mean the fees and expenses of counsel to the Parties hereto, which may include printing, photostating, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and other persons not admitted to the bar but performing services under the supervision of an attorney, and the costs and fees incurred in connection with the enforcement or collection of any judgment obtained in any such proceeding. The provisions of this Paragraph 15 shall survive the entry of any judgment, and shall not merge, or be deemed to have merged, into any judgment.

16. **Notices.** All notices required or permitted hereunder shall be in writing and shall be served on the Parties at the address set forth below. Any such notices shall be either (a) sent by overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with such courier, (b) sent by facsimile, in which case notice shall be deemed delivered upon receipt by the transmitting Party of confirmation of transmission of such notice, or (c) sent by personal delivery, in which case notice shall be deemed delivered upon receipt. A Party’s address may be changed by written notice to the other Party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Notices given by counsel to a Party shall be deemed given by such Party.

TAMUS:  
Texas A&M Health Science Center  
Attn: Barry C. Nelson  
8441 SH-47  
Bryan, Texas 77807  
Ph: (979) 436-9203

Texas A&M Health Science Center  
Attn: Raye Milburn  
8441 SH-47  
Bryan, Texas 77807  
Ph: (979) 436-9204

with copy to:  
The Texas A&M University System  
Attn: System Real Estate  
301 Tarrow, 6th Floor  
College Station, Texas 77840-7896  
Ph: (979) 458-6350  
Email: sreo@tamus.edu
MOB Owner: Gaston MOB, LLC
c/o Gary Worsham
11700 Preston Road, Suite 660, PMB 386
Dallas, Texas 75230

with a copy to:
Dr. Raymon Aggarwal
3417 Gaston Avenue
Dallas, Texas 75204

with copies to: Carrington Coleman
c/o David G. Drumm
901 Main Street, Suite 5500
Dallas, Texas 75202

Notices delivered by a party’s counsel on behalf of such party shall be deemed delivered by said party.

17. Successors and Assigns. Subject to termination of this Agreement as provided herein and the rights and obligations of the Parties hereto shall be binding upon and shall inure to the benefit of the successors and assigns of each of the Parties hereto.

18. Limitation on Obligations. The obligations of MOB Owner hereunder shall be limited to those obligations accruing during the period of its leasehold interest in the MOB Parcel, and upon the termination or conveyance of such leasehold interest, MOB Owner’s rights and obligations with respect to the Parking Garage shall cease and terminate effective as of and from and after the date of such conveyance, except for liabilities and obligations which had accrued as of such date, but in the event of a conveyance of such leasehold interests, shall be binding upon and shall inure to the benefit of its successors and assigns.

19. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Texas. This Agreement is performable in Dallas County, Texas. Pursuant to Section 85.18, Texas Education Code, venue for any suit filed against TAMUS shall be in the county in which the primary office of the chief executive officer of TAMUS is located.

20. Relationship. The Parties hereunder are independent parties acting at arms’ length in good faith for their mutual benefit and no relationship of partnership, joint venture, co-ownership, principal and agent or otherwise is intended or shall be construed or inferred.

21. Counterparts: Facsimile Signatures. This Agreement may be executed in multiple counterparts and by the Parties on separate counterparts, each of which shall be deemed to be an original and all of which shall together constitute one and the same agreement. The Parties may execute and deliver this Agreement by forwarding signed facsimile copies of this Agreement. Such facsimile signatures shall have the same binding effect as original signatures, and the Parties hereby waive any defense to validity based on any such copies or signatures.
22. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.

23. **Amendment.** This Agreement and the rights and interests granted hereunder may only be amended by a written instrument executed jointly by all of the Parties, and the first mortgage lienholder of the MOB Parcel.

24. **Entire Agreement.** This Agreement embodies the entire agreement between the Parties relating to the subject matter hereof, supersedes all prior agreements and understandings, if any, relating to the subject matter hereof.

25. **Force Majeure.** In the event any Party shall be delayed or hindered in or prevented from the performance of any act required to be performed by such party by reason of acts of God, strikes, lockouts, unavailability of labor or materials, failure of power, governmental laws or regulations, riots, insurrections, the act or failure to act of the other Party, adverse weather conditions preventing the performance of work as certified to by an architect, war or other reason beyond such Party’s control, then the time for performance of such act shall be extended for a period of equivalent to the period of such delay.

26. **TAMUS Default.** Each of the following acts, omissions, or occurrences constitutes an “Event of Default.”

   (a) Failure or refusal by TAMUS to timely pay Rent or any other sums when due, after written notice and thirty (30) days opportunity to cure;

   (b) Failure or refusal by TAMUS to timely and fully perform or observe any covenant, duty, or obligation of this Agreement, for a period of thirty (30) days after TAMUS’ receipt of written notice of such failure or refusal;

   (c) Abandoning or vacating the Parking Premises or any significant portion of it and failure to fully cure such abandonment or vacating within thirty (30) days after written notice from MOB Owner.

27. **Cancellation.** If an Event of Default occurs and remains uncured within the time period provided above, MOB Owner may, at its option, in addition to all other rights and remedies provided or in law or equity, cancel this Agreement by sending written notice of such termination to TAMUS. TAMUS will immediately surrender possession of the Parking Spaces to MOB Owner.

28. **MOB Owner Default.** Failure or refusal by MOB Owner to timely and fully perform or observe any covenant, duty, or obligation of MOB Owner under this Agreement for a period of thirty (30) days after MOB Owner’s receipt of written notice of such failure or refusal will be an “Event of Default” by MOB Owner. If MOB Owner fails to cure any default after notice, or after having commenced fails to exercise reasonable diligence to complete such cure,
TAMUS may, as its exclusive remedy, terminate this Agreement by sending written notice to MOB Owner.

29. **Franchise Taxes.** Gaston MOB certifies that, upon the Effective Date of this Agreement, either Gaston MOB (1) is not delinquent in payment of State of Texas corporate franchise taxes, or (2) is not subject to the payment of such taxes. Gaston MOB agrees that any false statement with respect to franchise tax status shall be a material breach, and TAMUS may terminate this Agreement upon written notice to Gaston MOB.

30. **Delinquencies.** Gaston MOB expressly acknowledges that a child support obligor who is more than thirty (30) days delinquent in paying child support and a business entity in which obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least twenty-five percent (25%) is not eligible to receive payments from state funds under a contract to provide property, materials, or services until all arrearages have been paid or the obligor is in compliance with a written repayment agreement, or court order as to any existing delinquency. Pursuant to Section 231.006, *Texas Family Code*, Gaston MOB certifies that the individual or business entity named in this Agreement is not ineligible to receive payment from the state and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

31. **Official Relationships.** Gaston MOB acknowledges that Texas law prohibits contracts between TAMUS and its officers, and such prohibition extends to contracts with any partnership, corporation, or other organization in which any such officer has an interest. Gaston MOB certifies (and this Agreement is made in reliance on such certification) neither Gaston MOB nor any person having an interest in this Agreement by, through, or under Gaston MOB, is an officer of TAMUS.

32. **Debts or Delinquencies.** Pursuant to Section 2252.903, *Texas Government Code*, Gaston MOB agrees that any payments owing to Gaston MOB under this Agreement may be applied directly toward certain debts or delinquencies, if any, that Gaston MOB owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

33. **Franchise Tax Certification.** If Gaston MOB is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then Gaston MOB certifies that it is not currently delinquent in the payment of any franchise taxes or that Gaston MOB is exempt from the payment of franchise (margin) taxes. Gaston MOB is not a taxable entity subject to such tax.

34. **Debarrment.** Gaston MOB represents and warrants, to the best of its knowledge and belief, that neither Gaston MOB nor any of its Principals ("Principal" means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity) is presently debarred, suspended, proposed for debarrment, voluntarily excluded, or involuntarily excluded from receiving a contract from any federal, state or local government or agency, nor has it been declared ineligible for the award of contracts by any federal, state, or local government or agency, nor does it appear on any federal, state or local government’s Excluded Parties List System. Gaston MOB shall provide immediate written notice to TAMUS if, at any time Gaston MOB learns that this representation was erroneous.
when submitted or has become erroneous by reason of changed circumstances. The representations and warranties above are a material representation of fact upon which reliance was placed when entering into this Lease. If it is later determined that Gaston MOB knowingly made a false representation, in addition to other remedies available to TAMUS, TAMUS may terminate this Lease.

35. **Loss of Funding.** Performance by TAMUS under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, then TAMUS will issue written notice to Gaston MOB or TAMUS may terminate this Agreement by giving written notice of termination to the other party and thereafter, neither party will have further duty or obligation hereunder except as to any then existing unfulfilled obligations hereunder. Gaston MOB acknowledges that appropriation of funds is beyond the control of TAMUS.

36. **Agency of Texas.** Gaston MOB expressly acknowledges TAMUS is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by TAMUS of its right to claim such exemptions, privileges, and immunities as may be provided by law.

[Signature page follows]
IN WITNESS WHEREOF, the undersigned hereby execute this Agreement as of the date first set forth above.

**MOB Owner:**

GASTON MOB, LLC,
A Texas limited liability company

By: MEDGASTON, LLC,
a Texas limited liability company,
its Managing Member

By: RTT Financial, Inc.,
a Texas corporation,
its Manager

[Signature]

By: __
Name: __
Title: __
IN WITNESS WHEREOF, the undersigned hereby execute this Agreement as of the date first set forth above.

PlainsCapital consents to this Agreement in accordance with the terms of the Construction Loan Agreement and executes this Agreement only in such capacity.

PLAINSCAPITAL BANK,
a Texas state banking association

By:
Name: 
Title: 

IN WITNESS WHEREOF, the undersigned hereby execute this Agreement as of the date first set forth above.

TAMUS:

BOARD OF REGENTS OF THE TEXAS A&M UNIVERSITY SYSTEM, an agency of the State of Texas, for the use and benefit of The Texas A&M University System Health Science Center

By: ____________________________

B: ____________________________

Vice President for Finance and Administration, The Texas A&M University System Health Science Center

6/30/2016

RECOMMENDED APPROVAL:

______________________________
Dean
Texas A&M University
Baylor College of Dentistry

K. J. Long
Assistant General Counsel
Office of General Counsel
The Texas A&M University System