

EXHIBIT

"A"

PROPERTY TAX ABATEMENT AGREEMENT

This Property Tax Abatement Agreement (this "**Agreement**") is entered into this ____ day of _____, 2017 by and between the **City of Round Rock, Texas** (the "**City**"), a Texas home rule municipal corporation, **Medistar Round Rock Rehab, LLC**, a Texas limited liability company ("**Medistar**"), and **PAM Squared at Round Rock**, a Pennsylvania limited liability company ("**PAM**").

RECITALS

WHEREAS, Medistar intends to expend at least \$17,000,000 in the construction of a hospital (the "**Facility**") to be located on a tract of land (the "**Property**"), as defined below; and

WHEREAS, by entering into this Agreement, Medistar confirms its intent to construct the Facility and to lease said Facility to PAM for the purpose of PAM's locating a hospital in the Facility which will result in at least 75 new full-time jobs over the term of this Agreement, thereby resulting in new economic development in City; and

WHEREAS, by entering into this Agreement, PAM confirms its intent to lease the Facility from Medistar for the purpose of locating a hospital in the Facility which will result in at least 75 new full-time jobs over the term of this Agreement, thereby resulting in new economic development in City; and

WHEREAS, Medistar and PAM each confirm that the City's grant of the tax abatement provided for herein is expressly conditioned on their compliance with the construction of the Facility and job creation obligations set forth herein; and

WHEREAS, on the ____ day of _____, 2017, the City Council of the City of Round Rock, Texas, adopted Ordinance No. _____ establishing Reinvestment Zone No. ____ (the "**Reinvestment Zone**") City of Round Rock, Texas for commercial/industrial tax abatement, hereinafter referred to as "Ordinance No. _____", as authorized by the Texas Property Redevelopment and Tax Abatement Act, Chapter 312, Tax Code, V.A.T.S. as amended (the "**Tax Abatement Act**"); and

WHEREAS, the Facility will be located on the Property within the Reinvestment Zone; and

WHEREAS, the City has adopted Ordinance No. O-2017-4787, which Ordinance adopted appropriate guidelines and criteria governing reinvestment zones and tax abatement agreements to be entered into by the City as contemplated by the Tax Abatement Act; and

WHEREAS, the City has determined that the construction and contemplated use of the Facility and creation of jobs, as well as the terms of this Agreement are consistent with encouraging development in the Reinvestment Zone in accordance with the purposes for its creation and are in compliance with Ordinance No. O-2017-4787 and the guidelines and criteria adopted by the City and all applicable laws; and

WHEREAS, the construction of the Facility constitutes a major investment within the Reinvestment Zone that will substantially increase the appraised value of the property within the

Reinvestment Zone, and will contribute to the retention of primary and secondary employment within the City; and

WHEREAS, the City finds that there will be no substantial adverse effects on the provision of governmental services or on its tax base and that the planned use of the Facility will not constitute a hazard to public safety, health, or welfare,

NOW THEREFORE, in consideration of the mutual benefits and promises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City, Medistar, and PAM agree as follows:

1. **Authorization**. This Agreement is authorized by the Tax Abatement Act, and by Resolution of the City Council of the City of Round Rock, Texas dated _____, 2017.

2. **Definitions**. As used in this Agreement, the following terms shall have the meanings set forth below:

(a) ***“Abatement”*** means the full or partial exemption from ad valorem taxes of the Property and the Facility in the Reinvestment Zone as more particularly set forth in **Section 6**.

(b) ***“Abatement Period”*** means the period of time beginning with the Effective Date of Abatement and continuing until December 31, 2023.

(c) ***“Abatement Value”*** means the assessed value of the Facility and Property, as determined annually by the WCAD on behalf of the City, less the amount of the Base Year Value.

(d) ***“Affiliate of Medistar”*** means any person or entity under common control with, controlled by, or controlling Medistar. For purposes of this definition, (i) “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through ownership of voting securities, by contract or otherwise; and (ii) “person” means any individual, corporation, association, partnership, joint venture, real estate investment trust, other trust estate or other entity or organization.

(e) ***“Base Year Value”*** means the assessed value of the Facility and Property on January 1, 2017 (or on January 1 of the year of execution of this Agreement if determined to be otherwise required by applicable law), as such value is determined by WCAD on behalf of the City.

(f) ***“City Guidelines”*** means the Tax Abatement Guidelines and Criteria for Granting Tax Abatement in Reinvestment Zones, as set forth in §38-22, Round Rock Code of Ordinances, 2010 Edition, as amended.

(g) ***“Effective Date of Abatement”*** means the period commencing January 1, 2019.

(h) **“Facility”** means the building and other improvements, or portion thereof, constructed by Medistar on the Property at a cost of at least \$17,000,000.00, which will be leased to PAM by Medistar.

(i) **“Ineligible Property”** means any personal property that is located within the Facility at any time before or during the period covered by this Agreement.

(j) **“Property”** means the tract of real property owned by Medistar located in the Reinvestment Zone and described as Lot 1, Block A, Phase 2 of the Avery Centre Town Centre 1, a subdivision in Williamson County, Texas recorded as Document No. 2017075654 in the Plat Records of Williamson County as shown in **Exhibit A**.

(k) **“Recapture Liability”** means the amount of fees waived and ad valorem taxes that were abated as result of this Agreement that are subject to recapture by the City under the terms of **Section 12** in the event of a default as described in **Section 11**.

(l) **“Reinvestment Zone”** means the reinvestment zone established on the ____ day of _____, 2017, in Ordinance No. _____ establishing Reinvestment Zone No. ____.

(m) **“Tax Code”** means the Tax Code of the State of Texas

(p) **“WCAD”** means the Williamson Central Appraisal District of Williamson County, Texas.

3. Subject Property. During the Abatement Period, the Facility shall be leased to PAM and used consistent with the general purpose of encouraging development or redevelopment within the Reinvestment Zone. The Property is not located in an improvement project financed by tax increment bonds and does not include any property that is owned or leased by a member of the City Council or by a member of the City Planning and Zoning Commission.

4. Cost of Facility. Medistar agrees to spend at least \$17,000,000.00 for the construction of the Facility. Medistar agrees to provide City with documentation showing that this obligation has been satisfied. The City shall have the right, following reasonable advance notice to Medistar, to audit Medistar’s records to verify that this obligation has been satisfied.

5. Job Creation. PAM agrees to employ in the Facility at least seventy-five (75) full-time employees in accordance with the schedule as set forth below:

<u>Date</u>	<u>Retained</u>	<u>New</u>	<u>Total</u>
On Opening Date		32	32
On December 31, 2020	32	28	60
On December 31, 2021	60	15	75
On December 31, 2022	75	0	75
On December 31, 2023	75	0	75
On December 31, 2024	75	0	75

PAM agrees that the full-time jobs will have an average annual salary of at least \$55,000, plus industry standard benefits.

PAM agrees to provide to the City an annual Job Compliance Affidavit on the Opening Date and by March 1 of each calendar year during the term of this Agreement. A copy of the Job Compliance Affidavit form is attached hereto as **Exhibit B**. City shall have the right, following reasonable advance notice to PAM, to audit PAM's records to verify that this obligation has been satisfied.

6. Grant of Abatement.

Subject to (i) Medistar's satisfaction of its obligation to spend \$17,000,000.00 on the construction of the Facility; (ii) Medistar's satisfaction of its obligation to lease the Facility to PAM; (iii) PAM's satisfaction of its obligations to lease the Facility from Medistar throughout the term of this Agreement; (iv) PAM's satisfaction of its obligation to provide 75 jobs as set forth in **Section 5**; (v) all other terms and conditions contained herein; and (vi) the rights of the holders of any outstanding bonds of the City; the City hereby grants the Abatement on the Abatement Value of the Facility as follows:

(1)	Year 1 (2019)	100%
(2)	Year 2 (2020)	100%
(3)	Year 3 (2021)	50%
(4)	Year 4 (2022)	50%
(5)	Year 5 (2023)	25%

Medistar acknowledges that the foregoing grant of abatement is conditioned both upon its compliance with its covenants in **Section 10(a)** below and PAM's compliance with its covenants contained in **Section 10(b)** below.

7. Term of Abatement. Medistar shall receive the Abatement commencing on the Effective Date of the Abatement and continuing for Abatement Period.

8. Waiver of Permit Fees. City agrees to waive up to \$100,000 of site preparation, construction permit, and inspection fees for the Facility.

9. Taxable Property. During the Abatement Period, ad valorem taxes shall be payable on the Property and the Ineligible Property located within the Reinvestment Zone as follows:

- (a) The value of the Ineligible Property as defined herein shall be fully taxable; and
- (b) The Base Year Value of the Facility and Property, as determined by the WCAD, shall be fully taxable.

10. Covenants.

(a) **Medistar's Covenants.** In consideration of the City's agreement to enter into this Agreement, Medistar covenants and agrees that it will (i) expend at least

\$17,000,000.00 to construct the Facility; (ii) substantially complete the construction of the Facility by the 31st day of July, 2019 (subject to delays caused by events of Force Majeure); and (iii) lease the Facility to PAM for its hospital in the City for the term of this Agreement.

(b) PAM's Covenants. In consideration of the City's agreement to enter into this Agreement, PAM covenants and agrees that it will (i) lease the Facility for the term of this Agreement from Medistar; and (ii) employ, retain and add at least the number of jobs within the Facility set forth in **Section 5**.

(c) Breach of Covenants. Medistar and PAM each acknowledge that the City's obligations hereunder are conditioned upon PAM's continued operation of said hospital and the provision of at least 75 jobs in accordance with the provisions of **Section 5** above. In the event Medistar fails to construct the Facility by the 31st day of July, 2019 (subject to delays caused by events of Force Majeure), or in the event that PAM fails to comply with its obligation to operate its facility and to provide the number of jobs required under the terms of this Agreement, the City may terminate this Agreement by giving Medistar and PAM written notice of such termination, and exercise its rights under **Section 11** below. In addition, the City will notify the WCAD of such termination.

11. Default.

(a) Medistar's Default. In the event that (a) Medistar allows its ad valorem taxes to the City to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; (b) Medistar violates any of the material terms and conditions of this Agreement, including, without limitation, any of the covenants described in **Section 10(a)** above; or (c) PAM fails to comply with its obligation to provide the number of jobs as set forth in **Section 5** above), Medistar shall be considered in default. In the event that Medistar defaults under this Agreement, the City shall give Medistar written notice specifying such default. If Medistar has not cured the default within thirty (30) days after its receipt of such written notice, the City may, as its sole and exclusive remedies hereunder, (i) terminate this Agreement by given written notice thereof to Medistar and PAM, (ii) exercise its rights under **Section 12** below, and (iii) pursue any of its remedies for the collection of delinquent property taxes as provided generally in the Tax Code. If the City terminates this Agreement hereunder, it will notify the WCAD thereof. A default by Medistar shall be considered a default by PAM.

(b) PAM's Default. In the event that (a) PAM fails to comply with its obligation to provide the number of jobs set forth herein; or (b) PAM violates any of the material terms and conditions of this Agreement, including, without limitation, any of the covenants described in **Section 10(b)** above; or (c) Medistar fails to comply with its covenants described in **Section 10(a)** above; PAM shall be considered in default. In the event that PAM defaults under this Agreement, the City shall give PAM written notice specifying such default. If PAM has not cured the default within thirty (30) days after its receipt of such written notice, the City may, as its sole and exclusive remedies hereunder, (i) terminate this Agreement by given written notice thereof to PAM and Medistar, (ii) exercise its rights under **Section 12** below, and (iii) pursue any of its remedies for the collection of delinquent property taxes as provided generally in the Tax Code. If the City

terminates this Agreement hereunder, it will notify the WCAD thereof. A default by PAM shall be considered a default by Medistar.

12. Abatement Recapture. In the event the City terminates this Agreement as a result of Medistar's and/or PAM's default and failure to cure same within thirty (30) days, or one hundred eighty (180) days, as applicable, after receipt of written notice specifying such default, the City may recapture and collect from Medistar the Recapture Liability. Medistar shall pay to the City the Recapture Liability within thirty (30) days after the date of termination, subject to any and all lawful offsets, settlements, deduction, or credits to which Medistar may be entitled. Notwithstanding anything herein to the contrary, such Recapture Liability shall not exceed an amount equal to all fees waived plus all taxes which were abated pursuant to this Agreement to the date of termination (together with interest thereon to be charged at the statutory rate for delinquent taxes as determined by Section 33.01 of the Property Tax Code of the State of Texas, but without the addition of a penalty). The City shall have all remedies for the collection of the Recapture Liability as provided generally in the Tax Code for the collection of delinquent property taxes.

13. Certification and Inspections. No later than ninety (90) days after substantial completion of the Facilities, Medistar and PAM must certify in writing to the City (i) that the construction of the Facilities has been substantially completed, and (ii) that PAM has leased and accepted occupancy of its premises in the Facilities. No later than March 1 of each year of the Abatement Period, Medistar and Pam must certify in writing to the City that each is in compliance with each applicable terms of this Agreement and the City Guidelines and, if not in compliance, the steps Medistar and PAM intend to take to be in compliance or a statement from Medistar and PAM explaining in reasonable detail why compliance cannot be achieved. Medistar and PAM agree that the WCAD and the City, their agents and employees, shall, upon reasonable notice, have reasonable right of access to the Facility in order to ensure that the construction of the Facility is in accordance with this Agreement and all applicable state and local laws and regulations, or valid waiver thereof. All inspections will be made with one or more representatives of Medistar and/or PAM and in accordance with Medistar's and PAM's security and safety requirements. At the time of annual certification, upon the City's written request, Medistar shall also provide a calculation of the aggregate amount of economic benefit Medistar has previously received pursuant to this Agreement. In order to efficiently administer the Abatement, Medistar agrees also to provide annually for each year with respect to which Medistar will receive an abatement under **Section 6** hereof, no later than March 1, a full asset listing of personal property located on the Property and in the Facility to the WCAD and such other information as may be reasonably necessary for the Abatement and assessment of the assets for tax purposes, including any information required by the City Guidelines.

Each year the City will endeavor to send Medistar a reminder of its obligation under this **Section 13**. However, the failure of the City to do so shall not relieve Medistar of its obligations hereunder.

14. Annual Tax Application. It shall be the responsibility of Medistar, pursuant to V.T.C.A., Tax Code, § 11.43, to file an annual exemption application form with the WCAD. The Chief Appraiser of the WCAD shall annually determine and record both the abated taxable value and the full taxable value of the Property and Personal Property in the appraisal records. The full taxable value figure listed in the appraisal record shall be used to compute the amount of abated

taxes that are required to be recaptured and paid in the event this Agreement is terminated in a manner that results in recapture pursuant to **Section 12**. Each year Medistar and PAM shall furnish the Chief Appraiser with such information outlined in V.T.C.A., Tax Code, Chapter 22, as may be necessary for the administration of the abatement specified herein. Medistar and/or PAM shall be entitled to appeal any determination of the Chief Appraiser in accordance with the provisions of the Texas Tax Code.

15. Assignment. Prior to the date that Medistar satisfies its obligations hereunder to construct the Facility and enter into a lease with PAM for the lease of the Facility, Medistar may (i) assign this Agreement to a new owner of the Property with the written consent of the City Council of the City, which consent shall not be unreasonably withheld, conditioned or delayed, or (ii) assign this Agreement to an Affiliate of Medistar, which shall not require any such written consent, provided that Medistar shall give written notice thereof to the City. After the completion of the Facility and the lease by PAM thereof, Medistar may assign this Agreement to a new owner of the Property without the consent of any party, provided that Medistar shall give written notice thereof to the City. Any assignment shall be in writing, and shall provide that the assignee shall irrevocably and unconditionally assume, from and after the date thereof, all the duties and obligations of the assignor upon the same terms and conditions as set out in this Agreement. PAM may assign this Agreement without the consent of the City Council of the City to an entity which controls, is controlled by or is under common control with PAM, any successor entity to PAM by way of merger, consolidation or other non-bankruptcy corporate reorganization, or an entity which acquires all or substantially all of PAM's assets, partnership or membership interests, or capital stock. All other assignments of this Agreement by PAM are subject to the written consent of the City Council of the City, which consent shall not be unreasonably withheld, conditioned or delayed.

16. Notice. All notices and other communications hereunder shall be in writing (whether or not a writing is expressly required hereby), and shall be deemed to have been given and become effective (a) if given by either party or its counsel via an express mail service or via courier, then if and when delivered to and received (or refused) by the respective parties at the below addresses (or at such other address as a party may hereafter designate for itself by notice to the other party as required hereby), or (b) if sent via certified mail by either party or its counsel, then on the third business day following the date on which such communication is deposited in the United States mails, by first class certified mail, return receipt requested, postage prepaid, and addressed to the respective parties at the below addresses (or at such other address as a party may hereafter designate for itself by notice to the other party as required hereby). Any notice provided for under the terms of this Agreement by either party to the other shall be in writing and may be effected by registered or certified mail, return receipt requested.

If to City: City of Round Rock
221 E. Main Street
Round Rock, TX 78664
Attn: City Manager
Phone: (512) 218-5400
Email: citymanager@roundrocktexas.gov

With a required copy to:

Sheets & Crossfield
309 E. Main Street
Round Rock, TX 78664
Attn: Stephan L. Sheets
Phone: (512) 255-8877
Email: steve@scrllaw.com

If to Medistar: Medistar Corpus Christi Rehab, LLC
7670 Woodway, Suite 160
Houston, TX 77063
Attn: Mark Jang
Email: MarkJ@medistarcorp.com

With a copy to: Medistar Corporation
7670 Woodway, Suite 160
Houston, TX 77063
Attn: Greg Aclin, General Counsel
Email: grega@medistarcorp.com

If to PAM: PAM Squared at Round Rock, LLC
1828 Good Hope Road, Ste. 102
Enola, PA 17025
Attn: President
Email: lkeen@postacutecorporate.com

With a required copy to:

Post Acute Medical, LLC
1828 Good Hope Road, Ste. 102
Enola, PA 17025
Attn: General Counsel
Email: contracts@postacutecorporate.com

17. Applicable Law. This Agreement is made and shall be construed and interpreted under the laws of the State of Texas and shall be performable in Williamson County, Texas. Venue shall lie in Williamson County, Texas.

18. No Liability. It is understood and agreed between the parties that Medistar and PAM, in performing their obligations hereunder, are each acting independently, and the City assumes no responsibility or liability to third parties in connection therewith. It is further understood and agreed among the parties that the City, in performing its obligations hereunder, is acting independently and Medistar and PAM assume no responsibility or liability to third parties in connection therewith.

19. Estoppel Certificate. Any party hereto may request an estoppel certificate from another party hereto so long as the certificate is requested in connection with a bona fide business purpose and requests commercially reasonable certifications. Each party agrees to promptly execute and deliver any estoppel certificate reasonably requested pursuant to this **Section 19**. The certificate, which will upon request be addressed to Medistar and/or PAM, or a lessee, purchaser or assignee of Medistar and/or PAM, shall include, but not necessarily be limited to, statements (qualified to the best knowledge of the party providing the estoppel) that this Agreement is in full force and effect without default (or if a default exists, the nature of such default and any curative action which should be undertaken to cure same), the remaining term of this Agreement, and such other matters reasonably requested by the party(ies) to receive the certificate.

20. Legal Construction. 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 thereof and this Agreement shall be considered as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

21. Force Majeure. Whenever a period of time is prescribed for the taking of an action by Medistar and/or PAM, the period of time for the performance of such action shall be extended by the number of days that the performance is actually delayed due to strikes, acts of God, shortages of labor or materials, war, terrorist attacks (including bio-chemical attacks), civil disturbances and other causes beyond the reasonable control of Medistar and/or PAM. However, events of Force Majeure shall not extend any period of time for the payment of sums payable by Medistar or PAM.

22. Entire Agreement. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement, and except as otherwise provided herein cannot be modified, amended, altered or revoked without written agreement of the parties hereto.

23. Recordation of Agreement. A certified copy of this Agreement or a memorandum summarizing this Agreement, in recordable form may be recorded in the Deed of Records of Williamson County, Texas.

24. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

25. Authority. The individuals executing this Agreement on behalf of the respective parties hereto represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

26. Multiple Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

27. **Time of Essence**. Time is of the essence in this Agreement.

28. **Joint Drafting**. The parties agree this Agreement has been drafted jointly by the parties and their legal representatives.

29. **Exhibits**. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the latest date as reflected by the signatures below (the “*Effective Date*”).

THE CITY OF ROUND ROCK, TEXAS,
a Texas Home Rule Municipality

By: _____
Craig Morgan, Mayor

Date: _____

Attest:

Sara White, City Clerk

APPROVED AS TO FORM:

Stephan L. Sheets, City Attorney

Acknowledgment

State of Texas
County of Williamson

This instrument was acknowledged before me on this the ____ day of _____, 2017 by
Craig Morgan, as Mayor of the City of Round Rock, Texas.

Notary Public, State of Texas

MEDISTAR ROUND ROCK REHAB, LLC
a Texas limited liability company

By: _____
Rick Zachardy, Sr. Vice President

Date: _____, 2017

Acknowledgment

State of Texas
County of _____

This instrument was acknowledged before me on this the ____ day of _____, 2017 by Rick Zachardy, as Senior Vice President and CFO of Medistar Corpus Christi Rehab, LLC, a Texas limited liability company, on behalf of said company.

Notary Public, State of Texas

PAM Squared at Round Rock, LLC
a Pennsylvania limited liability company

By: _____
Name: _____
Its: _____

Acknowledgment

Commonwealth of Pennsylvania
County of _____

This instrument was acknowledged before me on this the ____ day of _____, 2017
by _____, as _____ of PAM Squared at Round Rock, LLC, a Pennsylvania
limited liability company, on behalf of said _____.

Notary Public, Commonwealth of Pennsylvania

EXHIBIT A
PROPERTY DESCRIPTION

EXHIBIT B

JOB COMPLIANCE AFFIDAVIT

Before me, the undersigned authority, on this day personally appeared _____(name)_____, known to me to be the person whose name is subscribed below and after having been duly sworn, on his/her oath stated as follows:

1. "My name is _____. I am over the age of 21 years and am capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. "I am the _____(title)_____ of Post Acute Medical, _____ and I am duly authorized to make this affidavit.
3. "As of December 31, 201____, Post Acute Medical, _____. had the following job positions and salaries:

Employee ID No.	Job Position or Title	Annual Salary
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

TOTAL JOBS _____ AVG. SALARY \$ _____

4. "In addition to the salary, all full-time jobs included industry standard employee benefits.

Dated this ____ day of _____, 201__.

(Printed name)

(Title)

SUBSCRIBED AND SWORN TO before me on this the ____ day of _____, 201__.

Notary Public, State of Texas