

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Kara L. Thiel, Esq.  
Feldman Thiel LLP  
P.O. Box 1309  
Zephyr Cove, NV 89448

With Copy to:

Cassell von Baeyer, Esq.  
Incline Law Group, LLP  
264 Village Blvd., Suite 104,  
Incline Village, NV 89451

**Affirmation Statement:** I the undersigned hereby affirm that the attached document, including any exhibits, hereby submitted for recording does not contain the personal information of any person or persons. (Per NRS 239B.030)



KAREN ELLISON, RECORDER

THIS SPACE RESERVED FOR RECORDER ONLY

### PARKING AND ACCESS EASEMENT AGREEMENT

This Parking and Access Easement Agreement (“**Easement Agreement**”) is made this 21 day of November 2019 (“**Effective Date**”), by and between ROUND HILL SC, LLC, a Nevada limited liability company (“**RHSC**”) as to an undivided 41% interest; DAVIDSON RETAIL I, LLC, a Nevada limited liability company (“**Davidson I**”) as to an undivided 15.259% interest, and DAVIDSON RETAIL II, LLC, a Nevada limited liability company (“**Davidson II**”) as to an undivided 43.741% interest, together as tenants in common, on the one hand (collectively, “**Grantor**”), and WERBO 1500, LLC, Nevada limited liability company (“**Grantee**”), on the other hand, and revokes, supersedes and replaces in its entirety that certain Parking Easement recorded on March 17, 1981, as Document No. 54115, Book 381, Page 1260 in the Official Records of Douglas County, Nevada (“**Original Easement**”). Grantor and Grantee may be referred to hereinafter as, collectively, the “**Parties**” or, individually, a “**Party**.”

### RECITALS

WHEREAS, Grantor is the owner of that certain real property located at 212 Elks Point Road in Zephyr Cove, Douglas County, Nevada commonly known as the Round Hill Mall and having Assessor’s Parcel Number (APN) 1318-15-802-010 (the “**Mall Property**”), as more particularly described in Exhibit A attached hereto and incorporated herein by reference.

WHEREAS, Grantee is the owner of that certain real property located at 195 U.S. 50 in Zephyr Cove, Douglas County, Nevada having APN 1318-15-802-009 (the “**Office Property**”), as more particularly described in Exhibit B attached hereto and incorporated herein by reference.

WHEREAS, in the Original Easement, Grantor's predecessor in interest in the Mall Property granted Grantee's predecessor in interest in the Office Property an easement in the Mall Property for forty (40) parking spaces for the benefit of the Office Property, subject to payment of a monthly per space fee.

WHEREAS, the term of the Original Easement was for fifty (50) years.

WHEREAS, Grantor and Grantee desire to enter into this Easement Agreement to supersede the Original Easement and to confirm the rights and obligations of the parties with respect to the subject matter hereof.

NOW THEREFORE, in consideration for the payment of Five Thousand Dollars (\$5,000.00) (receipt of which is hereby acknowledged) and the monthly parking space fee set forth below, Grantor and Grantee agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee in perpetuity a non-exclusive easement on, over and across forty (40) existing, paved parking spaces in and upon the Mall Property for the purpose of vehicular parking for Grantee and Grantee's tenants, and for the guests, invitees, employees, agents, customers and licensees of Grantee, Grantee's tenants and each of them (all such persons and entities in this Paragraph 1, excluding Grantor, shall be referred to collectively and individually as the "Beneficiaries").

2. Rights of Ingress and Egress. The easement granted herein includes non-exclusive rights of ingress to and egress from the Mall Property over, through and across the vehicular circulation areas of the Mall Property including, but not limited to, the existing driveways off U.S. 50 and Elks Point Road, and vehicular access and right-of-way on, over and across the Mall Property to and from such parking spaces referenced in Paragraph 1, above, to allow access between such parking spaces and the aforementioned public roads, and for access and right-of-way between, ingress to and egress from such parking spaces and the Office Property. Without limiting any other provision, the easement granted herein includes pedestrian access and right-of-way to and from the main entrance of the building(s) located on the Office Property. All such rights described in this Paragraph 2 are hereby granted by Grantor to Grantee in perpetuity and each of the Beneficiaries shall also have the benefit of the provisions of this Paragraph 2.

3. Appurtenant Easement. The easement granted herein is appurtenant to the Office Property and may not be transferred, assigned or encumbered except as an appurtenance to the Office Property.

4. Monthly Parking Space Fee. Grantee hereby agrees to pay to Grantor a monthly fee in the amount of Fifteen and 94/100 Dollars (\$15.94) per parking space as of the Effective Date, which amount shall be increased annually on January 1 by an amount equal to Two and One-Half Percent (2.5%) of the then current monthly fee.

5. Use of Mall Property. Grantor reserves the right to use and improve the Mall Property provided such activities do not unreasonably interfere with the easement granted herein.

6. Recordation; Binding Effect. The Parties agree and acknowledge this Easement Agreement shall be recorded in the Official Records of Douglas County, Nevada. The rights, duties and obligations of the Parties shall be construed as covenants running with the land, or equitable servitudes, as the case may be and binding upon and inure to the benefit of the Parties' heirs, successors and assigns. Without limiting any other provision in this Easement Agreement, the heirs, successors and assigns of Grantee ("Successor Grantees") and Successor Grantees' tenants, and the guests, invitees, employees, agents, customers of Successor Grantees, Successor Grantees' tenants and each of them shall also be entitled to the benefit of all the provisions of Paragraphs 1 and 2.

7. Maintenance. Grantor shall be solely responsible to keep and maintain the parking areas on the Mall Property and the areas described in Paragraph 2, above, in good condition and reasonably clean of ice, snow and rubbish.

8. Indemnity. Grantee shall indemnify, defend and hold harmless Grantor, its directors, elected officials, officers, agents and employees from and against any and all claims, damages, losses, liabilities and expenses, including attorney's fees and costs, which arise out of, relate to or result from Grantee's, its invitees', licensees', agents' or employees' use of the easement granted herein, except to the extent any liability, loss, claim, damage, cost or expense is caused by Grantor's gross negligence or willful misconduct.

9. Insurance. Grantee shall maintain commercial general liability insurance with liability limits of no less than One Million Dollars (\$1,000,000.00) per incident Two Million Dollars (\$2,000,000.00) in aggregate, naming Grantor, its successors and assigns as additional insureds.

10. Governing Law. The validity and interpretation of this Easement Agreement shall be governed by the laws of the State of Nevada without giving effect to the principles of conflict of laws, with venue for all purposes to be proper only in the Ninth Judicial District, in and for Douglas County, State of Nevada.

11. Severability. If any term, provision, covenant or condition of this Easement Agreement is determined to be unenforceable by a court of competent jurisdiction, it is the parties' intent that the remaining provisions of this Easement Agreement shall remain in full force and effect and shall not be affected, impaired or invalidated by such a determination.

12. Waiver. The waiver of any breach of any provision of this Easement Agreement by any Party shall not be deemed to be a waiver of any proceeding or subsequent breach under the Easement Agreement, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

13. Attorneys' Fees. If any arbitration or action at law or equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Easement Agreement, the prevailing Party shall be entitled to recover actual attorneys' fees which may be determined by the court in the same action or in a separate action brought for that purpose. The attorneys' fees to be awarded shall be made to fully reimburse for all attorneys' fees, paralegal fees, costs and expenses actually incurred in good faith, regardless of the size of the judgment, it being the intention of the Parties to fully compensate for all attorneys' fees, paralegal fees, costs and expenses paid or incurred in good faith.

14. Counterparts. This Easement Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same Agreement.

15. Good Faith. The Parties agree to exercise their best efforts and utmost good faith to effectuate all the terms and conditions of this Easement Agreement and to execute such further instruments and documents as are necessary or appropriate to effectuate all of the terms and conditions of this Easement Agreement.

16. Entire Agreement and Amendment. This Easement Agreement supersedes the Original Easement and contains the entire understanding and agreement of the Parties and there have been no promises, representations, agreements, warranties or undertakings by any of the Parties, either oral or written, of any character or nature binding except as stated in this Easement Agreement. This Easement Agreement may be altered, amended or modified only by an instrument in writing, executed by the Parties and by no other means. Each Party waives their future right to claim, contest or assert that this Easement Agreement was modified, canceled, superseded or changed by any oral agreement, course of conduct, waiver or estoppel. This Easement Agreement shall be fully valid and enforceable without regard to the Original Easement or the validity, duration, enforceability, or legal effect of such Original Easement at any time.

17. Notices. All notices, approvals, acceptances, demands and other communications required or permitted hereunder, to be effective shall be in writing and shall be delivered either in person or by mailing the same by United States mail (postage prepaid, registered or certified, return receipt requested) or by Federal Express or other similar overnight delivery service to the Party to whom the notice is directed at the address of such Party as follows:

Grantor: c/o A & R Realty  
Attn: Alan Mann  
3100 Monticello, Suite 300  
Dallas, TX 75205

Grantee: Werbo 1500, LLC  
Attn: Lenny Werbin  
614 Ladin Way  
Lakeway, TX 78734

Any written communication given by mail shall be deemed delivered two (2) business days after such mailing date and any written communication given by overnight delivery service shall be deemed delivered one (1) business day after the dispatch date. Either Party may change its address by giving the other Party written notice of its new address as herein provided.

18. No Construction Against Drafter. Each party has participated in negotiating and drafting this Easement Agreement, so if any ambiguity or a question of intent or interpretation arises, this Easement Agreement is to be construed as if the parties had drafted it jointly, as opposed to being construed against a party because it was responsible for drafting one or more provisions of this Easement Agreement.

IN WITNESS WHEREOF, this instrument has been executed by RHSC and Grantee as of the Effective Date.

**GRANTOR:**

ROUND HILL SC, LLC,  
a Nevada limited liability company

By: A & R Realty, LLC, a Nevada limited liability company, its Manager

By: [Signature]  
Alan S. Mann, Manager

And

By: [Signature]  
Randall Feischer, Manager

**ACKNOWLEDGMENT**

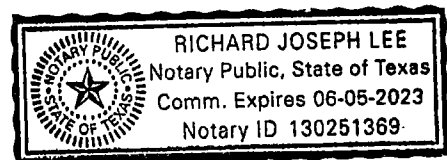
STATE OF Texas )

COUNTY OF Dallas )

This instrument was acknowledged before me on November 21, 2019 by Alan S. Mann, as Manager of A & R Realty, LLC, Manager of Round Hill SC, LLC.

WITNESS my hand and official seal.

Signature [Signature] (Seal)



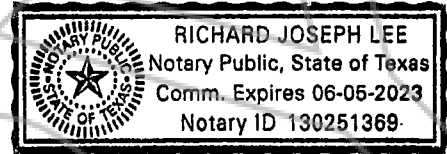
STATE OF Texas )

COUNTY OF Dallas )

This instrument was acknowledged before me on November 21, 2019 by Ranball Fleisher, as Manager of A & R Realty, LLC, Manager of Round Hill SC, LLC.

WITNESS my hand and official seal.

Signature *Richard Joseph Lee* (Seal)



[SIGNATURES CONTINUED ON FOLLOWING PAGES]

DAVIDSON RETAIL I, LLC,  
a Nevada limited liability company

By: *Nathan Davidson*  
Nathan Davidson, Manager

**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

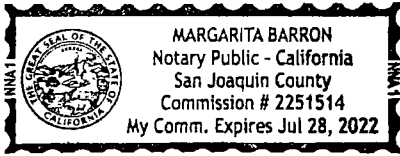
STATE OF CALIFORNIA )  
  )  
COUNTY OF San Joaquin )

On December 7, 2019, before me, Margarita Barron, a notary public, personally appeared Nathan Davidson, who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Margarita Barron* (Seal)



[SIGNATURES CONTINUED ON FOLLOWING PAGES]



DAVIDSON RETAIL II, LLC,  
a Nevada limited liability company

By: *Nathan Davidson*  
Nathan Davidson, Manager

**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

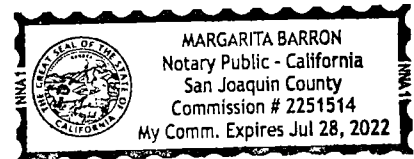
STATE OF CALIFORNIA )  
  )  
COUNTY OF San Joaquin )

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WITNESS my hand and official seal.

Signature *Margarita Barron* (Seal)



[SIGNATURES CONTINUED ON FOLLOWING PAGES]







**EXHIBIT 'A'**

**PARCEL 1:**

**A PARCEL OF LAND LOCATED WITHIN A PORTION OF SECTION 15, TOWNSHIP 13 NORTH, RANGE 18 EAST, MOUNT DIABLO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 15;  
THENCE ALONG THE SECTION LINE COMMON TO SECTIONS 15 AND 22 NORTH 89°54'09" WEST, 1513.39 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 50 AS DESCRIBED IN THE CONVEYANCE TO THE STATE OF NEVADA RECORDED JULY 18, 1933 IN THE OFFICE OF RECORDER, DOUGLAS COUNTY, NEVADA IN BOOK T OF DEEDS, AT PAGE 436;  
THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY NORTH 47°36'00" WEST, 674.72 FEET TO THE SOUTHWEST CORNER OF A PARCEL OF LAND SHOWN AS NEVADA ALLIED INDUSTRIES ON THE RECORD OF SURVEY FOR NEVADA ALLIED INDUSTRIES RECORDED SEPTEMBER 25, 1980 IN THE OFFICE OF RECORDER, DOUGLAS COUNTY, NEVADA, IN BOOK 980, AT PAGE 1969, AS DOCUMENT NO. 48927, A FOUND 3/4" IRON PIPE AND PLUG RLS 3519;  
THENCE CONTINUING ALONG SAID NORTHEASTERLY RIGHT-OF-WAY NORTH 47°36'00" WEST, 152.81 FEET TO THE POINT OF BEGINNING;  
THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY NORTH 47°36'00" WEST, 437.47 FEET TO THE SOUTHEASTERLY CORNER OF PARCEL #1 AS SHOWN ON SAID RECORD OF SURVEY;  
THENCE NORTH 84°15'35" EAST, 25.88 FEET;  
THENCE NORTH 42°24'00" EAST, 50.32 FEET;  
THENCE NORTH 26°07'31" WEST 18.56 FEET;  
THENCE NORTH 42°24'00" EAST, 13.61 FEET;  
THENCE NORTH 47°36'00" WEST, 120.00 FEET;  
THENCE SOUTH 42°24'00" WEST, 71.06 FEET;  
THENCE NON-TANGENT TO THE PRECEDING COURSE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 29.50 FEET, CENTRAL ANGLE OF 46°39'32", AN ARC LENGTH OF 24.02 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 24°01'56" EAST, 23.37 FEET;  
THENCE SOUTH 47°21'42" EAST, 68.90 FEET;  
THENCE SOUTH 36°36'19" EAST, 20.91 FEET;  
THENCE SOUTH 17°25'22" EAST, 10.60 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 50;  
THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY NORTH 47°36'00" WEST, 175.55 FEET TO THE SOUTHEASTERLY CORNER OF SHELL OIL COMPANY, A.P.N. 05-290-01, AS**

**RECORDED IN THE OFFICE OF RECORDER, DOUGLAS COUNTY, NEVADA IN BOOK 1094,  
AT PAGE 559;**

**THENCE ALONG THE BOUNDARY OF SAID SHELL OIL COMPANY THE FOLLOWING FIVE  
COURSES:**

**THENCE NORTH 42°24'00" EAST, 88.00 FEET;**

**THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 82.50 FEET,  
CENTRAL ANGLE OF 46°00'00", AND AN ARC LENGTH OF 66.24 FEET;**

**THENCE NORTH 03°36'00" WEST, 65.41 FEET;**

**THENCE SOUTH 80°30'10" WEST, 117.91 FEET;**

**THENCE SOUTH 42°24'00" WEST, 100.00 FEET TO A POINT ON SAID NORTHEASTERLY  
RIGHT-OF-WAY OF U.S. HIGHWAY 50;**

**THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY NORTH 47°36'00" WEST, 14.45  
FEET;**

**THENCE NORTH 42°24'00" EAST, 545.28 FEET;**

**THENCE SOUTH 52°35'03" EAST, 40.63 FEET;**

**THENCE NORTH 68°56'23" EAST 164.88 FEET;**

**THENCE NORTH 04°43'13" WEST, 17.70 FEET;**

**THENCE SOUTH 59°30'37" EAST, 128.00 FEET;**

**THENCE SOUTH 76°36'23" WEST, 67.98 FEET;**

**THENCE SOUTH 09°08'39" EAST 200.78 FEET;**

**THENCE SOUTH 09°10'30" EAST, 122.01 FEET;**

**THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 34.12 FEET,  
CENTRAL ANGLE OF 89°43'38" AND ARC LENGTH OF 53.43 FEET;**

**THENCE NORTH 81°05'52" EAST 64.33 FEET;**

**THENCE SOUTH 12°39'37" EAST, 30.95 FEET;**

**THENCE SOUTH 35°39'37" EAST, 348.46 FEET TO A POINT ON THE WESTERLY RIGHT-  
OF-WAY OF ELKS POINT ROAD;**

**THENCE ALONG SAID WESTERLY RIGHT-OF-WAY ALONG THE ARC OF A CURVE TO THE  
RIGHT HAVING A RADIUS OF 320.00 FEET, CENTRAL ANGLE OF 33°22'12", ARC LENGTH  
OF 186.37 FEET, CHORD BEARING SOUTH 25°42'54" WEST, AND CHORD LENGTH OF  
183.75 FEET;**

**THENCE ALONG SAID WESTERLY RIGHT-OF-WAY SOUTH 42°24'00" WEST, 80.76 FEET;**

**THENCE NORTH 47°36'00" WEST, 171.43 FEET;**

**THENCE SOUTH 42°19'21" WEST, 55.58 FEET;**

**THENCE NORTH 47°36'52" WEST, 31.73 FEET;**

**THENCE SOUTH 42°24'00" WEST, 63.25 FEET;**

**THENCE SOUTH 47°36'25" EAST, 26.67 FEET;**

**THENCE SOUTH 43°32'23" WEST, 70.01 FEET TO THE POINT OF BEGINNING.**

**NOTE: THE ABOVE METES AND BOUNDS LEGAL DESCRIPTION APPEARED PREVIOUSLY  
IN THAT CERTAIN DOCUMENT RECORDED SEPTEMBER 22, 2011 IN BOOK 911, PAGE  
3871 AS INSTRUMENT NO. 789916 OF OFFICIAL RECORDS, DOUGLAS COUNTY,  
NEVADA.**

**PARCEL 2:**

**THOSE CERTAIN EASEMENTS AS DESCRIBED IN A RECIPROCAL EASEMENT AGREEMENT  
RECORDED OCTOBER 7, 1980, IN BOOK 1080, AT PAGE 455, AS DOCUMENT NO. 49341,  
OF OFFICIAL RECORDS, OF DOUGLAS COUNTY, NEVADA.**

**PARCEL 3:**

**THOSE CERTAIN EASEMENTS AS DESCRIBED IN DECLARATION OF RECIPROCAL  
EASEMENT CONTAINED IN DEED RECORDED OCTOBER 5, 1994, IN BOOK 1094, AT PAGE  
559, AS DOCUMENT NO. 347650, OF OFFICIAL RECORDS, OF DOUGLAS COUNTY,  
NEVADA.**

**PARCEL 4:**

**THOSE CERTAIN RECIPROCAL EASEMENTS AS DESCRIBED IN DECLARATION OF  
RECIPROCAL EASEMENT DATED DECEMBER 18, 1998, RECORDED DECEMBER 21, 1998,  
IN BOOK 1298, AT PAGE 5054, AS DOCUMENT NO. 457043, OF OFFICIAL RECORDS, OF  
DOUGLAS COUNTY, NEVADA.**

COPY

Exhibit B

A parcel of land located within a portion of Section 15, Township 13 North, Range 18 East, Mount Diablo Meridian, more particularly described as follows:

Commencing at the Southeast corner of said Section 15;

Thence along the Section line common to Sections 15 and 22, North 89°54'09" West, 1513.39 feet to a point on the Northeasterly right of way of U.S. Highway 50 as described in the conveyance to the State of Nevada recorded July 18, 1933 in the office of Recorder, Douglas County, Nevada, in Book T of Deeds, at Page 436;

Thence along said Northeasterly right of way North 47°36'00" West, 674.72 feet to the Southwest corner of a parcel of land shown as Nevada Allied Industries on the Record of Survey for Nevada Allied Industries recorded September 25, 1980 in the office of Recorder, Douglas County, Nevada in Book 980 at Page 1969 as Document No. 48927, a found ¾" iron pipe and plug RLS 3519;

Thence continuing along said Northeasterly right of way North 47°36'00" West, 590.28 feet to the Point of Beginning.

Thence North 84°15'35" East, 25.88 feet;  
Thence North 42°24'00" East, 50.32 feet;  
Thence North 26°07'31" West, 18.56 feet;  
Thence North 42°24'00" East, 13.61 feet;  
Thence North 47°36'00" West, 120.00 feet;  
Thence South 42°24'00" West, 71.06 feet;

Thence non-tangent to the preceding course along the arc of a curve to the left having a radius of 29.50 feet, central angle of 46°39'32", an arc length of 24.02 feet, a chord bearing and distance of South 24°01'56" East, 23.37 feet;

Thence South 47°21'42" East, 68.90 feet;  
Thence South 36°36'19" East, 20.91 feet;  
Thence South 17°25'22" East, 10.60 feet to the Point of Beginning.

Reference is made to Record of Survey filed May 21, 2003, File No. 577574.

NOTE: the above metes and bounds description appeared previously in Grant, Bargain and Sale Deed recorded February 15, 2007, in Book 207, Page 4975, as Document No. 695070.

SPACE BELOW FOR RECORDER