

STATE OF NORTH CAROLINA ENCROACHMENT AGREEMENT
502 Sweeten Creek Industrial Park
COUNTY OF BUNCOMBE

THIS ENCROACHMENT AGREEMENT (the "Agreement") made and entered into this _____ day of February, 2022, by and between the City of Asheville, a municipal corporation existing under the laws of the State of North Carolina (herein "City"), Unison Engine Components, Inc., (herein "Business Owner"), and Buncombe County (herein "Property Owner").

WITNESSETH:

WHEREAS, Property Owner constructed a street on the real property located in the City of Asheville, Buncombe County, North Carolina, PIN: 9657-43-3150, being more particularly described in a deed recorded in Book 5157 at Page 1162, Buncombe County, North Carolina Registry, named "Sweeten Creek Industrial Park Road" and "GE Access Road", as same are set forth and described in that plat recorded in Plat Book 220, at Page 50 Buncombe County, North Carolina Registry (herein the "Subject Street") reference to which plat is hereby made for purposes of description of the Subject Street; and

WHEREAS, the sidewalks adjacent to 502 Sweeten Creek Industrial Park is a public right-of-way under the authority and control of the City; and

WHEREAS, the sidewalk adjoining 502 Sweeten Creek Industrial Park is under the authority and control of the City; and

WHEREAS, the Business Owner and the Property Owner previously entered into a lease agreement for the use of a building and surrounding land in the Sweeten Industrial Park on December 20, 2013 (the "Lease") and under the terms of the Lease, Business Owner was granted the right to install a fountain water feature and appurtenant equipment (the "Fountain"), with the obligation to operate and maintain the Fountain during the term of the Lease; and

WHEREAS, Property Owner has dedicated the Subject Street to the City for acceptance as a public street, applied for the Subject Street to be accepted by the City, and paid all attendant application fees set forth in the City's Fees and Charges Manual and, as a result, the Fountain is now located on property now owned by the City; and

WHEREAS, the Business Owner, with the consent of the Property Owner, has requested that the City enter into an encroachment agreement to allow Business Owner to continue to maintain and operate the Fountain as same currently exists within the cul de sac area of "GE Access Road", as same are set forth and described in that plat recorded in Plat Book 220, at Page 50 Buncombe County, North Carolina Registry (PIN 9657-43-3150-00000); and

WHEREAS, the Fountain, as defined above shall be referred to as the "Encroachment" for purposes of this Encroachment Agreement; and

WHEREAS, the area in which the Encroachment sits has been investigated by appropriate City staff and it is the opinion of the Public Works Director and his staff that the Encroachment

will create no undesirable or hazardous condition or interfere with pedestrian use and movement along said portion of the right-of-way.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable considerations, the receipt of which is hereby acknowledged, the City hereby grants unto the Business Owner the right to encroach upon the right-of-way at 502 Sweeten Creek Industrial Park, Asheville, North Carolina, to operate and maintain the Fountain pursuant to the terms and conditions of the Lease within the cul de sac area of GE Access Road as set forth and described in that plat recorded in Plat Book 220, at Page 50 Buncombe County, North Carolina Registry along with the Application as reviewed by the City, both of which are incorporated herein by reference. Said Encroachment is granted subject to the following conditions:

1. The Business Owner shall be responsible for maintaining the Fountain in accordance with the requirements of the Lease.
2. This Agreement shall continue only so long as the Business Owner uses the Encroachment.
3. The Business Owner shall maintain liability insurance as required under the Lease.
4. Buncombe County as the Property Owner agrees to the following: Indemnification: To the extent permitted by North Carolina law, the City and the County shall at all times indemnify, defend, and save the other harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other's action or inaction of its obligations related to the Encroachment on behalf of the indemnifying party, except in cases of gross negligence or intentional wrongdoing by the City or the County.
5. Buncombe County as the Property Owner agrees to the following: Provided no damage is caused by the negligence or intentional wrongdoing of the City its officers, agents, or employees, then in the event the Encroachment falls into disrepair or such condition that the same is an imminent threat or hazard, or impedes the City's ability to maintain the integrity of the road, then the City may require the County to remove the Encroachment and return the area to a condition consistent with City street standards.

Signature Pages Follow

IN WITNESS WHEREOF each party has caused this Agreement to be duly executed on the day and year first above written and if corporate, by their duly authorized representative.

CITY OF ASHEVILLE

By: _____

Director of Public Works

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, Notary Public of the County and State aforesaid certify that _____ personally came before me this day and acknowledged that he is the Director of Public Works of the City of Asheville, a municipal corporation, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name.

Witness my hand and notarial seal this _____ day of _____, 20__.

Notary Public

Printed Name: _____

My Commission Expires: _____

Signed, sealed and delivered
in the presence of:

TENANT:

UNISON ENGINE COMPONENTS, INC.

By: _____

Title: _____

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, Valerie Saurber, a Notary Public of the County and State aforesaid,
certify that Randall Hobbs personally appeared before me this day and
acknowledged that he is the GM of Unison Engine Components, Inc., and
that he, as GM, being authorized to do so, voluntarily executed the foregoing
instrument on behalf of the corporation, as its act and deed.

Witness my hand and notarial seal this 9 day of March, 2022

Notary Public

Printed Name: _____

My Commission Expires: _____



VALERIE G. SAURBER
NOTARY PUBLIC
STATE OF OHIO
Recorded in
Butler County
My Comm. Exp. 9/9/2023

BUNCOMBE COUNTY, a body politic and
corporate of the State of North Carolina

By: _____
Brownie Newman, Chair

Attest:

Lamar Joyner, Clerk to the Board

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, _____, Notary Public for said County and State, has personal knowledge of the identity of Lamar Joyner, and hereby certifies that said Lamar Joyner, Clerk to the Board, personally appeared before me this day and acknowledged that he is Clerk to the Board of Commissioners of County of Buncombe and that Brownie Newman is the Chairman of the Board of Commissioners of Buncombe County, and that by authority duly given and as the act of the County of Buncombe, the foregoing instrument was signed in its name by said Chairman, sealed with its official seal, and voluntarily attested to by himself as its Clerk as the act and deed of the County of Buncombe, all by authority duly given by its governing body.

Witness my hand and notarial seal, this the ____ day of _____, 2022.

Notary Public